

COPY

DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, EASEMENTS, AND RIGHTS **FILED** DEC 20 1994

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RIGHTS FOR PRAIRIE CROSSING (this "Declaration") is made and entered into on this 30th day of November, 1994, by Prairie Holdings Corporation, an Illinois corporation ("Declarant").

## W I T N E S S E T H:

WHEREAS, Declarant is the owner and legal title holder, and the developer, of certain real estate located in the Village of Grayslake, County of Lake and State of Illinois, which real estate is legally described on Exhibit A attached hereto and by this reference made a part hereof (collectively, the "Premises"), which Premises include the real estate described in the Phase I Plat of Subdivision (hereinafter defined);

WHEREAS, Declarant desires to create a residential, conservation community which will create a model for others; where residents live in harmony with nature and with each other; and where the unique and important natural, ecological, open space and scenic resources of the Premises are maintained and enhanced in connection with and as part of the promotion of the health, safety and welfare of residents;

WHEREAS, Declarant has caused a Plat of Subdivision to be recorded in the Lake County Recorder's Office on 12/19, 1994 as document no. 3626674 (the "Phase I Plat of Subdivision") against a portion of the Premises and may cause a final Plat of Subdivision (hereinafter defined) with respect to each additional phase of its proposed development to be recorded against the Premises. Pursuant to the Plats of Subdivision (hereinafter defined), the Premises will consist of (a) not more than three hundred seventeen (317) subdivided lots on which single-family detached dwellings will be constructed by Declarant, or its successors or assigns (hereinafter individually called a "Residential Lot" and collectively called the "Residential Lots"), and (b) the balance of the lots which comprise the Premises as shown on the Plats of Subdivision which will be for the use or enjoyment of one or more of the owners of the Residential Lots and, in certain specified instances, the use or enjoyment of others, subject, however, to the provisions set forth in this Declaration. The Phase I Plat of Subdivision and such additional Plats of Subdivision are sometimes individually referred to as a "Plat of Subdivision" and sometimes collectively referred to as the "Plats of Subdivision";

193  
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WHEREAS, Declarant intends that there will be four types of Residential Lots as follows: (1) those Residential Lots generally described under the heading "Village Green Lots" on the General Development plan attached hereto as Exhibit B (the "General Development Plan"); (2) those Residential Lots generally described under the heading "Meadow Lots" on the General Development Plan; (3) those Residential Lots generally described under the heading "Field Lots" on the General Development Plan; and (4) those Residential Lots generally described under the heading "Prairie Lots" on the General Development Plan;

WHEREAS, subject to the terms of this Declaration, the Common Area (as hereinafter defined) will generally consist of (a) natural areas containing prairies, meadows, flora, fauna, landscaped areas, wetlands, ponds, ditches, culverts, swales, lakes and other ecologically and geologically significant features of scientific, educational, scenic and aesthetic interest; (b) the pedestrian and equestrian trails initially to be constructed in the general areas identified in the General Development Plan (the "Trail Area"); and (c) the balance of the Common Area, may include, without limitation, such landscaping, sprinkler systems, benches, lighting, spaces for the parking of motor vehicles, walkways, paths, gazebos, wetlands, meadows, prairies, landscaped areas, piers, pump houses, sheds, fencing, gates, benches, berms, walking trails, signs, monuments, sculptures, playlots, recreational facilities, storm water retention or detention basins, ponds, lakes and other improvements, all as may be required by the governmental laws, ordinances, regulations or Development Agreements (as hereinafter defined) as shall be in effect during, and applicable to, the development of the Premises or as Declarant shall from time to time, in its sole discretion, determine to be necessary, appropriate or desirable;

WHEREAS, Declarant is also the owner in fee simple absolute of certain real property, located adjacent to the Premises which is comprised of land which possesses unique and important natural, aesthetic, and open space values which are preserved in perpetuity pursuant to the terms and conditions set forth in a certain Conservation Easement (hereinafter defined) which real property is legally described on Exhibit C attached hereto and by this reference made a part hereof (the "Preservation Property");

WHEREAS, Declarant desires to establish for its own benefit and the mutual benefit of all future owners, tenants and occupants of the Residential Lots or any part thereof, certain easements and rights in, over, under, upon and along the Premises and certain mutually beneficial restrictions and obligations with respect to the use, conduct and maintenance thereof; and

WHEREAS, Declarant desires to subject the Premises or portions thereof to the covenants, conditions, restrictions, easements and

rights set forth in this Declaration, each and all of which is and are for the benefit of the Premises and portions thereof and each owner, tenant and occupant of each Residential Lot and shall inure to the benefit of and shall pass with the Premises and each and every portion thereof;

NOW, THEREFORE, Declarant hereby declares that only the Premises, together with such additions thereto as may hereafter be made, are and shall be transferred, held, sold, conveyed and accepted subject to this Declaration. Declarant does hereby further declare that the following easements, covenants, restrictions, rights, conditions and burdens, uses, privileges, charges and liens shall: (1) exist at all times hereafter amongst all parties having or acquiring any right, title or interest in or to any portion of the Premises, (2) be binding upon and inure to the benefit of each owner of each Residential Lot and (3) run with the land subjected to this Declaration, to be held, sold and conveyed subject to this Declaration.

## ARTICLE I

### DEFINITIONS

Section 1.01. "Association" shall mean and refer to an Illinois not-for-profit corporation, its successors and assigns, to be organized at the sole cost and expense of Declarant and to be known by the name of the Prairie Crossing Homeowners Association, or such other name or names as Declarant shall designate. All Residential Lot Owners (as hereinafter defined) of all Residential Lots shall be members of the Association, all as more particularly described in this Declaration.

Section 1.02. "Board" shall mean the Board of Directors of the Association as constituted, at any time or from time to time, in accordance with the applicable provisions of Article III of this Declaration.

Section 1.03. "By-Laws" shall mean the By-Laws of the Association, a copy of which is attached hereto as Exhibit D and made a part hereof.

Section 1.04. "Common Area" shall generally mean all portions of the Premises and Trail Area in which the Association has an interest, for the common use and enjoyment of the Members. The initial Common Area is legally described on the Phase I Plat of Subdivision. Declarant shall have the right from time to time to designate additional real property as "Common Area" either in a supplement or amendment to this Declaration executed for purposes of submitting any additional real property to the terms of this Declaration, in an instrument conveying any real estate to the

Association or through the recordation of additional Plats of Subdivision with respect to each phase of its proposed development to be recorded against the Premises. The maintenance, repair, improvement, use, enjoyment and operation of all of the Common Area shall be in accordance with the terms and provisions of this Declaration.

Section 1.05.1. "Conservation Easement" shall mean that certain Conservation Easement dated October 28, 1994, entered into by and between Declarant and The Conservation Fund and recorded in the Lake County Recorder's Office on 12/20, 1994 as document no. 3627262.

Section 1.05.2. "Declarant" shall mean Declarant and its successors and assigns; provided, however, that any rights specifically reserved herein to Declarant shall not inure to the benefit of its successors and assigns, unless specifically assigned in a recorded instrument or conveyed by operation of law.

Section 1.06. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Easements and Rights for Prairie Crossing.

Section 1.07. "Dwelling Unit" shall mean a single-family detached residential housing unit consisting of a group of rooms which is designed or intended for the exclusive use as living quarters for one Family (as hereinafter defined) and is constructed upon a Residential Lot.

Section 1.08. "Family" shall mean one or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than four (4) persons not all so related, together with his, her or their domestics, maintaining a common household in a Dwelling Unit.

Section 1.09. "Lot" for the purpose of this Declaration shall mean and refer to a platted lot of record, whether a Residential Lot or the lots comprising the Common Area, designated as such upon the Phase I Plat of Subdivision, or so designated in any other Plat of Subdivision annexed to the Premises pursuant to the provisions of Article IV hereof and affecting all or part of the Premises to be recorded in the Office of the Recorder of Deeds of Lake County, Illinois.

Section 1.10. "Member" shall mean and refer to any person or entity who holds membership in the Association, as more specifically described in Section 3.01 of this Declaration.

Section 1.11. "Occupant" shall mean any person or persons other than the Residential Lot Owner in possession of a Dwelling Unit.

Section 1.12. "Residential Lot" shall mean each of the Lots designated by number in any final Plat of Subdivision.

Section 1.13. "Residential Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Residential Lot, including, without limitation, contract (installment sale contract) purchasers. If any Residential Lot is owned by a land trust, the Residential Lot Owner shall be deemed to include both the land trustee and the beneficiaries of the land trust holding record title to a Residential Lot, jointly and severally, but excluding those having such interest merely as security for the performance of an obligation. The term "Residential Lot Owner" shall include the Declarant to the extent of the number of Residential Lots owned by Declarant.

Section 1.14. "Trail Area" shall mean the pedestrian and equestrian trails currently contemplated to be constructed within easements in the general areas identified in the General Development Plan.

Section 1.15. "Transfer Date" shall mean that date which is the first to occur of (i) eight (8) years from the date of the transfer of the first Residential Lot to a Residential Lot Owner (other than Declarant) and (ii) within sixty (60) days of the date on which eighty percent (80%) of all of the Residential Lots designated in all of the Plats of Subdivision to be recorded against the Premises have been transferred to Residential Lot Owners (other than Declarant);

Section 1.16. "Village" shall mean the Village of Grayslake, Illinois, an Illinois municipal corporation.

## ARTICLE II

### GENERAL PURPOSES

Section 2.01. Purposes of this Declaration. The Premises are made subject to this Declaration in order to insure proper use, appropriate development and improvement of the Premises and every part thereof; to protect each Residential Lot Owner from the improper use of surrounding Dwelling Units and Residential Lots which may result in the depreciation in value of such Residential Lot Owner's Dwelling Unit or Residential Lot; to guard against the erection on any Residential Lot of a building of inappropriate design or unsuitable materials; to encourage original designs and attractive improvements on each Residential Lot with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to insure desired high standards of maintenance for

the benefit and convenience of all Residential Lot Owners; to ensure safe and healthful maintenance of Residential Lot landscaping for the benefit of all Residential Lot Owners; to protect and preserve the ecological balance and stability of the natural areas, ponds and lakes located within the Premises; and in general to provide adequately for a first-class residential community.

### ARTICLE III

#### ASSOCIATION

Section 3.01. Formation and Purposes. In order to implement the general purposes of this Declaration, Declarant shall form the Association, with responsibility for, among other things, the ownership of all of the Common Area, the maintenance of the Common Area (including, without limitation, the Trail Area), the enforcement of the restrictions contained in this Declaration and the levying and collection of assessments to fund all of its responsibilities, all in accordance with the terms of this Declaration. In order to provide certain additional services for the Prairie Lots, the Association may have the responsibility for, among other things, maintenance of landscaping located on the Prairie Lots, removal of snow from driveways and certain service walks located on the Prairie Lots, and the levying and collection of assessments to fund all of its responsibilities, all in accordance with the terms of this Declaration. The Association shall be governed by the articles of incorporation (the "Articles") and By-Laws of the Association, which By-Laws are attached hereto as Exhibit D and by this reference made a part hereof. Neither the Articles nor By-Laws, however, shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent or conflict with this Declaration; and in the event of any conflict between the Articles or By-Laws and this Declaration, this Declaration shall control.

Section 3.02. Membership in the Association. Upon formation of the Association and so long as the Association exists, every person or entity who is a Residential Lot Owner, including Declarant and the contract (installment sale contract) purchaser of a Residential Lot, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Residential Lot Owner shall have more than one membership in the Association for each Residential Lot owned. Membership shall be appurtenant to and may not be separated from ownership of each Residential Lot. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Residential Lots. If the record owner of fee simple title to a Residential Lot shall be a land trust, the beneficiaries of the land trust holding record

title to a Residential Lot, excluding those having such interest merely as security for the performance of an obligation, shall be Members. If the record owner of fee simple title to a Residential Lot shall be more than one person, all such persons shall be Members, but the voting rights in the Association attributable to that Residential Lot may not be split and shall be exercised by one representative selected by such persons as they among themselves determine. In the event that such persons are unable to agree among themselves at the time a vote is to be cast on any matter in question as to how the vote with respect to such Residential Lot shall be cast, such persons shall not be entitled to vote on the matter in question. If only one such person casts a vote, it will thereafter be conclusively presumed for all purposes that such person was acting with the authority and consent of all other co-owners of said Residential Lot. Any votes cast with regard to any such Residential Lot in violation of this provision shall, at the Board's option, be voidable. The terms and provisions set forth in this Declaration which are binding upon all Residential Lot Owners are not exclusive, as Residential Lot Owners shall, in addition, be subject to the terms and provisions of the Articles, By-Laws and rule and regulations promulgated by the Board, to the extent the provisions thereof are not in conflict with this Declaration, as well as any applicable governmental laws, ordinances, regulations and the Development Agreements. No Residential Lot Owner shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of the obligations as such Member, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such Residential Lot Owner shall be of any force or effect for any purpose.

Section 3.03. Voting Rights in the Association. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all of the Residential Lot Owners, as defined in Article I, including Declarant for each Residential Lot that it owns. Class A Members shall be entitled to one (1) vote for each Residential Lot in which they hold the interest required for membership in the Association. When more than one person holds such interest in any Residential Lot, all such persons shall be Members, but the right to vote for such Residential Lot shall be exercised as they among themselves determine, provided, however, that in no event shall more than one vote be cast with respect to each Residential Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to one vote for each Residential Lot within the Premises, provided that the Class B Membership shall cease on the first to occur of (the "Class B Member Termination Date") (i) eight (8) years from the date of the transfer of the first Residential Lot to a Residential Lot

Owner (other than Declarant) and (ii) the date of the transfer of the last of all of the Residential Lots designated in all the then anticipated Plats of Subdivision has been transferred to Residential Lot Owners (other than Declarant).

Section 3.04. The Board. The Association shall establish a board of directors (the "Board") (hereinafter individually a "Director" and collectively "Directors") who shall be determined as follows:

(a) The first Board shall consist of not less than three (3) Directors, all to be appointed by Declarant or its designee and shall serve until the Transfer Date.

