

DECLARATION OF COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS

FOR

THE VILLAS AT AUTUMN MEADOW V



Instr: 200511160077202 11/16/2005  
P: 1 of 30 F: \$252.00  
Rick Campbell 3:19PM MISC  
Stark County Recorder T20050055535

Canal Fulton, Stark County, Ohio

Being developed by:

SCHALMO PROPERTIES, INC.  
464 Etheridge Blvd., South  
Canal Fulton, OH 44614  
(330) 854-4591

CERTIFICATION

This is to certify that Schalmo Properties, Inc., has on this 16<sup>th</sup> day of November, 2005, filed with the Auditor of Stark County, Ohio, copies of this Declaration and the By-Laws of The Villas at Autumn Meadow V Homeowners' Association, Inc.

This Instrument prepared by:  
John J. Rambacher, Esq.  
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1000 Unizan Plaza  
220 Market Avenue South  
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**DECLARATION OF COVENANTS, CONDITIONS,  
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THIS **DECLARATION** is executed at Stark County, Ohio this 14th day of November, 2005, by **SCHALMO PROPERTIES, INC.**, a corporation duly incorporated and existing under the laws of the State of Ohio (the "Declarant").

**RECITALS:**

1. Declarant is the fee simple owner of all that certain real property situated in Canal Fulton, Stark County, Ohio, as described and as delineated by both lot designations, by drawing and by metes and bounds within Exhibit "A", which is attached hereto and is made part hereof, ("Property").

2. Declarant intends to subject the Property to the terms, covenants, conditions, easements and restrictions set forth herein for the purpose of establishing a common scheme for the betterment and development of the Property and to provide for the consistent and uniform appearance, maintenance and use thereof.

3. Declarant at its election may subject additional lots and/or parcels of real property to the terms hereof incorporating any such parcel(s) into and as a part of The Villas at Autumn Meadow V in accordance with the terms hereof.

NOW, THEREFORE, Declarant declares the Property shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, assessments, charges and liens (collectively the "Covenants and Restrictions") provided in this Declaration, which Covenants and Restrictions shall run with the land and shall be binding on and inure to the benefit of all persons having any right, title or interest in and to any and all parts of the Property, and their respective heirs, personal representatives, successors and assigns, all or any portion of the Property to be hereafter conveyed subject to such Covenants and Restrictions.

**ARTICLE I  
DEFINITIONS**

1. **"ARCHITECTURAL CONTROL COMMITTEE"**. A Committee comprised of Lot Owners in The Villas at Autumn Meadow V responsible for review and approval of all plans, drawings and specifications for exterior building improvements or modifications, including color and location of buildings and/or any appurtenant improvements.

2. **"ASSESSMENTS"**. A Lot Owner's share of costs incurred in connection with maintenance, repair and upkeep services performed by the Association as set forth in Article VI below, together with other charges and/or Special Assessments which from time to time may be levied by the Board and required to be paid by Lot Owners. Such Assessments shall include any late charges or

interest accruing on any unpaid Assessments as set forth below.

3. **"ASSOCIATION"**. The Villas at Autumn Meadow V Homeowners' Association, Inc., which is a not-for-profit corporation, created for the purpose of managing and operating the Property and supervising the maintenance, repair and upkeep of the Common Area thereof, and enforcing the Covenants and Restrictions set forth herein.

4. **"BOARD" and/or "BOARD OF TRUSTEES"**. Those Lot Owners who, as a group, serve as members of the Board of Trustees of Association pursuant to the terms hereof.

5. **"BY-LAWS"**. The By-Laws of the Association governing the manner in which the Association shall conduct business, as the same may be amended from time to time.

6. **"COMMON AREAS"**. Those portions of the Property which are specifically identified by Plat(s) and/or conveyed to The Villas at Autumn Meadow V Homeowners' Association to be common areas; including, but not being limited to any private streets, walking paths, landscaped areas, entrance signs, central mail and/or newspaper delivery facilities, street lighting facilities, perimeter fencing, if any, retention areas or ponds, and any common use or recreational facilities which may be located upon the Property, if any.

7. **"COMMON ASSESSMENTS"**. Assessments charged equally against all Lot Owners covering costs of all Common Area maintenance, repairs and upkeep, including reasonable reserves, as may be found to be necessary and appropriate by the Board, pursuant hereto, and such other expenses, if any, incurred by the Association in connection with the services rendered by the Association on behalf of all Lot Owners and/or in connection with all residences located on the Property.