(b) Subsequent to the Transfer Date and continuing until the Class B Area Member Termination Date, the Board shall consist of not less than five (5) members and shall be elected by combined majority vote of the Class A and Class B Members of the Association, at meetings to be held for such purpose at such intervals as are provided in the Articles or the By-Laws, as the case may be.

(c) Subsequent to the Class B Area Member Termination Date, the Board shall consist of not less than five (5) members and shall be elected by majority vote of the Class A members of the Association, at meetings to be held for such purpose at such intervals as are provided in the Articles or the By-Laws, as the case may be.

Vacancies in the Board occurring prior to the Transfer Date shall be filled by Declarant appointing a person to fill such vacancy and thereafter vacancies in the Board occurring between meetings of the Members may be filled by the majority vote of the remaining Directors then sitting on the Board. Notwithstanding anything to the contrary, Declarant may voluntarily terminate its right to appoint Directors and to fill vacancies pursuant to this Section, in which event, the Members (including Declarant) shall elect Directors and the Directors may fill vacancies occurring between meeting of the Members. Except for Directors to be appointed by Declarant, all other Directors shall be Members.

Section 3.05. Officers of the Association. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. All officers of the Association shall be Directors on the Board. Except as expressly otherwise provided by the Articles or the By-Laws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in the Board from time to time and its officers under the direction of



the Board, and shall not be subject to any requirement of approval on the part of the Members.

Section 3.06. Advisory Committee. The Association shall have an advisory committee (the "Advisory Committee") appointed by the Board comprised of not less than three (3) Residential Lot Owners, excluding Declarant, which shall be established by the Board on the date which is the first to occur of (i) three (3) years from the date of the transfer of the first Residential Lot to a Residential Lot Owner (other than Declarant) and (ii) one hundred and twenty days (120) days after the date on which thirty three percent (33%) of all of the Residential Lots designated in all of the then anticipated Plats of Subdivision have been transferred to Residential Lot Owners (other than Declarant). The Advisory Committee shall meet with the Board from time to time for the purpose of promoting communications between the Board and the Residential Lot Owners and facilitating the transition of Board control from the Declarant to non-Declarant Residential Lot Owners but shall have no actual authority. The Advisory Committee shall cease to exist upon the Class B Member Termination Date.

Section 3.07. Prohibition on Distribution to Members. The Association, being a not-for-profit corporation, shall not distribute to the Members (being, in effect, the "shareholders") any sums in the nature of dividends.

Section 3.08. Agreements between the Association and Others. Whenever the Board deems it to be desirable, the Association shall perform its functions and carry out its duties by entering into agreements for the performance thereof with persons and business entities regularly engaged in the performance of generally similar functions and duties, which agreements shall be with such parties, for such length of time, at such rates of compensation and upon such other terms and provisions, all as the Board shall determine from time to time. Such persons or business entities may, but need not, be Declarant, affiliates of Declarant, or persons or business entities owning or otherwise directly or indirectly interested in the Premises or any part thereof; provided, however, the terms of and compensation set forth in agreements with any such entities shall be reasonable and customary for the performance of such services or functions. The Association itself shall also have power to perform its functions and carry out its duties.

Section 3.09. Rules and Regulations of the Association. The Association, through the resolutions of the Board, shall have the right to adopt rules and regulations governing the Residential Lots and the Common Area or any portion of the Common Area. However, the Association shall not adopt any rule or regulation, nor shall any such rule or regulation be valid or enforceable, which is inconsistent or conflicts (i) with any provision of this Declaration, (ii) with the terms and conditions of the Preservation

Easement (as hereinabove defined) for the Common Area, (iii) with the terms and conditions of the Trail Easement and the Conservation Easement (as hereinabove defined) for the Trail Area, or (iv) with any applicable law, ordinance, code, or the Development Agreements.

Section 3.09. Books and Records of the Association. The books and records to be kept by the Board, and the Association's financial statements and tax returns shall be available for inspection by any Member or any representative of a Member duly authorized in writing, at such reasonable time or times during the normal business hours as may be requested by the Member or its representative.

Section 3.10. Liabilities of the Directors and Officers of the Association. Neither the directors nor the officers of the Association shall be liable to the Residential Lot Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such directors and officers, except for any acts or omissions finally adjudged by a court to constitute gross negligence, willful misconduct, or fraud. The Residential Lot Owners (including the Directors and the officers of the Association in their capacity as Residential Lot Owners) shall indemnify and hold harmless each of the Directors and each of the officers of the Association against all contractual and other liabilities to others arising out of contracts made by or other acts of the Board and officers of the Association on behalf of the Residential Lot Owners or arising out of their status as Directors or officers of the Association unless any such contract or act shall have been finally adjudged by a court to have been made fraudulently or with gross negligence or willful misconduct. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, counsel fees, amounts of judgments paid and amounts paid or received in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, in which any director or officer of the Association may be involved by virtue of such persons being or having been such Director or officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence, willful misconduct or fraud in the performance of his duties as such Director or officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board, there is not reasonable ground for such person being adjudged liable for gross negligence, willful misconduct or fraud in the performance of his duties as such Director or officer. It is also intended that the liability of each Residential Lot Owner arising out of any contract made by, or other acts of, the Board or officers of the Association, or out of the aforesaid indemnity in favor of the directors or officers of

the Association, shall be limited to an amount equal to the total liability thereunder divided by the then total number of Residential Lots. Every agreement made by the Board on behalf of the Residential Lot Owners shall be deemed to provide that the directors are acting only as agents for the Residential Lot Owners, and shall have no personal liability thereunder (except as Residential Lot Owners) and that each Residential Lot Owner's liability thereunder shall be limited to an amount equal to the total liability thereunder divided by the then total number of Residential Lots.

#### ARTICLE IV

##### ANNEXATION OF OTHER PROPERTIES

Section 4.01. Right of Declarant to Annex Other Properties. Declarant (or subsequent to the Transfer Date, the Association) may, in its sole discretion, at any time and from time to time and without having to obtain the consent, approval or signature of any party (other than the title holder of such additional real property), elect to bring additional real property (whether or not owned by it) within the jurisdiction of this Declaration (the "Annexed Property" or "Annexed Properties"); provided, however, that the addition of any Annexed Property must be consistent with the general purposes of this Declaration and the Village's subdivision regulations as modified by the Planned Unit Development Agreement (hereinafter defined) and shall in no event include any real property which is not shown on the General Development Plan and defined as a "Residential Area" in the Development Agreements, and provided further that Declarant shall not annex all or part of the Preservation Property without the prior written consent of the Board. Declarant is not obligated in any manner by this Declaration to annex additional real property to the Premises or to annex any particular tract, or to annex tracts in any particular sequence, or to annex contiguous tracts, it being the intention hereof that Declarant may decline to exercise the rights granted in this Section or may elect to exercise such rights only to a limited extent. Notwithstanding any language to the contrary contained herein, no such real property shall have the right to become Annexed Property or to be included within the jurisdiction of this Declaration without the prior express written consent and approval of Declarant.

Section 4.02. Declarations of Inclusion. The additions authorized by the provisions of this Article IV shall be made by recording in the Office of the Recorder of Deeds of Lake County, Illinois, (a) a Declaration of Inclusion with respect to any Annexed Property, which shall extend the jurisdiction of this Declaration to the property to be so annexed (hereinafter sometimes

referred to as the "Additional Premises") and shall be executed by the fee title holder(s) of such Annexed Property, as well as by Declarant (or, if subsequent to the Transfer Date, by the Association) and (b) if any Common Area is to be created with respect to any portion(s) of the Additional Premises, a deed conveying fee simple title to said portion(s) to the Association. Each Declaration of Inclusion shall by legal description or attached plat, or both, clearly designate which portion of the Additional Premises is to be Residential Lot(s) and which portion is to be Common Area (as well as what type of Common Area, such as Trail Area, etc.); provided, however, that all such designations shall be consistent with the intent and purpose of this Declaration. In addition, each Declaration of Inclusion may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as are not inconsistent with the intent and purpose of this Declaration. The following shall apply to each Declaration of Inclusion:

(A) The provisions of this Declaration applicable to the Common Area, and the rights of Declarant with respect thereto, and all other rights, easements, covenants, restrictions, burdens, uses and privileges appurtenant to the Common Area shall include and apply to the Common Area as extended by such annexation;

(B) Every person or entity who shall become a Residential Lot Owner in such Additional Premises shall be and become a Member of the Association, on the same terms and conditions and subject to the same qualifications and limitations, as are applicable to the Residential Lot Owners who are then Members;

(C) Declarant shall have and enjoy in such Additional Premises all easements and exercise all rights, privileges and immunities reserved to it in this Declaration in the same manner and with the same force and effect as though the term "Premises" as used in this Declaration included such Additional Premises; and

(D) In all other respects, all the provisions of this Declaration shall include and apply to such Additional Premises and to the Residential Lot Owners of the Residential Lots located therein and thereon in the same manner and with the same force and effect as though such Additional Premises had originally been subjected to the provisions of this Declaration.

## ARTICLE V

### COMMON AREA

Section 5.01. Description of the Common Area. The Common Area shall consist of the Lots designated as Common Area in any Plat of Subdivision of the Premises. Without limiting the generality of the foregoing, the Common Area shall also include, among other things, the Trail Area, and the walkways and parkway areas which may be located upon certain Residential Lots or separate certain of the Residential Lots from some of the public roads abutting the Premises. The Common Area is intended to be for the non-exclusive mutual use and enjoyment of all Residential Lot Owners and, in certain instances, the non-exclusive use and enjoyment of others.

Section 5.02 Grant of Preservation Easement. In order to assure the preservation of the scenic and open space features of the Common Area and to assure its continued maintenance by the Association, in addition to the terms contained in this Declaration, the use of the Common Area may be restricted by the terms, conditions and restrictions of a certain Preservation Easement entered into by and between Declarant and Liberty Prairie Foundation (together with its successors and assigns herein referred to as "Liberty Prairie"), and recorded in the Lake County Recorder's Office (the "Preservation Easement"), Declarant, the Association and each and every Residential Lot Owner hereby expressly agrees to be subject to and abide by the terms of the provisions contained in the above referenced Preservation Easement.

Section 5.03. Rights of Residential Lot Owners, Association and Declarant.

(a) Subject to the specific provisions in this Declaration regarding the easements to Residential Lot Owners for access and use of the Trail Area, and subject also to the terms, conditions and restrictions contained within the Preservation Easement, every Residential Lot Owner shall have a non-exclusive right and easement of ingress and egress in, over, upon and to, and use and enjoyment of, all portions of the Common Area and all portions of the Common Area shall be held for the use and benefit of each Residential Lot Owner. The aforesaid non-exclusive right and easement shall be appurtenant to and shall pass with the title to every Residential Lot, subject to the following reserved rights and easements in favor of others (each of which following described reserved rights and easements apply to all portions of the Common Area):

(i) The right of the Board, upon fourteen (14) days prior written notice to the applicable Member, to suspend the right of a Member and his or her Family to use the

recreational facilities of the Association and other Common Area for any period during which any Assessment, or any portion thereof, assessed against his or her Residential Lot remains unpaid after the due date or dates until such default has been remedied;

(ii) The right of the Board, after affording a Residential Lot Owner the opportunity to be heard, to suspend the right of a Member to use the recreational facilities of the Association and other Common Area for one or more successive periods, not to exceed sixty days each, for any violation of rules governing use of the Common Area;

(iii) The right of the Board to permit non-Members to use the recreational facilities of the Association and other Common Area upon such terms and conditions as the Board shall from time to time determine;

(iv) From and after the Transfer Date, the right of the Association to dedicate or transfer all or any portion of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless accomplished by means of an instrument signed by Members entitled to cast not less than three-fourths (3/4) of the votes; provided, however, to the extent required by the Development Agreements (hereinafter defined), the Association hereby reserves the right, without the necessity of having to obtain any Members' consent, to transfer all or any part of the Regional Trail generally described on the General Development Plan and located in the Common Area to the Village;

(v) To the extent not granted by Declarant, the Association hereby reserves the right, without the necessity of having to obtain any Members' consent, to grant, at any time and from time to time after title to the Common Area has been conveyed to the Association, utility easement(s) for sanitary and storm sewers, water, gas, electricity, telephone, cable television, drainage easements, and any other necessary or useful public or private utility service over, through, upon and across all or any portion of the Common Area, all upon such terms and conditions as the Board deems necessary or appropriate, and as may be required by any applicable governmental law, ordinance, regulation, or rule, including the provisions of the Development Agreements;

(vi) As part of the overall program of development of the Premises into a residential community and to encourage the marketing and construction thereof, Declarant hereby reserves for itself, its contractors and their respective sub-

contractors, agents and employees the right and easement of ingress and of access and use in, over, upon, under and across each and every portion of the Common Area for sales and construction purposes, as well as the right and easement of use of certain Residential Lots and the Common Area and facilities thereof, all without charge during the entire sales and construction period on the Premises and in accordance with the Development Agreements and applicable governmental laws, ordinances and regulations;

(vii) At any time prior to the time that Declarant conveys title to the Common Area to the Association, Declarant shall have and hereby reserves the right, without having to obtain the consent of any other party, (A) to grant and record such easements (in addition to the easements set forth and granted in any Plat of Subdivision) over, under, through, across, upon, in and on the Common Area or portions thereof for the installation, construction and maintenance of any utility service, landscaping, buffering, ingress and egress, and such other purposes as Declarant, in its reasonable discretion, deems necessary, desirable or required by the final engineering plans for the Premises or by the "as-built" condition of the Premises, or any part or portion thereof; (B) to make such dedications as may be required to implement Development Agreements and the ordinances of any governmental authority from time to time applicable to the Lots and the public improvements therein and to dedicate space in the Common Area or any portion thereof to any public or quasi-public utility or to any governmental authority for the location of utilities serving any portion of the Common Area; (C) to add to the Common Area by causing a deed to be recorded which conveys to the Association fee simple title to the real property which is to be added to the Common Area; provided, however, that said add-on property shall be limited to real property which is part of the Premises and the Trail Area; and, provided further that the addition of said real property is consistent with the intent and purposes of this Declaration and with the terms and conditions of the Preservation Easement; and (D) to cause the Preservation Easement to be recorded against all or a portion of the real property which constitutes the Common Area. Adding any portion of the Premises to the Common Area shall be accomplished by causing an Amendment to this Declaration to be recorded, which Amendment shall designate by legal description or attached plat, or both, what real property is being so added.

(b) ~~The foregoing described non-exclusive easement and right granted to the Residential Lot Owners shall extend not only to each Residential Lot Owner, but also to members of his immediate family, his authorized guests, other authorized Occupants and visitors of the Residential Lot Owner.~~ The use and enjoyment of the Common

Area shall be subject to such reasonable rules and regulations as are adopted from time to time by the Association; provided, however, that in no event shall any rule or regulation have the effect of reducing or adversely affecting (A) the obligations of the Association to maintain all portions of the Common Area, (B) the obligations of the Association to maintain the landscaping and to perform snow removal from the driveways and front service walks located on the Prairie Lots, or (C) the obligations of the Association under the Development Agreements or any applicable governmental law, ordinance or regulation.

Section 5.04. Establishment of the Trail Area.

(a) In connection with the development of the Premises, Declarant currently contemplates constructing, as part of the Common Area, certain pedestrian and equestrian trails initially to be constructed in the general areas identified in the General Development Plan (the "Trail Area").

(b) In furtherance of the creation and establishment of the Trail Area, Declarant shall grant or cause to be granted to all Residential Lot Owners, easements (the "Trail Easement") (i) for the use and enjoyment in, to, over, across and upon the Trail Area; provided, however, that it is anticipated that there may be changes to the boundaries of the Trail Area and there will be certain restrictions upon the use of the Trail Area, all as more particularly set forth in the Trail Easement. All of the foregoing easements and rights are subject to the Trail Easement and such rules and regulations as are adopted by the Association from time to time; provided, however, that no such rule or regulation conflicts or is inconsistent with the Trail Easement. Such Trail Easement shall be filed for record in the Office of the Recorder of Lake County, Illinois.

Section 5.05. Improvement of the Common Area. Declarant shall cause to be constructed, installed and/or located upon the Common Area, in conformity with the Development Agreements and all applicable governmental laws, ordinances and regulations, such landscaping, sprinkler systems, benches, lighting, spaces for the parking of motor vehicles, walkways, paths, gazebos, wetlands, meadows, prairies, piers, pump houses, sheds, fencing, gates, benches, berms, walking trails, signs, monuments, sculptures, playlots, recreational facilities, storm water retention or detention basins, ponds, ditches, culverts, swales, lakes and other improvements, all as may be required by the governmental laws, ordinances, regulations, or Development Agreements as shall be in effect during, and applicable to, the development of the Premises or as Declarant shall from time to time, in its sole discretion, determine to be necessary, appropriate or desirable. The Association shall have the right, subject to obtaining the approval of a majority of the Members, and in conformity with the



Development Agreements and all applicable governmental laws, ordinances and regulations, to improve further the Common Area (other than the Trail Area) in a manner consistent with the intent and purpose of this Declaration and with the maintenance of the natural values of the Common Area.

Section 5.06. Fences and Berms. There may be upon the Common Area fences and berms of such design as the Association shall determine from time to time and as shall be in conformity with the Development Agreements and all applicable governmental laws, ordinances and regulations and the limitations contained herein. No security gates shall be placed at the entrances to the Premises without the prior written approval of the Village.

Section 5.07. Conveyance of the Common Area. Declarant hereby covenants for itself, its successors and assigns that it will convey, by quit-claim deed, fee simple title to all or a portion of the Common Area to the Association on or prior to the Transfer Date; subject, however, to such rights in the Common Area as Declarant has expressly reserved in this Declaration or shall expressly reserve in the instrument conveying the Common Area to the Association consistent with the intent and purposes of this Declaration. Notwithstanding the foregoing, Declarant may, and does hereby reserve the right to, convey fee simple title to all or part of the Common Area to the Association at any time prior to the Transfer Date.

Section 5.08. Dedication of the Common Area. Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Common Area to or for any public use or purpose whatsoever.

## ARTICLE VI

### MAINTENANCE OF COMMON AREA AND DWELLING UNITS

#### Section 6.01. Maintenance of the Common Area.

(a) Subject to the provisions of the Preservation Easement and Trail Easement, the Association shall determine and carry out or cause to be performed all maintenance, improvement, repair and replacement of the Common Area, including, without limitation, the Trail Area and all of the landscaping, sprinkler systems, benches, lighting, spaces for the parking of motor vehicles, walkways, paths, gazebos, wetlands, meadows, prairies, piers, pump houses, sheds, cabins, fencing, gates, benches, berms, walking trails, signs, monuments, sculptures, playlots, recreational facilities, storm water retention or detention basins, ponds, ditches, culverts, swales, lakes and other improvements, all to the extent located upon and serving the Common Area and generally all other parts and portions of the Common Area (including, without

limitation, a community and recreational center, which may include, without limitation, a pool, tennis courts and clubhouse) whether or not specifically described or existing on the date hereof. Without limiting the foregoing, the Association may periodically in conformity with all applicable governmental laws, ordinances and regulations, as modified by the Development Agreements, burn the prairie areas within the Common Areas and shall otherwise manage them in a manner which is required to maintain such areas in their natural state.

(b) The Association shall have the right to ingress and egress over and upon the Common Area, including without limitation, the Trail Area, for any and all purposes connected with the use, maintenance, repair, operation, improvement, replacement and reconstruction of the Common Area. In addition, upon prior notice to any Residential Lot Owner (except in the event of an emergency where no notice shall be required), the Association is hereby granted the right to enter upon any Residential Lot to the extent necessary for the maintenance, repair, operation, improvement, replacement and reconstruction of the Common Area and adjoining Residential Lots.

Section 6.02. Maintenance of Dwelling Unit, etc. on Residential Lot. Each Residential Lot Owner shall have the obligation to maintain in good condition and repair his Dwelling Unit and Residential Lot including, by way of example and not limitation, the roof, exterior walls, basement window wells, porches, stoops, patios, decks, mailboxes, gutters, downspouts, drainage swales and facilities, shutters, screens, trim, windows, doors, driveway, service walks, any fences, exterior lighting fixtures and all other improvements thereto, including periodic caulking and painting of exterior surfaces. In addition, each Residential Lot Owner shall have the obligation to maintain in good condition and repair all landscaping located on his Residential Lot, including, by way of example and not limitation, replacement, watering, fertilizing, weed killing, seeding, pruning and edging of all grass, shrubs, trees, plantings and other landscaping; provided, however, that Prairie Lot Owners shall not be obligated to provide for landscape maintenance and snow removal for which the Association is obligated by this Declaration to undertake. Except in the event of an emergency (where no notice shall be required), upon reasonable prior written notice to any Residential Lot Owner of such failure to so maintain his Residential Lot in a manner satisfactory to the Association, the Association, through its agents and employees, is hereby granted the right to enter upon his Residential Lot and make such reasonable repairs, maintenance, rehabilitation or restoration thereof as may be necessary, and the costs thereof shall become a lien upon his Residential Lot in the same manner as provided in Article VIII for nonpayment of maintenance assessments.

Section 6.03. Maintenance of the Prairie Lots.

(a) The Association shall have the obligation (i) to remove all snow from all private driveways and service walks located upon each individual Prairie Lot, to the extent such service walks and driveways are located "in front" of the Dwelling Unit on that Residential Lot; (ii) provide for grass cutting, weed killing, fertilizing and pruning of landscaping, including shrubs, trees and lawns located in the Prairie Lots (but not replacements or watering thereof which shall be performed by each Prairie Lot Owner); and (iii) to perform any other function or task with respect to only the Prairie Lots as is determined by the Association Members to be appropriate, desirable or necessary. To this end, the Association is hereby granted an easement to enter upon each Prairie Lot for the aforementioned purposes. The Association shall assess the Residential Lot Owners of the Prairie Lots for the provision of the aforementioned services in the manner provided in Article VIII hereof. Although not obligated to do so, a Residential Lot Owner of a Prairie Lot may, at his sole cost and expense, add to or replace all or any portion of the landscaping on his Residential Lot, subject to obtaining architectural approval from the Board.

(b) Notwithstanding any language contained in this Declaration to the contrary, at any time prior to the Transfer Date, Declarant (or subsequent to the Transfer Date, the Association, upon the vote of two-thirds (2/3) of the Prairie Lot Owners) shall have the right, without having to obtain the consent of any other party, to abolish, ~~delete~~, eliminate and otherwise amend the scope of, all or part of the obligations of the Association set forth in this Section 6.03 to maintain the Prairie Lots; provided, however, any such abolition, deletion, elimination or amendment may be rescinded or otherwise further amended upon the subsequent vote of two-thirds (2/3) of the Prairie Lot Owners. To the extent any such Association maintenance obligation is eliminated pursuant to this Section 6.3(b), the obligation to maintain the Prairie Lots shall be assumed by each Prairie Lot Owner for his respective Prairie Lot.

Section 6.04. Landscaping Generally. Declarant, the Association and each individual Residential Lot Owner shall comply with any and all provisions of the Development Agreements and Village ordinances and regulations governing landscaping and landscaping plans in connection with the development and use of the Premises and each individual Residential Lot. Additionally, each Residential Lot Owner shall comply with rules and regulations promulgated by the Association regulating the types of fertilizers, pesticides and any other substances which may be utilized in the performance of landscaping, as well as regulations prohibiting certain noxious shrubs within the Premises. All landscaping shall be consistent with the maintenance of the natural values of the Common Area as set forth in this Declaration.

## ARTICLE VII

### COVENANT FOR MAINTENANCE ASSESSMENTS

#### Section 7.01. Covenant for Assessments.

(a) Declarant, for each Residential Lot owned within the Premises, hereby covenants, and each Residential Lot Owner, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association (or in the case of the Open Space Preservation Fund Assessment [hereinafter defined] to pay to Liberty Prairie) (hereinafter, the "Association Assessment"): (1) regular assessments and charges, (2) special assessments for capital or other improvements or maintenance requirements, and (3) the Open Space Preservation Fund Assessment; the amount of the Association Assessment to be established and collected from time to time as provided in this Declaration. The Association Assessment, including the Open Space Preservation Fund Assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on each Residential Lot and shall be a continuing lien upon such Residential Lot against which such Association Assessment is levied. Each such Association Assessment, together with such interests and costs of collection, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Residential Lot Owner of such Residential Lot at the time when the Association Assessment or installment thereof became due. Such personal obligation, including the obligation to pay the Open Space Preservation Fund Assessment, shall pass to said Residential Lot Owner's successors in title if not fully discharged by the transferor Residential Lot Owner prior to any transfer of said Residential Lot.

(b) In addition to, but not in substitution for, the Association Assessment, Declarant, for each Prairie Lot owned within the Premises, hereby covenants, and each Residential Lot Owner of a Prairie Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association an assessment for the cost of performing the landscape maintenance and snow plowing described in Section 7.02(b) herein (the "Landscape Assessment"). The Landscape Assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on each Prairie Lot and shall be a continuing lien upon such Residential Lot against which each Landscape Assessment is made. Each such Landscape Assessment, together with such interests and costs of collection, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Residential Lot Owner of such Prairie Lot at the time when the Landscape Assessment or installment thereof

became due. Such personal obligation shall pass to said Prairie Lot Owner's successors in title if not fully discharged by the transferor Residential Lot Owner prior to any transfer of said Prairie Lot.

Section 7.02. Purpose and Use of Assessments.

(a) The Association Assessment, excluding the Open Space Preservation Fund Assessment (hereinafter defined), shall be used exclusively for the purpose of (i) promoting the health, safety, and welfare of the Members and Occupants, (ii) at the Board's option, providing each Dwelling Unit with basic (or expanded basic) cable television service, (iii) the discharge of the Association's responsibilities under the Development Agreements (hereinafter defined) as set forth in Article XI herein, including, without limitation, the maintenance of street lights, lamps, signs, cul-de-sac islands, wetlands and sensitive plant materials, in each case owned by the Village but devoted to or serving the Premises or related to the use or enjoyment of the Premises, and (iii) the improvement and maintenance (A) of the Premises, and (B) of the services and facilities devoted to or serving the Premises or related to the use or enjoyment of any part or portion of the Common Area, including, without limitation, to engage the services of a manager or managing agent who shall manage and operate the Premises and the Common Area subject to the terms and provisions of the Declaration. Such uses shall include, but are not limited to, the cost to the Association of all taxes and insurance premiums with respect to, and the expense of operation, repair, replacement and maintenance of, the Common Area (or those portions of the Common Area as to which the Association is, pursuant to this Declaration, responsible to perform such function or incur such expense, including, without limitation, any leased space for an Association office) as may from time to time be authorized by the Board. In addition, the Association shall establish and maintain a reserve for capital expenditures and major repairs and replacements that may be required from time to time, as determined by the Board (such as, without limitation, for the rebuilding or replacement of ponds, ditches, culverts, swales, lakes, streetlights, sprinkler systems, gazebos or bridges; and for the replacement of landscaping and shrubbery located in the portions of the Common Area, including without limitation the Trail Area). At the time each Residential Lot is sold by Declarant, the Residential Lot Owner (purchaser from Declarant) shall pay [in addition to the first month (or other then being used assessment period) installment of the Association Assessment attributable to that Residential Lot] to the manager or managing agent, or as otherwise directed by the Board, an amount equal to one-sixth (1/6) of the then annual Association Assessment, which amount shall be used and applied for start-up costs and as a working capital fund in connection with all initial operating expenses of the Association and held for future working capital needs. This payment shall not

be refundable or be applied as a credit against the Residential Lot Owner's installments of the Association Assessment. The Board or the Declarant shall have the right to transfer such funds from time to time as may be necessary to fund a reserve for capital improvements and major repairs.

(b) The Open Space Preservation Fund Assessment shall be paid to Liberty Prairie and shall, in Liberty Prairie's sole discretion be used and applied exclusively for the administration, care and maintenance of (i) the Premises made subject to the Preservation Easement (ii) the Preservation Property (iii) highway underpasses and overpasses which serve the Premises or Preservation Property (iv) the Regional Trails generally described on the General Development Plan, and (v) areas immediately contiguous to the Premises or Preservation Property which provide access to pedestrian or equestrian trails which are not part of the Premises or Preservation Property but which serve the Premises or Preservation Property or are related to the use or enjoyment of the Premises or Preservation Property. The Open Space Preservation Fund Assessment may, in Liberty Prairie's sole discretion, also be used and applied to services, facilities and scientific and educational programs devoted to or serving the Premises or Preservation Property or related to the use or enjoyment of any part or portion of the Premises or Preservation Property, including, without limitation, to engage the services of a naturalist who may oversee and administer the operation of the Preservation Property, enforce the rights of Liberty Prairie under the Preservation Easement, establish educational and scientific programs related to the unique and important natural, ecological, open space and scenic resources of the Preservation Property.

(c) The Landscape Assessment shall be used exclusively for the maintenance of landscaping and the plowing of snow from the driveways and those service walks located in front of the Dwelling Unit on each Prairie Lot, all within the area consisting of the Prairie Lots, and for such other purposes related to the use and enjoyment of the Prairie Lots as may from time to time be authorized by the Board, or that the Board shall determine to be necessary or desirable. In addition, water and/or any other utility or other service which is not separately metered or otherwise directly charged to individual Residential Lot Owners of the Prairie Lots but are attributable to only the Prairie Lots (as opposed to all Residential Lots) shall be included in calculating the amount of the Landscape Assessment. The Board reserves the right to levy additional specific assessments against any Residential Lot Owner of a Prairie Lot for excessive or disproportionate use of any service being provided by the Association, the expense of which is included in the Landscape Assessment.

Section 7.03. Establishment of Assessments.

(a) The Board shall, on or before December 1 of each year, estimate the total amount necessary to pay all costs and expenses to be incurred (such as, but not limited to, real estate taxes, landscaping, insurance, maintenance of the Common Area, obligations under the Development Agreements or applicable Village ordinances or regulations, etc.) during the ensuing calendar year to effect the purposes of the Association, including, without limitation, the establishment/continued funding of the reserve for capital improvements and major repairs; provided, however, that in no event shall any Association Assessment be levied for or applied to the cost of the initial capital improvements to be constructed or installed by Declarant on the Premises. Said "estimated cash requirement" shall be allocated among and to the Residential Lot Owners in the manner hereinafter described. On January 1st of the ensuing year and on or before the 1st day of each and every month (or other assessment period as the Board may establish, as hereinafter provided) thereafter during said year, each Residential Lot Owner shall be personally obligated to pay an installment of said Residential Lot Owner's annual Association Assessment. Notwithstanding anything contained herein to the contrary, the Board shall have the right to establish that each Residential Lot Owner shall be obligated to pay the annual assessment due hereunder in four equal quarterly installments or as twelve equal monthly installments; provided, however, that said payment schedule shall be uniformly and equally applicable to all Residential Lot Owners within said Board's jurisdiction, and if the actual expenditures paid or provided for by the Board during said year shall be more or less than said "estimated cash requirement", any net shortage or excess shall entitle the Board, upon giving written notice thereof to all Residential Lot Owners within its jurisdiction, to adjust accordingly the amount of those installments of the current year's Assessment falling due after the date when the amount of such net shortage or excess is determined.

(b) The Board shall, on or before December 1 of each year, estimate the total amount necessary to pay all costs and expenses to be incurred in connection with its obligations with respect to portions of the Prairie Lots (such as, landscaping, snowplowing, etc.) during the ensuing calendar year to effect the purposes of the Association with respect to its Prairie Lot landscaping responsibilities. Said "estimated cash requirement" shall be allocated among and to the Prairie Lot Owners in the manner hereinafter described. On January 1st of the ensuing year and on or before the 1st day of each and every month (or other assessment period as the Board may establish, as hereinafter provided) thereafter during said year, each Residential Lot Owner shall be personally obligated to pay an installment of said Prairie Lot Owner's annual Landscape Assessment. Notwithstanding anything contained herein to the contrary, the Board shall have the right to

establish that each Prairie Lot Owner shall be obligated to pay the annual assessment due hereunder in four equal quarterly installments or as twelve equal monthly installments; provided, however, that said payment schedule shall be uniformly and equally applicable to all Prairie Lot Owners within said Board's jurisdiction, and if the actual expenditures paid or provided for by the Board during said year shall be more or less than said "estimated cash requirement", any net shortage or excess shall entitle the Board, upon giving written notice thereof to all Prairie Lot Owners within its jurisdiction, to adjust accordingly the amount of those installments of the current year's Assessment falling due after the date when the amount of such net shortage or excess is determined.

(c) If, during an assessment year, said "estimated cash requirement" proves inadequate for any reason (including, for example, nonpayment by one or more Residential Lot Owners of their respective Assessment, or in the case of Prairie Lot Owners, Prairie Lot Assessments), the Board may at any time levy a further Assessment, or Prairie Lot Assessment, as the case may be. The Board shall serve notice of such further assessment on all affected Residential Lot Owners, or Prairie Lot Owners, as the case may be, by a statement in writing setting forth the amount of said further assessment and the reasons for it, and thereupon, such further assessment shall become effective with the next installment of the applicable Assessment or Prairie Lot Assessment, as the case may be, and all affected Residential Lot Owners, or Prairie Lot Owners, as the case may be, shall be personally liable for and obligated to pay their respective adjusted installments of that assessment.

(d) The failure or delay of a Board to prepare an annual or an adjusted estimated budget shall not constitute a waiver or release in any manner of any Residential Lot Owner's obligation to pay the installments of the applicable Assessment, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, each Residential Lot Owner shall continue to pay at the then existing Assessment rate established for the previous period.

Section 7.04. Special Assessments. In addition to the annual Assessments authorized above, the Association, with respect to the Common Area (including the Trail Area), may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement, or any extraordinary maintenance or repair required for the Common Area including the necessary fixtures and personal property related thereto, if any; provided, however, that in no event shall a Special Assessment be levied for or applied to the cost of the initial capital improvements to be constructed or installed by Declarant on the Premises. In addition, no such



assessment shall be levied unless the same shall be assented to either (a) if the Class B Members are still in existence, one hundred percent (100%) of the Class B Members, or (ii) if the Class B Members are no longer in existence, over one-half (1/2) of the votes of the then Class A Members, who are voting in person or by proxy at a meeting duly called for such purpose. If no Class B members are in existence, no special assessment in excess of twenty percent (20%) of the annual Association Assessment for such year shall be levied unless assented to by seventy-five percent (75%) of the votes of the then Class A members, who are voting in person or by proxy at a meeting duly called for this purpose. The foregoing special assessment may be levied notwithstanding the fact that the Association may have then accumulated a reserve.

Section 7.05 Open Space Preservation Fund Assessment. In order to effect the purposes herein set forth for the Open Space Preservation Fund Assessment, an assessment shall be levied at the date upon which each Residential Lot Owner sells its Residential Lot (or transfers the beneficial interest in a Residential Lot whose title is held in a land trust), the amount of which assessment shall be equal to \$5.00 for each \$1,000 of the full actual consideration paid by the buyer to the Residential Lot Owner of the Residential Lot, including the amount of any lien or liens assumed by the Buyer, which assessment shall be payable to Liberty Prairie (the "Open Space Preservation Fund Assessment"). The foregoing Open Space Preservation Fund Assessment shall be levied notwithstanding the fact that Liberty Prairie may have then accumulated a reserve.

Section 7.06. Uniform Assessment Amount.

(a) Both annual and special Association Assessments shall be the same amount for each Residential Lot, notwithstanding the size of the Residential Lot or the size or nature of the improvements on that Residential Lot. Such Assessments shall be levied, paid and collected on a quarterly or monthly basis, as determined by the Board.

(b) Landscape Assessments shall be the same amount for each Prairie Lot, notwithstanding the size of the Residential Lot or the size or nature of the improvements on that Residential Lot. Such Assessments shall be levied, paid and collected on a quarterly or monthly basis, as determined by the Board.

Section 7.07. Commencement of Assessments. The Association Assessment, including the Open Space Preservation Fund Assessment, for each Residential Lot and the Landscape Assessment for each Prairie Lot shall commence on the date of transfer by Declarant of that Residential Lot. Each Residential Lot Owner (other than Declarant) shall commence to pay such Association Assessments (including the Open Space Preservation Fund Assessment) on the date

which the Residential Lot Owner purchases and takes title to a Residential Lot. The Association Assessment, including the Open Space Preservation Fund Assessment, for Residential Lots annexed to the Premises by means of a Declaration of Inclusion pursuant to the provisions of Article IV (other than those owned by Declarant) shall commence on the first day of that Assessment period which first occurs after the date of recording of said Declaration of Inclusion. Notwithstanding anything in this Declaration which is or may appear to be to the contrary, as to the Association Assessment, and Landscape Assessment due from those Residential Lots owned by Declarant from time to time, Declarant shall only be obligated to pay to the Association amounts which Declarant, in its reasonable discretion, deems to be commensurate with the benefits which Declarant is deriving therefrom including the direct costs incurred by the Association in connection with platted Residential Lots owned by Declarant; provided, however, that in no event shall such amounts exceed the Association Assessment and, if applicable, the Landscape Assessment then levied for such period. Notwithstanding the foregoing sentence, Declarant shall pay an amount equal to the Association Assessment and, if applicable, Landscape Assessment for each Residential Lot owned by Declarant containing a completed Dwelling Unit which is used by Declarant as a "model home" for purposes of marketing other Dwelling Units in the Development. Notwithstanding anything in this Declaration which is or may appear to the contrary, in connection with the original conveyance by Declarant of each Residential Lot, Declarant shall pay the Open Space Preservation Fund Assessment.

Section 7.08. Delinquent Assessments. Installments of each Assessment (whether an Association Assessment, including the Open Space Preservation Fund Assessment, a Landscape Assessment, or any Special Assessment) shall be due on the first day of each applicable assessment period and if not paid when due, shall be delinquent and if payment of said installment of an Assessment is not made on or before the 15th day following the date upon which it is due, then (i) the amount of said installment shall bear interest from and after the 15th day following said due date until paid at the lesser of the rate of eighteen percent (18%) per annum and the highest lawful rate of interest, (ii) in addition to said interest, the delinquent Residential Lot Owner shall pay to the Association (or in the case of a Open Space Preservation Fund Assessment, to Liberty Prairie) a late charge of \$25.00 for each month or portion thereof that said installment remains delinquent, said late charge to cover the administrative costs in monitoring and collecting said installment, (iii) in addition, the Board shall have the right (A) to suspend the right of a Member and his Family to use the recreational facilities of the Association and other Common Area and/or (B) publish or otherwise post the name of the delinquent Residential Lot Owner, including information regarding the amount and nature of the delinquency, for any period during which any Assessment, or any portion thereof, assessed against his

Residential Lot remains unpaid after the due date or dates until such default has been remedied. In addition, the Association (and in the case of an Open Space Preservation Fund Assessment, Liberty Prairie) may bring an action at law against the Residential Lot Owner personally obligated to pay said delinquent installment(s), or may foreclose its lien against said Residential Lot Owner's Residential Lot; and in either event, there shall be added to the amount of such delinquent Assessment installment(s) (and in the amount of said lien) interest, late charge(s), and the costs of collection, including reasonable attorneys' fees and all court costs. Each Residential Lot Owner, by his acceptance of a deed to a Residential Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Residential Lot Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien or liens by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a manner similar to the type of action instituted to foreclose the lien of a mortgage or deed of trust on real property.

Section 7.09. Priority of the Lien for Assessment. The lien or liens for the Association Assessment (including the Open Space Preservation Fund Assessment), Landscape Assessment, or any Special Assessment, as the case may be, as it relates to each Residential Lot shall be subordinate to the liens of any mortgage(s) or deed(s) of trust (a "Mortgage") now or hereafter recorded against title to that Residential Lot provided that said Mortgage is recorded prior to the recording of any such liens for delinquent Assessment installment(s). In the event that title to any Residential Lot is transferred either pursuant to the foreclosure of a Mortgage or by deed or assignment in lieu of such foreclosure, such transfer shall extinguish the lien for Assessment payment(s) for sums which became due prior to the first to occur of (a) the date of the transfer of title and (b) the date on which the transferee comes into possession of the Residential Lot. Notwithstanding the foregoing, said transferee of said Residential Lot shall be liable for his share of any sums with respect to which a lien against his Residential Lot has been extinguished pursuant to the preceding sentence and the amount so extinguished is reallocated among all Residential Lot Owners or, in the case of Landscape Assessments, to Prairie Lot Owners, pursuant to a subsequently adopted annual revised Assessment or special assessment, and non-payment thereof by said transferee shall result in a lien against his Residential Lot as provided in this Article. As to Prairie Lots, any lien for the Landscape Assessment shall be on a parity with any lien for the Association Assessment.

Section 7.10. Collection of Open Space Preservation Fund Assessment. Until otherwise notified by Liberty Prairie, and at the option of Liberty Prairie, such Open Space Preservation Fund Assessment shall be collected by the Association; provided,

however, that all funds received by the Association in payment of such assessment shall be promptly forwarded by the Association to Liberty Prairie. The Association shall not be responsible for the payment of any delinquent amounts owed by the transferor of a Residential Lot, but shall notify Liberty Prairie of any delinquent amounts owed by the transferor of a Residential Lot; provided, however, upon the request of Liberty Prairie, the Association, as agent and on behalf of Liberty Prairie, shall take all necessary actions, including but not limited to, the filing, enforcing and foreclosing of liens, or otherwise enforcing the collection of the Open Space Preservation Fund Assessment.

Section 7.11. Certificate of Payment. The Association shall, upon reasonable written request, furnish to any Residential Lot Owner liable for the payment of Association Assessments (including the Open Space Preservation Fund Assessment) and, with respect to Prairie Lot Owners, Landscape Assessments, a certificate in writing signed by an officer or authorized agent of the Association, setting forth whether the assessments on a specified Residential Lot have been paid and the amount of the delinquency, if any; provided, however, that the Association shall only be authorized to deliver such certificate with respect to the payment of the Open Space Preservation Fund Assessment only so long as and to the extent that such assessment is collected by the Association on behalf of Liberty Prairie. A reasonable charge may be made by the Board for the issuance of these certificates. Subject to the preceding qualification, said certificates shall be conclusive evidence that any assessment therein stated to have been paid has in fact been paid.

Section 7.12. Common Area Real Estate Taxes. Notwithstanding anything to the contrary herein contained and whether or not Declarant shall have conveyed to the Association title to the Common Area pursuant to this Declaration, from and after the date of recording of this Declaration, the Association shall be responsible to pay and discharge all general and special real estate taxes and assessments levied by any public authority with respect to the Common Area.

## ARTICLE VIII

### INSURANCE

Section 8.01. Liability and "All Risk" Insurance. The Association shall be responsible for procuring and maintaining comprehensive public liability insurance, including liability for injuries to and death of persons, property damage, and other liability insurance as may be required under the Development Agreements and any applicable Village ordinance or regulation, and the Association may procure and maintain such other insurance in

such amounts as it may deem desirable, insuring the Association from liability in connection with the ownership and/or use of the Common Area and Common Area facilities. In addition, the Association shall be further responsible for maintaining such policies of Insurance for the improvements from time to time located in the Common Area against loss or damage by fire and such other hazards contained in a customary "all risk" policy provided that such policies shall (i) state that such policies may not be cancelled or substantially modified without at least thirty (30) days written notice to the Association; and (ii) provide for coverage in the amount of one hundred (100%) percent of current full replacement value of said improvements. Replacement cost shall be determined annually by an independent appraiser or by a method acceptable to the insurance company providing such coverage. The aforesaid liability insurance policies shall also name as insureds each Association's Directors, agents, officers, employees, and all Residential Lot Owners or Prairie Lot Owners, as the case may be, and the Village. The Association shall also carry Workman's Compensation and Employer's Liability Insurance covering the Association's employees on the Premises.

Section 8.02. Other Insurance. The Association may also obtain such other kinds of insurance as the Board shall from time to time deem prudent or necessary, in such amounts as shall be deemed to be desirable, including, but not limited to, the following: flood risk; Directors and Officers Liability; and Non-Owned or Hired Automobile Insurance.

## ARTICLE IX

### SPECIFIC RESTRICTIONS AND PROVISIONS RELATING TO USE AND IMPROVEMENT OF RESIDENTIAL LOTS AND COMMON AREA

Section 9.01. Improvements on a Residential Lot. Only one Dwelling Unit for a single Family occupancy and accessory structures incident thereto shall be constructed or located on each Residential Lot.

Section 9.02. Restrictions on the Use of a Residential Lot.

(a) Each Residential Lot shall be used only for residential purposes as a private residence, and no business or commercial use shall be made of the same, or any portion thereof, unless: (i) the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (ii) the business activity is expressly permitted under the applicable ordinances and regulations governing the Premises; and (iii) the business activity is consistent with the residential character of the Premises and does not constitute a nuisance, or a hazardous or offensive use, or

threaten the security or safety of other residents of the Premises, as may be determined in the sole discretion of the Board. Notwithstanding the foregoing, the restrictions contained in this Section shall not be construed in such manner so as to prohibit a Residential Lot Owner from (i) maintaining his personal professional library therein; (ii) keeping his personal, business or professional records or accounts therein; or (iii) handling his personal, business or professional telephone calls, correspondence or other communications therefrom. A Residential Lot Owner's use of a Residential Lot shall not endanger the health or disturb the reasonable enjoyment of any other Residential Lot Owner or Occupant, except that the foregoing restriction on disturbing reasonable enjoyment shall not be deemed to preclude or prohibit any of the rights or activities expressly reserved by, or granted in, this Declaration, to Declarant or the Association.

(b) No Residential Lot Owner shall do or permit to be done on his Residential Lot or anywhere else in the Premises any act or thing which will impair any easement or hereditament granted to any other party nor shall any Residential Lot Owner create or permit to exist on his Residential Lot or anywhere else in the Premises any condition which will adversely affect the use or enjoyment of the Premises or any part or portion thereof by any party entitled to such use or enjoyment.

(c) No nuisance, noxious or offensive activity shall be or permitted to be carried on by any Residential Lot Owner on his Residential Lot or anywhere else in the Premises nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to any other Residential Lot Owner or Occupant.

(d) In addition to the restrictions set forth in this Declaration, the Association may from time to time adopt such rules and regulations governing the use or enjoyment of the Residential Lots as the Board in its reasonable discretion, deems desirable, appropriate or necessary. Those rules and regulations and use restrictions shall be binding on all Residential Lot Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting of the Association by the vote of voting Members representing a majority of the total votes in the Association and by the Class B Member, so long as that membership shall exist. Notwithstanding anything contained herein to the contrary, so long as the Class B Member owns any Residential Lots primarily for development and/or resale, the Class B Member shall have the right to disapprove any standards or restrictions governing the use of Residential Lots. Additional restrictions of a uniform and non-discriminating character may be approved by the Association for individual Residential Lot types (e.g. Prairie Lots) to take into account special circumstances within those neighborhoods.

Section 9.03. Prohibition on Use or Occupancy of Temporary Structures. Unless expressly permitted by the rules and regulations from time to time promulgated by the Board, no structure of a temporary character, trailer, basement, shack, garage, barn or other out buildings shall be used as a residence at any time, either temporarily or permanently.

Section 9.04. Prohibition on Signage. Except for Declarant and its activities within the Premises, no signs of any kind (including "For Rent" and "For Sale" signs), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on a Dwelling Unit or Residential Lot (including, without limitation, signs placed upon the window of a Dwelling Unit), except as may be approved in advance by the Board or otherwise permitted by rules and regulations from time to time established by the Board.

Section 9.05. Animals. Unless expressly permitted by the rules and regulations from time to time promulgated by the Board, no animals, livestock or poultry of any kind shall be raised, bred, or kept in or about any Dwelling Unit, Residential Lot, or Common Area, except that dogs, cats or other common household pets may be kept in Dwelling Units; provided, that they are not kept, bred, or maintained for any commercial purposes and provided further that any such pet causing or creating a nuisance or unreasonable disturbance shall be permanently removed from a Residential Lot upon three (3) days written notice from the Board. Unless expressly permitted by the rules and regulations from time to time promulgated by the Board, pets shall be confined or leashed (or otherwise controlled by electronic device) at all times when outside any Dwelling Unit so as to confine the pet to the boundaries of its owner's Residential Lot, and Pets shall be leashed at all times when outside any Residential Lot. Any pet excrement shall be immediately removed from public or private property. No pit bull terriers (or such other breed of dog which the Board determines to pose a threat to the safety and well-being of Residents) shall be permitted to be kept in any Dwelling Unit, Residential Lot, or Common Area. No venomous snakes or poisonous insects shall be permitted to be kept in any Dwelling Unit, Residential Lot, or Common Area.

Section 9.06. Garbage. Except to the extent required by Village refuse collection practices or contracts, all rubbish, trash, and garbage shall be kept on each Residential Lot so as not to be seen from neighboring Dwelling Units or the roads, and shall be regularly removed from each Residential Lot and shall not be allowed to accumulate thereon. In addition to the foregoing, all rubbish, trash and garbage shall be stored and removed in accordance with the rules and regulations adopted by the Board.

Section 9.07. Illegal and Offensive Activity. No portion of the Premises shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept on any portion of the Premises that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of any Occupant. No noxious, offensive or illegal activity shall be carried on in or on any Dwelling Unit or Residential Lot, nor shall anything be done therein or thereon, either willfully or negligently, which may be or become an annoyance or nuisance to any Residential Lot Owner or Occupant.

Section 9.08. Burning. Except for the Association's right to burn the prairie areas within the Common Areas, and unless otherwise expressly permitted by the rules and regulations from time to time promulgated by the Board, no bonfires or burning of garbage, leaves or other materials shall be permitted on any Residential Lot or anywhere else on the Premises.

Section 9.09. Leasing. Unless otherwise approved by the Board, no Dwelling Unit may be leased for transient purposes. For purposes of this Section 9.09, "transient purposes" shall mean for a term of less than one (1) year. All leases shall be in writing and shall require the lessee to observe and comply with the provisions of this Declaration and any rules and regulations from time to time enacted by the Board. Any Residential Lot Owner who leases his Dwelling Unit shall provide the Association with (a) a copy of such lease; (b) the names of all persons who will occupy his or her Dwelling Unit; and (c) the lessee's telephone number at the Dwelling Unit and the lessee's place of business. The Board may enact reasonable rules and regulations in connection with the leasing of Dwelling Units.

Section 9.10. Prohibited Exterior Activities/Improvements.

(a) No Dwelling Unit, accessory structures, additions thereto, or any other exterior aspect of a Residential Lot (including, without limitation, any storm doors and windows, dog run, porch, patio, deck, basketball hoop, shed, awnings, satellite dishes, exterior lighting, playground equipment, decks, fencing, landscaping, solar panels or service walk), nor any construction, installation or location of any structure or improvement which is appurtenant to a Dwelling Unit (such as driveways, service walks, mailboxes, landscaping, air conditioning compressors, overhangs, free-standing flagpoles, sculptures, statues, lawn ornaments, eaves, gazebos, sheds, garages, gutters and downspouts, or basement area window wells), temporary or permanent shall be constructed, altered, restored, added to, located, remodeled on the exterior (including the painting or staining of any exterior surface),



placed, installed or permitted without, in each and every instance, the prior written approval of the Board, which approval (hereinafter called "Architectural Approval") shall be obtained in the manner set forth in Article X hereof; provided, however, that no such Architectural Approval shall be required (i) for the painting or restaining of exterior surfaces with paint or stain which is substantially the same color as that originally applied by Declarant to such exterior surfaces, or (ii) for the repair or replacement of improvements upon a Residential Lot which are of a color, design, material and construction equal to that of the improvement originally installed upon the Residential Lot by Declarant.

(b) No window air conditioning units shall be installed in any Dwelling Unit or otherwise protrude from any window or exterior wall of any Dwelling Unit. →

(c) No clothing, bedding, or similar materials shall be hung, dried, or aired overnight in a manner that is visible from any roadway.

(d) Window surfaces of Dwelling Units shall not be covered by sheets, newspapers, flags or any unsightly or reflective window treatment and no neon lighting or signage displayed on the interior a Dwelling Unit shall be visible from neighboring Dwelling Units or the roads.

(e) All exterior lighting and seasonal lighting and decorating shall be subject to rules, regulations and limitations of the Board, as the case may be, and all seasonal lighting and decorating shall be removed no later than fifteen (15) days after the close of the holiday.

(f) No exterior antennas, aerials, satellite dishes or other apparatus for the reception or transmission of television, radio, or other signals of any sort shall be placed, allowed or maintained on the exterior of any Dwelling Unit, on any portion of the exterior of any other improvements located on any Residential Lot, nor in a free-standing nature elsewhere on any Residential Lot. The Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna or cable system for the benefit of all or a portion of the Premises, should master system or systems to be used by the Association require any such exterior apparatus. No radio transmissions of any kind shall be made from any Dwelling Unit, Residential Lot, or Common Area, except for portable or cellular telephones, and communication equipment used by the Association.

(g) The installation, maintenance and use of lawn furniture and barbecues shall in all cases be subject to such rules, regulations and restrictions as the Board may impose.

(h) The installation, maintenance, and use of volleyball nets, badminton sets, swing sets, sandboxes or other playground or recreational equipment shall in all cases be subject to such rules, regulations and restrictions as the Board may impose.

(i) No above ground swimming pools, other than portable, non-permanent children's wading pools shall be permitted on any Residential Lot. In-ground swimming pools, (i) may not be installed in Residential Lots, other than Field Lots, (ii) may not have any portion of its structure, including pool decks, closer than 25 feet from a lot line of a Residential Lot, (iii) shall be constructed and operated in accordance with all applicable laws (including the installation of all appropriate fencing), and (iii) shall in all instances require prior written approval from the Architectural Review Committee in the manner provided in Article X hereof.

(j) No tennis courts, or similar structures, may be installed on any Residential Lot.

(k) Except with the prior written approval of the Architectural Review Committee in the manner provided in Article X hereof, the grading of a Residential Lot shall not be altered from the grading originally installed by the Declarant. Except with the prior written approval from the Architectural Review Committee in the manner provided in Article X hereof, no Residential Lot Owner shall remove or cut down any live and healthy tree planted on his or her Lot by the Declarant. No Residential Lot Owner shall alter the landscaping originally furnished to his or her Residential Lot by the Declarant or remove or add any shrubbery, trees, gardens or other plants, rock gardens, fountains or other elements of landscaping without the prior written approval from the Architectural Review Committee in the manner provided in Article X hereof; provided, however, Residential Lot Owners shall be permitted to plant a reasonable number of ornamental flowers and shrubs on his or her Residential Lot without the prior written approval of the Architectural Review Committee.

(l) Unless expressly permitted by the rules and regulations from time to time promulgated by the Board, which rules shall be consistent with the general purposes of this Declaration with respect to natural landscape maintenance, no Residential Lot Owner shall use synthetic chemicals in connection with landscape maintenance, snow removal or de-icing of any Residential Lot.

(m) Other than fences originally approved and erected by the Declarant, no fence shall be erected or maintained on a Residential Lot without the prior written approval of the Architectural Review Committee in the manner provided in Article X hereof.

(n) No docks, boat launches or similar structures may be erected or maintained on any Residential Lot abutting a lake or pond.

(o) No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Residential Lot without the prior written approval of the Architectural Review Committee in the manner provided in Article X hereof.

(p) All mailboxes shall be maintained in the style originally established or installed by Declarant. All replacement mailboxes erected and maintained upon a Residential Lot shall be of color, design, material and construction equal to that of the mailbox originally installed on the Residential Lot by Declarant.

(q) Any addition, change, or alteration to a Dwelling Unit or Residential Lot shall comply with all applicable building, zoning and fire laws, statutes, and ordinances and any other requirements of the Village, Lake County, and the State of Illinois.

Section 9.11. Parking and Vehicular Restrictions Parking areas and driveways shall only be used for parking operable automobiles and passenger vans capable of transporting not more than eleven passengers. No parking of any vehicles whatsoever shall be allowed in the Common Area except in areas designated by the Board for guest parking. No commercial vehicles, campers, trailers, snowmobiles, boats, or other vehicles of comparable size may be parked outside of any Dwelling Unit, on any vacant Residential Lot or in any Common Area unless in an accessory structure approved by the Board; provided, however, that commercial vehicles, campers, trailers, snowmobiles, boats, or other vehicles of comparable size may be so parked for a limited period in accordance with such rules and regulations as the Board may impose, provided (a) the vehicle is owned by a visiting guest or relative, (b) the Residential Lot Owner obtains the prior written approval of the Board and (c) such vehicle is not occupied during the time in which it is parked. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive of whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to temporary parking of commercial vehicles such as for construction use or providing pick-up and delivery and other commercial services nor to any vehicles of the Declarant. Unless expressly permitted by the rules and regulations from time to time promulgated by the Board, no parking on lawns. Subject to applicable laws and ordinances, any vehicle which remains in violation of these or other restrictions contained within this Declaration or otherwise promulgated by the Association for a period of twenty-four hours from the time a notice of violation is placed on the vehicle may be towed by the Association

at the sole expense of the owner of the vehicle, and such towing charge shall become a lien upon the Residential Lot of the Residential Lot Owner who owns such vehicle or of whom the owner of such vehicle is the guest, in the same manner as provided in this Declaration for nonpayment of assessments. The Association and the Board shall not be liable to the owner of that vehicle for trespass, conversion, or otherwise, nor guilty of any criminal act, by reason of the towing.

Section 9.12. Use of Boats. Except for emergencies or Association authorized maintenance, no boats greater than eighteen feet in overall length and no boats, or similar craft, powered by engines or motors of any kind shall be allowed on the lakes or ponds.

Section 9.13. Use of Recreational Vehicles. No golf carts, snowmobiles, all terrain vehicles (ATV's) and similar motorized, recreational vehicles may be operated on the Common Areas, except to the extent the use of such vehicles is required for the transportation of the physically disabled, and, with respect to golf carts, unless expressly permitted by the rules and regulations from time to time promulgated by the Board.

Section 9.14. Exceptions to Restrictions.

(a) The foregoing covenants of this Article shall not apply to the activities of Declarant or the Association.

(b) Declarant may maintain, while engaged in constructing and selling activities, in or upon such portions of the Premises as Declarant determines, such temporary facilities as in its sole discretion may be necessary or convenient, including, but without limitation, offices, storage areas, model units, garages, signs and construction and storage trailers.

Section 9.15. Compliance with Applicable Laws. Nothing in this Article IX shall effect the obligation of the Declarant, the Association or any Residential Lot Owner to comply fully with the Development Agreements and any and all applicable governmental laws, ordinances and regulations relating to the use and occupancy of the Premises. If and to the extent there is any conflict between the terms and conditions of this Article and such Development Agreements and laws, such conflict shall be resolved by the application of the more stringent provision as between this Article and such Development Agreements and laws; provided, however, in no event shall a more stringent provision under this Article be applied so as to adversely affect any program, policy, or service of the Village.

## ARTICLE X

### ARCHITECTURAL REVIEW

Section 10.01. Purpose of Architectural Approval. The purpose of requiring Architectural Approval (is to preserve the architectural and aesthetic appearance of the Premises, to protect the value of the property of all Residential Lot Owners and to maintain and protect the ecological balance and stability of the Common Area and other natural areas located on the Premises. The requirement for Architectural Approval shall not apply to any Dwelling Units, accessory structures, additions thereto or any other exterior aspect of a Residential Lot, or any exterior aspect of the Common Area constructed and installed or approved by Declarant in connection with the initial construction by Declarant on each Residential Lot.

Section 10.02. The Architectural Review Committee. The Board shall establish an architectural review committee (the "Architectural Review Committee") which shall consist of three members, at least one of whom shall be Residential Lot Owners and who may or may not be Directors; provided, however, that prior to the Class B Area Member Termination Date, at least one member of the Architectural Review Committee shall be designated by Declarant (and need not be a Residential Lot Owner). The Architectural Review Committee shall be an advisory committee whose function shall be to review every request for Architectural Approval and to make recommendations to the Board with respect thereto.

Section 10.03. Members of the Architectural Review Committee. The regular term of office for each member of the Architectural Review Committee shall be as determined by the Board. Any member of the Architectural Review Committee may be removed with or without cause by the party who appointed such member (that is, either the Board or Declarant) at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancies shall serve for the remainder of the term of the former member. The Architectural Review Committee shall elect a chairman from its members. The Architectural Review Committee shall meet as needed, as well as upon the call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. The Architectural Review Committee shall be authorized, upon written approval of the Board, to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the Architectural Review Committee and the Board in connection with each request for Architectural Approval.

Section 10.04. Plans and Specifications. A Residential Lot Owner shall, in connection with each request for Architectural

Approval, submit two (2) copies of the plans and specifications described below for such proposed action (the "Plans and Specifications") to the Architectural Review Committee. The Plans and Specifications shall conform with such standards as may be published from time to time by the Board regarding, without limitation, the harmony and variation of external design (it being understood that anti-monotony standards shall be developed, implemented and maintained within the Premises), location and appearance in relation to surrounding structures and topography. For purposes hereof, Plans and Specifications shall be deemed to mean:

(i) If the proposed action consists of anything other than landscaping, painting/staining of exteriors or resurfacing of existing driveways/service walks, a site plan of the Residential Lot as prepared by the Residential Lot Owner's engineer and/or architect, or such other less formal plans, drawings or depictions which are acceptable to the Architectural Review Committee, showing among other things, the location and dimensions of all intended construction, top of foundation elevation, drainage and grading plans (which shall be in conformity with the lot and block grading plans prepared by Declarant's engineer and approved for the Premises by the Village), and such other data and information as will enable the Architectural Review Committee to understand the proposed construction and its relationship to surrounding topography;

(ii) A detailed description, together with detailed drawings, plans and specifications, as prepared by the Residential Lot Owner's engineer and/or architect (or such other less formal plans, drawings or depictions which are acceptable to the Architectural Review Committee), of all aspects of the proposed action, including all exterior surfaces (showing elevations and grade), methods of construction, proposed time period for construction, and the color, quality and type of exterior construction materials;

(iii) With respect to any landscaping, drawings, plans and specifications as prepared by the Residential Lot Owner's landscape architect (or such other less formal plans, drawings or depictions which are acceptable to the Architectural Review Committee), showing all proposed changes to the original landscaping of, and any sprinkler system on, a Residential Lot specifying without limitation, types of trees, bushes, sod, etc. to be used, their location on the Residential Lot and generally describing the maintenance required for such landscaping; and

(iv) In each instance, such other information as may be reasonably required by the Architectural Review Committee to

determine the location, scale, design, character, style and exterior appearance of the Residential Lot Owner's intended action.

Section 10.05. Procedure for Architectural Approval. Within thirty (30) days of the Residential Lot Owner completing his submittal, the Architectural Review Committee shall review the Plans and Specifications and forward its recommendations to the Board. The Board shall approve or disapprove the request for Architectural Approval by a majority vote taken within sixty (60) days of the date that the Residential Lot Owner has completed his submittal to the Architectural Review Committee. Each Residential Lot Owner requesting Architectural Approval shall be entirely responsible for payment of all fees of architects, engineers, designers, landscape architects and other consultants incurred by the Architectural Review Committee and the Board and reasonably required to review the Plans and Specifications. In the event that the Board denies the requested Architectural Approval, a Residential Lot Owner may submit revised Plans and Specifications to be considered by the Architectural Review Committee and the Board in the manner set forth herein. In the event a Residential Lot Owner receives no written communication from the Board with respect to the requested Architectural Approval within the aforementioned sixty (60) day Board approval period, the Plans and Specifications shall be deemed approved and the requested Architectural Approval deemed issued. Upon issuance of the requested Architectural Approval, no further approvals shall be required with respect thereto, unless either (a) such action has not been substantially commenced within two (2) years of the issuance of the requested Architectural Approval (e.g., clearing and grading, pouring of footings, etc.) or (b) the approved Plans and Specifications are altered or changed in any material manner or fashion.

Section 10.06. Effect of Architectural Approval. Neither the approval of the Plans and Specifications, the Issuance of the Architectural Approval nor the publication of standards shall be construed as representing or implying that such Plans and Specifications or standards shall, if followed, result in properly designed construction. Such approvals and standards shall in no event be construed as representing or guaranteeing that the Dwelling Unit, Residential Lot or other improvement/landscaping performed in accordance therewith shall be built in a good or workmanlike manner. Neither Declarant, the Association, nor the Architectural Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to this Article, any loss or damage to any person or property arising out of the approval or disapproval of any Plan or Specifications, any loss or damage arising from the non-compliance of such Plans and Specifications with any governmental ordinances or regulations, nor any defects in construction pursuant

to such Plans and Specification. Notwithstanding the obtaining of Architectural Approval, the Residential Lot Owner shall solely be responsible to apply and pay for and obtain any and all required governmental approvals, permits, licenses, etc. and to comply with the requirements of all ordinances and regulations of the Village or, as applicable, the County of Lake (including the zoning ordinance); all applicable building, health and safety codes and all recorded restrictions, covenants and conditions applicable to his Residential Lot. Architectural Approval given to any one Residential Lot Owner shall be based upon the Board's sole and unrestricted discretion and Architectural Approval given to any Residential Lot Owner's proposed action or any particular aspect thereof in connection with such proposed action shall not be construed as, or interpreted to be or require, Architectural Approval to any part or portion of any other Residential Lot Owner's proposed action, although such proposed action may be identical or substantially similar to an action which has received Architectural Approval.

#### ARTICLE XI

#### RIGHTS OF THE VILLAGE OF GRAYSLAKE, ILLINOIS AND OTHER THIRD PARTIES

Section 11.01. Incorporation of Development Agreements. This Declaration shall be subordinate to and incorporate by reference herein all those terms and conditions of that certain Annexation Agreement dated April 6, 1993, entered into by and between the Village and Declarant and recorded in the Lake County Recorder's Office on October 14, 1993 as document no. 341500 (the "Annexation Agreement"), and that certain Agreement of Conditions and Specifications for a Special Use Permit for a Planned Unit Development "Prairie Crossing" dated April 6, 1993, entered into by and between the Village and Declarant and recorded in the Lake County Recorder's Office on October 14, 1993 as document no. 341499 (the "Planned Unit Development Agreement"). Declarant, the Association and each and every Residential Lot Owner hereof, hereby expressly agrees to be subject to and abide by the terms and provisions contained in the above referenced Annexation Agreement and Planned Unit Development Agreement and any amendments to such agreements heretofore or hereafter made (collectively, the "Development Agreements"). Without limiting the generality of the foregoing, Declarant, the Association and each Residential Lot Owner hereby agree to discharge their obligations under the Development Agreements, including without limitation, the obligations contained within:

(a) Section 3.5(b)(v) of the Planned Unit Development Agreement;



(b) Section 3.5(xv) of the Planned Unit Development Agreement;

(c) Section 3.5(b)(xxi) of the Planned Unit Development Agreement;

(d) Section 3.5(b)(xxii) of the Planned Unit Development Agreement; and,

(e) Section 9 of the Planned Unit Development Agreement.

Notwithstanding the foregoing, nothing contained herein shall in any way prevent or restrict Declarant or the Village from amending or otherwise modifying any of the terms or provisions of the Development Agreements. In addition, this Declaration shall be subject to and comply with any such amendments or modifications.

Section 11.02. Rights of the Village and Liberty Prairie to Maintain. In the event the Declarant, prior to conveyance to the Association, or the Association fails or is unable to reasonably maintain or repair any of the Common Areas or to perform any of its contract responsibilities under the Development Agreements or the Preservation Easement, the Village (with respect to a breach the Development Agreements) and Liberty Prairie (with respect to a breach of the Preservation Easement), upon thirty (30) days advance written notice to Declarant and the Association, except in an emergency, when no such notice need be provided, shall have the right to perform reasonable repairs and maintenance to correct material deficiencies to the Common Areas or to perform such contract responsibilities of the Association, and charge the reasonable costs thereof to the Association; provided, however, that the cost of any contract responsibilities relating to the obligation of Declarant to construct initial capital improvements shall be the obligation of the Declarant. If such costs remain unpaid within thirty (30) days after receipt of a bill detailing such costs, then the portion of the cost of such maintenance, repairs or contract responsibilities not so reimbursed, together with interest and all reasonable costs of collection, including attorneys fees, shall be assessed in equal shares against all of the Residential Lots and shall become a continuing lien against the Residential Lots within the Premises, until paid; provided, however, such lien shall be subordinate to the lien of any mortgage or deed of trust in the same manner provided herein with respect to Association Assessments. Such liens may be enforced by all methods generally available for the enforcement of liens, including foreclosure by an action brought in a manner similar to the type of action instituted to foreclose the lien of a mortgage on real property. Neither the Village nor Liberty Prairie shall be under any obligation to exercise the rights granted herein except as each shall determine to be in its best interest. No failure to exercise

any right herein granted to the Village or Liberty Prairie shall be construed as a waiver of that or any other rights.

Section 11.03. Right of the Village and Liberty Prairie to Access. The Village and Liberty Prairie are each hereby granted an irrevocable non-exclusive easement over and upon the Common Area to the extent reasonably necessary to exercise any right of the Village or Liberty Prairie under the Development Agreements, the Preservation Easement or under this Article XI.

Section 11.04. Rights of the Village. Any instrument executed pursuant to the provisions contained herein which impairs any right specifically granted to the Village herein or in the Development Agreements shall first be presented to the Village for approval, with such approval not to be unreasonably withheld or delayed; provided, however, that no such approval shall be necessary to execute and record a supplement or amendment to this Declaration which submits additional real estate to the terms of this Declaration in an instrument conveying any such real estate to the Association or through the recordation of additional Plats of Subdivision or Declarations of Inclusion in the manner provided herein. In the event the Village shall take no action to approve or disapprove (stating with particularity the reasons for such disapproval) those instruments submitted to the Village within forty-five (45) days of the submission of a request for such approval, such instruments sought for approval shall be deemed approved in their entirety.

Section 11.05. Applicable Laws. Declarant acknowledges that nothing in this Declaration shall affect the obligation of Declarant, the Association, or any Residential Lot Owner to comply fully with any and all applicable governmental laws, ordinances and regulations relating to the Premises.

## ARTICLE XII

### MISCELLANEOUS

#### Section 12.01. Enforcement of this Declaration.

(a) Each of the Association, any Residential Lot Owner, the Village and at all times prior to the Transfer Date, Declarant (in its capacity as such) shall have the right, but not the obligation, to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, rights, liens and charges now or hereafter imposed by the

provisions of this Declaration. Any Residential Lot Owner found by a court of competent jurisdiction to be in violation of any of the foregoing shall also be liable for reasonable attorneys' fees incurred by the prevailing party in prosecuting such action. The amount of such attorney's fees together with court costs, if unpaid, shall constitute an additional lien against the defaulting Residential Lot Owner's Residential Lot, enforceable as other liens herein are established. Failure by the Association, any Residential Lot Owner, the Village or Declarant to enforce any covenant, restriction, easement, condition, reservation, right, lien or charge herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) In amplification of and in addition to the provisions contained in the other provisions of this Declaration, in the event that any Residential Lot Owner shall be in violation of any provision of this Declaration, the Association may and shall have each and every right and remedy as shall otherwise be provided or permitted by law, including the right to take possession of such Residential Lot Owner's Residential Lot for the benefit of all other Residential Lot Owners by an action for possession in the manner prescribed in the Forcible Entry and Detainer Act (Illinois Revised Statutes, Chapter 57).

Section 12.02. Partial Invalidity. Invalidity by judgment or court order of any one of the covenants, restrictions, terms, provisions, etc. in this Declaration or of the application thereof to any particular person or circumstance shall in no way affect any other covenant, restriction, term, provision, etc. or the application of said covenant, restriction, term, provision, etc. to other persons or circumstances and this Declaration in all such other respects shall remain in full force and effect.

Section 12.03. Term of this Declaration and Amendment of this Declaration by Residential Lot Owners. The covenants, conditions, easements, rights, and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of, and be enforceable by, Declarant (prior to the Transfer Date), the Association, the Village and each Residential Lot Owner subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said covenants, conditions, easements, rights, and restrictions shall be automatically extended for successive periods of ten (10) years, subject to amendment as hereinafter set forth. The covenants, conditions, easements, rights, and restrictions of this Declaration may be amended during the first fifty (50) year period or within any successive ten (10) year period by an instrument signed by those Members entitled to cast two-thirds (2/3) or more of the total votes of the Association, which executed instrument is then properly recorded. The covenants, conditions, easements, rights,

and restrictions of this Declaration may also be cancelled or amended by an instrument signed by those Members entitled to cast two-thirds (2/3) or more of the votes of the Association, which executed instrument is then properly recorded within ninety (90) days of the expiration of any successive ten (10) year period and thereupon, such cancellation or amendment shall be effective on the date of the expiration of the ten (10) year period in question. Any instrument executed pursuant to the provisions contained herein which impairs any right specifically granted to the Village herein or in the Development Agreements shall first be presented to the Village for approval, with such approval not to be unreasonably withheld or delayed. In the event the Village shall take no action to approve or disapprove (stating with particularity the reasons for such disapproval) those instruments submitted to the Village within forty-five (45) days of the submission of a request for such approval, such instruments sought for approval shall be deemed approved in their entirety.

In addition, at least ten (10) days before Declarant records any such instrument, Declarant shall deliver a copy of it to the Village; unless Declarant has made a specific written request of the Village to approve such instrument pursuant to the foregoing sentence, the Village neither has an obligation to approve or disapprove such instrument, nor waives its right to challenge such instrument at any time.

Once approved, or deemed approved, if appropriate, such instrument shall be filed for record in the Office of the Recorder of Lake County, Illinois and a true, complete copy of such instrument shall be transmitted to each Residential Lot Owner promptly.

Notwithstanding the foregoing, Declarant shall have the right, without having to obtain the signature or consent of any other party other than the Village (to the extent required herein), to amend this Declaration in the manner herein expressly provided in this Article.

Section 12.04. Rule Against Perpetuities. If and to the extent that any of the covenants, restrictions, rights, conditions, terms, provisions, etc. contained in this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants, restrictions, rights, conditions, terms, provisions, etc. may be valid, then the covenant, restriction, right, condition, term, provision, etc. concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants who are living

at the date of this Declaration of the members of Congress of the United States of America.

Section 12.05. Notices. Any notices required or desired to be sent to any Member of the Association, a Residential Lot Owner or the Village under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid to the last known address of the Village, such member or Association or Residential Lot Owner (as the case may be), as such address appears on the records of the Association at the time of such mailing. Any proposed amendment to this Declaration or any notice in relation thereto that is sent or otherwise circulated to the Members of the Association shall be concurrently sent to the Village.

Section 12.06. Marketable Title to Lots. If at any time or times the Board shall deem it necessary or advisable to re-record this Declaration or any part hereof in the Office of the Recorder of Deeds of Lake County, Illinois, in order to avoid the expiration hereof or of any of the covenants, conditions, restrictions, rights, reservations, easements, agreements or other provisions herein contained under any of the provisions of Chapter 83 of the Illinois Revised Statutes presently in force and commonly known as the Marketable Title Act, or any other law or statute of similar purport, they shall submit the matter to a meeting of the Members of the Association called upon not less than ten (10) days prior notice, and unless at such meeting at least two-thirds (2/3) of said Members shall vote against such re-recording, the Association shall have, and is hereby granted, the power to so re-record this Declaration or such part thereof, and such re-recording shall be binding upon all Residential Lot Owners in every way and with the full force and effect as though such action were taken by each of said Residential Lot Owners and the re-recorded document executed and acknowledged by each of them.

Section 12.07. Covenants, Restrictions, etc. to Run with Land. All the easements, rights, covenants, agreements, reservations, restrictions and conditions herein contained shall run with the land and shall inure to the benefit of and be binding upon Declarant and each subsequent holder of any interest in any portion of the Premises and their respective grantees, heirs, successors, personal representatives and assigns with the same full force and effect for all purposes as though set forth at length in each and every conveyance of the Premises or any part thereof. Reference in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation with respect to any part of the Premises, to the easements, rights, covenants, agreements, reservations, restrictions and conditions herein described shall be sufficient to create and reserve such easements, rights, covenants, agreements, reservations, restrictions and conditions to the respective grantees, mortgagees or trustees of

such parts of the Premises as fully and completely as though said easements, rights, covenants, agreements, reservations, restrictions and conditions were fully recited and set forth in their entirety in such document.

Section 12.08. Interpretation of this Declaration. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of a first-class residential development integrated with and complementary to a native pre-settlement landscape.

Section 12.09. Rights of Mortgagees, Insurers and Guarantors. The following provisions are intended for the benefit of each holder of a recorded first mortgage or trust deed encumbering a Residential Lot ("Mortgagee") and to the extent, if at all, that any other provision of this Declaration conflicts with the following provisions, the following provisions of this Section shall, in all instances, control:

(a) Upon request in writing to the Association identifying the name and address of the Mortgagee or the insurer or guarantor of a recorded first mortgage or trust deed on a Residential Lot ("Insurer or Guarantor") and the Residential Lot number, the Association shall furnish each Mortgagee, Insurer or Guarantor a written notice of the default of any Residential Lot Owner's obligations under this Declaration which is not cured within thirty (30) days. Any Mortgagee of a Residential Lot who comes into possession of the said Residential Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage or deed (or assignment) in lieu of foreclosure shall, to the extent permitted by law, take said Residential Lot free of any claims for unpaid assessments or charges in favor of the Association against said Residential Lot which became due prior to the first to occur of (i) the date on which the Mortgagee or its successor or assigns comes into possession of said Residential Lot and (ii) the date on which title to said Residential Lot was transferred to the Mortgagee or its successor or assigns.

(b) Upon request in writing, each Mortgagee, Insurer or Guarantor shall have the right:

(i) to examine current copies of this Declaration. and the By-Laws, rules and regulations and the books and records of the Association during normal business hours;

(ii) to receive, without charge and within a reasonable time after such request, a copy of the then most current set of such financial statements as are prepared by the Association at the end of each of its fiscal year;

(iii) to receive written notices of all meetings of the Association to designate a representative to attend all such meetings;

(iv) to receive written notice of any decision by the Association, to make a material amendment to this Declaration or to the By-Laws or the articles of incorporation of the Association; and

(v) to receive written notice of any proposed action which would require the consent of a specified percentage of Mortgagees.

(c) No amendment to, change or modification of either Section 7.08 (dealing with the priority of assessment liens) or Section 12.03 (dealing with the method of amending this Declaration) shall be effective unless, in addition to the terms and conditions set forth in Sections 7.08 and 12.03, such change or amendment shall be first consented to, in writing, by not less than two-thirds (2/3) of the Residential Lot Owners and their respective Mortgagees.

Section 12.10. Land Trusts. In the event title to any Residential Lot should be conveyed to a title-holding, land trust under which all powers of management, operation and control of the premises remain vested in one or more trust beneficiaries, then the trust estate under such trust, and the beneficiaries thereunder, from time to time shall be liable for payment of any obligation, assessment, claim, lien or indebtedness chargeable or created under this Declaration against such Residential Lot. No claim shall be made against any such title-holding land trustee personally for payment of any obligation, assessment, claim, lien or indebtedness hereby created, and the land trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest in the title to such real estate. Nothing in this Section 12.10 shall be deemed to alter or diminish the rights or remedies of the Association under Section 7.07 relating to the failure to pay Association Assessments or Landscape Assessments.

Section 12.11. Condemnation. If all or any part of the Common Area, shall be taken through condemnation by any governmental authority having power so to do, the net proceeds of such taking shall be paid to and retained by the Association. For purposes of this Section, the term "condemnation" shall include also any sale under threat of condemnation to any governmental authority having condemnation power.

Section 12.12. Dissolution of an Association. Upon any dissolution of the Association, its assets shall be transferred to another homeowners association or associations having similar purposes; provided, however, that no dissolution may occur without the consent of the Village; and provided further that no such dissolution shall extinguish or otherwise affect any lien rights that the Village might have, either directly or indirectly against the Premises or any portion thereof.

Section 12.13. Declarant's Rights with Respect to the Plats of Subdivision and Amending this Declaration.

(a) Declarant hereby reserves to itself the right to record final Plats of Subdivision with respect to each phase of its proposed development, and, if necessary, to re-record the final Plats of Subdivision to correct any inaccuracies, errors or mistakes contained therein.

(b) Declarant hereby reserves to itself the right and power, to be exercised without the consent of any Residential Lot Owner or his, her or their Mortgagee, to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time for any of the following purposes:

(i) To cause this Declaration to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any other public, quasi-public, or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities;

(ii) To induce any of the aforesaid agencies or entities to make, purchase, sell, insure, or guarantee first mortgages covering a Residential Lot;

(iii) To correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto; or

(iv) To change or modify any of the terms or conditions of this Declaration based upon Declarant's determination, made in good faith, that such change or modification is in the best interests of the Premises and is consistent with the intent and purposes of this Declaration, including, without limitation, the right to record Amendments for purposes of adding on to or reconfiguring the Common Area.



In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each Residential Lot Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Residential Lot, and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant to vote in favor of, make, execute and record Special Amendments. The right of Declarant to act pursuant to rights reserved or granted under this Section shall terminate at such time as Declarant no longer holds or controls title to any Residential Lot. Any instrument executed by Declarant which impairs any right specifically granted to the Village herein or in the Development Agreements shall first be presented to the Village for approval, which approval shall not be unreasonably withheld or delayed, and the denial of any such approval to be based solely upon a right specifically granted to the Village herein or in the Development Agreements. In the event the Village shall take no action to approve or disapprove (stating with particularity the reasons for such disapproval) those instruments submitted to the Village within forty-five (45) days of the submission of a request for such approval, such instruments sought for approval shall be deemed approved in their entirety.

In addition, at least ten (10) days before Declarant records any such instrument, Declarant shall deliver a copy of it to the Village; unless Declarant has made a specific written request of the Village to approve such instrument pursuant to the foregoing sentence, the Village neither has an obligation to approve or disapprove such instrument, nor waives its right to challenge such instrument at any time.

Section 12.14. Easement Interpretation Provisions. The Plats of Subdivision grant and reserve certain easements relative to use, access, maintenance, repair and operation of all or parts of the Common Area for utility and other purposes. In the event of any conflict or ambiguity between the terms and conditions of the easements granted and reserved in the Plats of Subdivision with respect to the Common Area and the terms and conditions of the easements granted and reserved in this Declaration with respect to the Common Area, those terms and conditions which are more restrictive or more specific and consistent with the intent and purposes of this Declaration and the Plats of Subdivision (whether set forth herein or therein) shall, in all instances, control and prevail over the less restrictive or less specific terms and conditions; provided, however, that no easement provision shall be interpreted to affect any easement rights of the Village or any other public agency adversely.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions, Restrictions, Easements and Rights for Prairie Crossing to be executed as of this 30th day of November, 1994.

DECLARANT:

PRAIRIE HOLDINGS CORPORATION, an  
Illinois corporation

By: 

Its: President

Name: George A. Ranney, Jr.

STATE OF ILLINOIS

COUNTY OF COOK

)  
) SS.  
)

I, KRISTIN NYSTEDT, a Notary Public in and for the County in the State aforesaid, DO HEREBY CERTIFY that George A. Ranney, Jr., the President of Prairie Holdings Corporation, an Illinois corporation, who is personally known to me to be the person whose name is subscribed to the foregoing instrument as such President, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said partnership, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of December, 1994.

Kristin Nystedt  
Notary Public

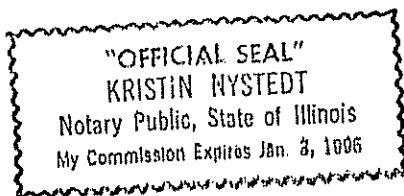


EXHIBIT A

One Hundred and Sixty One (161) numbered lots and the lots identified as Common Areas A through P, inclusive, in that certain Prairie Crossing Phase One Plat of Subdivision, being a subdivision of parts of Section 1 in Township 44 North, Range 10 East of the Third Principal Meridian and parts of Section 36 in Township 45 North, Range 10, East of the Third Principal Meridian, all in Lake County, Illinois, according to the plat thereof recorded 12/19, 1994 as Document No. 3626674, in the Lake County, Illinois Recorder's Office, together with the following described property:

That part of the Southeast Quarter of Section 35 and the Southwest Quarter of Section 36, Township 45 North, Range 10 East of the Third Principal Meridian; and, that part of the Northeast Quarter and Northwest Quarter of Section 1, and the Northeast Quarter of Section 2, Township 44 North, Range 10 East of the Third Principal Meridian, described as follows:

Commencing at the Northeast corner of the Southwest Quarter of said Section 36; thence North 89 degrees 12 minutes 51 seconds West along the North line of said Southwest Quarter of said Section 36 a distance of 66.00 feet to a point in the West line of "Prairie Crossing Phase One", being a subdivision in said Sections 36 and 1; thence South 0 degrees 55 minutes 33 seconds West along said West line a distance of 1325.27 feet for a Place of Beginning; thence North 89 degrees 12 minutes 27 seconds West 1714.00 feet; thence South 0 degrees 47 minutes 33 seconds West 641.05 feet; thence South 21 degrees 01 minutes 38 seconds East 236.98 feet; thence South 0 degrees 47 minutes 33 seconds West 440.00 feet; thence South 89 degrees 12 minutes 27 seconds East 160.78 feet to a point in a curve; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 630.00 feet, having a chord bearing of South 16 degrees 37 minutes 43 seconds East; a distance of 299.46 feet for a point of tangency; thence South 30 degrees 14 minutes 45 seconds East 168.90 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Southwest, having a radius of 570.00 feet, having a chord bearing of South 22 degrees 21 minutes 32 seconds East, a distance of 156.92 feet for a point of tangency; thence South 14 degrees 28 minutes 19 seconds East 140.36 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 430.00 feet, having a chord bearing of South 61 degrees 58 minutes 19 seconds East, a distance of 712.97 feet for a point of

tangency; thence North 70 degrees 31 minutes 41 seconds East 318.10 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the South, having a radius of 325.00 feet, having a chord bearing of South 67 degrees 27 minutes 23 seconds East, a distance of 476.65 feet to a point in the Easterly extension of the North line of the South 442.70 feet of the North 1466.70 feet of the Northwest Quarter of aforesaid Section 1; thence North 89 degrees 12 minutes 03 seconds West along said North line and Easterly extension thereof a distance of 1.12 feet to a point in the East line of the Northwest Quarter of said Section 1; thence South 0 degrees 31 minutes 41 seconds West along said East line a distance of 442.70 feet; thence South 7 degrees 25 minutes 11 seconds West 90.53 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the East, having a radius of 380.00 feet, having a chord bearing of South 16 degrees 49 minutes 49 seconds East, a distance of 321.66 feet for a point of tangency; thence South 41 degrees 37 minutes 11 seconds East 114.82 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 680.00 feet, having a chord bearing of South 66 degrees 37 minutes 44 seconds East, a distance of 529.75 feet for a point of tangency; thence South 88 degrees 56 minutes 48 seconds East 229.56 feet for a point of curvature; thence Northeasterly along the arc of a curve, being concave to the Northwest, having a radius of 630.00 feet, having a chord bearing of North 63 degrees 10 minutes 31 seconds East, a distance of 613.07 feet to a point in the Westerly line of "Prairie Crossing Phase One", being a subdivision in aforesaid Sections 36 and 1; thence Northerly and Westerly, along said Westerly line, the following twenty-two (22) courses and distances: 1) North 54 degrees 42 minutes 10 seconds West 60.00 feet; thence 2) Northeasterly along the arc of a curve, being concave to the Northwest, having a radius of 570.00 feet, having a chord bearing of North 20 degrees 03 minutes 12 seconds East, a distance of 303.30 feet; thence 3) North 4 degrees 48 minutes 34 seconds East 20.71 feet; thence 4) North 38 degrees 10 minutes 52 seconds West 236.99 feet; thence 5) North 85 degrees 11 minutes 26 seconds West 326.02 feet; thence 6) North 38 degrees 10 minutes 52 seconds West 210.53 feet; thence 7) North 84 degrees 31 minutes 03 seconds West 196.32 feet; thence 8) North 37 degrees 30 minutes 28 seconds West 229.68 feet; thence 9) North 84 degrees 31 minutes 03 seconds West 231.00 feet; thence 10) North 0 degrees 31 minutes 41 seconds East 617.10 feet; thence 11) North 88 degrees 43 minutes 01 seconds East 36.59 feet; thence 12) North 71 degrees 39 minutes 01 seconds East 114.04 feet; thence 13) North 54 degrees 35 minutes 01 seconds East 114.04 feet; thence 14) North 37 degrees 31 minutes 01 seconds East 114.04 feet; thence 15) North 20 degrees 27 minutes 01 seconds East 57.02 feet for a point of curvature; thence 16) Northerly along the arc of a curve, being concave to the West, having a radius of 380.00 feet, having a chord bearing of North 2 degrees 14 minutes 50 seconds West, a distance of 301.07 feet for a point of tangency; thence 17) North 24 degrees 56 minutes 42 seconds West 57.02 feet; thence 18) North 42 degrees 00 minutes 42 seconds West 114.04 feet; thence 19) North 59 degrees 04 minutes 42 seconds West 114.04 feet; thence 20) North 76 degrees 08 minutes 42 seconds West 96.97 feet; thence 21) North 88 degrees 08 minutes 59 seconds West 354.37 feet; thence 22) North 0 degrees 55 minutes 33 seconds East 885.01 feet to the Place of Beginning; said parcel of land herein described contains 122.809 acres, more or less, all in Lake County, Illinois.

EXHIBIT C

PARCEL "A":

That part of the Northeast Quarter and the Northwest Quarter of Section 1, Township 44 North, Range 10 East of the Third Principal Meridian, described as follows:

Beginning at the Southwest corner of "Prairie Crossing Phase One", being a subdivision in said Section 1, said point being in the Northerly right-of-way line of Casey Road, said line being 33.00 feet Northerly of and parallel with the South line of the Northeast Quarter of said Section 1; thence North 88 degrees 56 minutes 48 seconds West along said Northerly right-of-way line a distance of 1363.41 feet; thence North 50 degrees 47 minutes 00 seconds West 227.79 feet; thence North 39 degrees 13 minutes 00 seconds East 65.14 feet for a point of curvature; thence Northeasterly along the arc of a curve, being concave to the Northwest, having a radius of 183.00 feet, having a chord bearing of North 27 degrees 33 minutes 28 seconds East, a distance of 74.48 feet for a point of tangency; thence North 15 degrees 53 minutes 56 seconds East 137.03 feet for a point of curvature; thence Northeasterly along the arc of a curve, being concave to the Southeast, having a radius of 117.00 feet, having a chord bearing of North 27 degrees 56 minutes 57 seconds East, a distance of 49.21 feet for a point of tangency; thence North 39 degrees 59 minutes 57 seconds East 191.11 feet for a point of curvature; thence Northeasterly along the arc of a curve, being concave to the Southeast, having a radius of 25.00 feet, having a chord bearing of North 82 degrees 38 minutes 29 seconds East, a distance of 37.21 feet for a point of reverse curvature; thence Southeasterly along the arc of a curve, being concave to the North, having a radius of 680.00 feet, having a chord bearing of South 71 degrees 49 minutes 59 seconds East, a distance of 406.21 feet for a point of tangency; thence South 88 degrees 56 minutes 48 seconds East 229.56 feet for a point of curvature; thence Northeasterly along the arc of a curve, being concave to the Northwest, having a radius of 630.00 feet, having a chord bearing of North 63 degrees 10 minutes 31 seconds East, a distance of 613.07 feet to a point in the Westerly line of aforesaid "Prairie Crossing Phase One"; thence South 54 degrees 42 minutes 10 seconds East along said Westerly line a distance of 151.93 feet to a bend point in said line; thence South 1 degree 03 minutes 12 seconds West along said Westerly line a distance of 660.00 feet to the Place of Beginning; said parcel of land herein described contains 17.920 acres, more or less, all in Lake County, Illinois.

PARCEL "B":

That part of the Southeast Quarter of Section 35 and the Southwest Quarter of Section 36, Township 45 North, Range 10 East of the Third Principal Meridian; and, that part of the Northeast Quarter and Northwest Quarter of Section 1, and the Northeast Quarter of Section 2, Township 44 North, Range 10 East of the Third Principal Meridian, described as follows:

Commencing at the Northeast corner of the Southwest Quarter of said Section 36;

thence North 89 degrees 12 minutes 51 seconds West along the North line of said Southwest Quarter of said Section 36 a distance of 66.00 feet to a point in the West line of "Prairie Crossing Phase One", being a subdivision in said Sections 36 and 1, for a Place of Beginning; thence South 0 degrees 55 minutes 33 seconds West along said West line a distance of 1325.27 feet; thence North 89 degrees 12 minutes 27 seconds West 1714.00 feet; thence South 0 degrees 47 minutes 33 seconds West 641.05 feet; thence South 21 degrees 01 minutes 38 seconds East 236.98 feet; thence South 0 degrees 47 minutes 33 seconds West 440.00 feet; thence South 89 degrees 12 minutes 27 seconds East 160.78 feet to a point in a curve; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 630.00 feet, having a chord bearing of South 16 degrees 37 minutes 43 seconds East, a distance of 299.46 feet for a point of tangency; thence South 30 degrees 14 minutes 45 seconds East 168.90 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Southwest, having a radius of 570.00 feet, having a chord bearing of South 22 degrees 21 minutes 32 seconds East, a distance of 156.92 feet for a point of tangency; thence South 14 degrees 28 minutes 19 seconds East 140.36 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 430.00 feet, having a chord bearing of South 61 degrees 58 minutes 19 seconds East, a distance of 712.97 feet for a point of tangency; thence North 70 degrees 31 minutes 41 seconds East 318.10 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the South, having a radius of 325.00 feet, having a chord bearing of South 67 degrees 27 minutes 23 seconds East, a distance of 476.65 feet to a point in the Easterly extension of the North line of the South 442.70 feet of the North 1466.70 feet of the Northwest Quarter of aforesaid Section 1; thence North 89 degrees 12 minutes 03 seconds West along said North line and Easterly extension thereof a distance of 493.13 feet to a point in the West line of the East 492.00 feet of the Northwest Quarter of said Section 1; thence South 0 degrees 31 minutes 41 seconds West along said West line a distance of 442.70 feet to a point in the South line of the North 1466.70 feet of the Northwest Quarter of said Section 1; thence South 89 degrees 12 minutes 03 seconds East along said South line a distance of 492.01 feet to a point in the East line of the Northwest Quarter of said Section 1; thence South 7 degrees 25 minutes 11 seconds West 90.53 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the East, having a radius of 380.00 feet, having a chord bearing of South 16 degrees 49 minutes 49 seconds East, a distance of 321.66 feet for a point of tangency; thence South 41 degrees 37 minutes 11 seconds East 114.82 feet for a point of curvature; thence Southeasterly along the arc of a curve, being concave to the Northeast, having a radius of 680.00 feet, having a chord bearing of South 44 degrees 47 minutes 47 seconds East, a distance of 11.52 feet for a point of reverse curvature; thence Southerly along the arc of a curve, being concave to the Southwest, having a radius of 25.00 feet, having a chord bearing of South 2 degrees 38 minutes 34 seconds East, a distance of 37.21 feet for a point of tangency; thence South 39 degrees 59 minutes 57 seconds West 191.11 feet for a point of curvature; thence Southwesterly along the arc of a curve, being concave to the Southeast, having a radius of 183.00 feet, having a chord bearing of South 27 degrees 56 minutes 57 seconds West, a distance of 76.98 feet for a point of tangency; thence South 15 degrees 53 minutes 56 seconds West 137.03 feet for a point of curvature; thence Southwesterly along the arc of a curve, being concave to the Northwest, having a radius of 117.00 feet, having a chord bearing of South 27 degrees 33 minutes 28 seconds West, a distance of 47.62 feet for a point of tangency; thence South 39 degrees 13 minutes 00 seconds West 65.14 feet; thence North 50 degrees 47 minutes 00 seconds West 2207.81 feet for

a point of curvature; thence Northwesterly along the arc of a curve, being concave to the Northeast, having a radius of 3184.18 feet, having a chord bearing of North 41 degrees 59 minutes 30 seconds West, a distance of 977.18 feet for a point of tangency; thence North 33 degrees 12 minutes 00 seconds West 741.23 feet for a point of curvature; thence Northwesterly along the arc of a curve, being concave to the Northeast, having a radius of 16280.28 feet, having a chord bearing of North 31 degrees 26 minutes 47 seconds West, a distance of 996.56 feet; thence North 62 degrees 18 minutes 52 seconds East 2337.80 feet, to a point in a curve, thence Northeasterly along the arc of a curve, being concave to the Southeast, having a radius of 5279.58 feet, having a chord bearing of North 70 degrees 44 minutes 09 seconds East, a distance of 1210.92 feet to a point in the North line of the Southwest Quarter of aforesaid Section 36; thence South 89 degrees 12 minutes 51 seconds East along said North line a distance of 154.92 feet to the Place of Beginning; said parcel of land herein described contains 145.313 acres, more or less, all in Lake County, Illinois.

Also Outlot C in Prairie Crossing Phase One, being a Subdivision of parts of Section 1 in Township 44 North, Range 10 East of the Third Principal Meridian, and parts of Section 36 in Township 45 North, Range 10 East, of the Third Principal Meridian according to the plat thereof recorded 12/19/94, as Document No. 3626674, all in Lake County, Illinois.