8. **"DECLARANT"**. Schalmo Properties, Inc., an Ohio corporation, and its successors and assigns, as shall be specifically designated in writing by Declarant to succeed to Declarant's rights hereunder.

9. **"DECLARATION"**. This document, as it may be amended from time to time, which subjects the Property to the Covenants and Restrictions.

10. **"LIMITED COMMON AREAS"**. Those portions of the Common Areas, if any, which may be designated on any Plat(s) of The Villas at Autumn Meadow V as being Limited Common Areas, and which areas are designated to be for the sole and exclusive use of the Lot Owners owning the Lot or Lots immediately adjacent thereto and abutting the same.

11. **"LOTS"**. All or any portion of the Lots shown on the Plat of The Villas at Autumn Meadow V to be recorded in the Stark County Plat Records, and such other lots as Declarant may from time-to-time add thereto by election(s) pursuant to Article IX below.

12. "LOT OWNER(S)" and/or "OWNER(S)". Such person or persons owning fee simple interest in a Lot upon which a free-standing residence is or may be located, including Declarant with respect to any unsold Lot or residence thereon, each of such Owners also being a "Member" of the Association. If a Lot or residence is sold under a Land Installment Contract, the purchaser, vendee, rather than the fee owner, will be considered the Lot Owner.

13. "MAXIMUM NUMBER OF LOTS". The maximum number of Lots which Declarant may, at its election(s) from time-to-time, incorporate within The Villas at Autumn Meadow project, including the lots specifically listed herein, shall be one hundred (100).

14. "OCCUPANT". Any person or persons in possession of or residing in a Residence, regardless of whether that person is an Owner.

15. "PERSON". Any natural individual, corporation, partnership, trustee or other legal entity capable of holding title to real property.

16. "PROPERTY", "THE VILLAS AT AUTUMN MEADOW V" and/or "AUTUMN MEADOW V". All or any portion of the Lots, Common Area and Limited Common Area subjected to the terms hereof as identified on Exhibit "A" hereof and as may hereafter be incorporated herein by Declarant by subsequent Amendment pursuant to Article IX below.

17. "RESIDENCE". Any single family residential unit built by Declarant or built with Declarant's consent and to Declarant's design specifications, which residential unit is located upon a Lot which is a part of the Property.

18. "RULES AND REGULATIONS". Rules and regulations governing the administration of the Association and/or the use, maintenance and upkeep of the Property adopted by the Board from time to time.

19. "SPECIAL ASSESSMENTS". Any costs, expenses or charges, excluding Common Area Assessments, which the Association or the Board shall charge against an Owner pursuant to the terms hereof, for specific services rendered on behalf of the Owner and/or as a result of Owner's specific activities or omissions, or arising out of capital improvements made to the Property, as the same may be completed hereunder or under the By-Laws.

20. "TRUSTEE" and "TRUSTEES". Any person, or those persons, serving, at the time pertinent, in the capacity of a Member of the Board of Trustees of the Association, as defined herein.



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**ARTICLE II**  
**THE VILLAS AT AUTUMN MEADOW V HOMEOWNERS' ASSOCIATION**

1. **Existence.** The Association is an Ohio not-for-profit corporation. The Association is not and shall not be deemed to be a condominium association or a unit owner association as defined in the Ohio Revised Code Chapter 5311.

2. **Membership.**

A. Every Lot Owner shall be deemed to have a membership in the Association. No Lot Owner, whether one (1) or more persons, shall have more than one (1) membership per Lot owned.

B. Membership shall terminate upon the conveyance, transfer or assignment of record by a Lot Owner of his or her ownership interest, at which time the new Lot Owner shall immediately and automatically become a Member of the Association.

3. **Voting Rights.** Each Member shall be entitled to cast one (1) vote for each Lot owned by the Member. If a Lot is owned of record by two (2) or more persons, whether fiduciaries, joint tenants, tenants in common or otherwise in a form of joint or common ownership, then, unless the instrument or order appointing or creating such tenancy provides otherwise, such Owners shall select one official representative to qualify for voting and shall notify the Secretary of the Association of the name of such individual. The vote of such individual shall be considered to represent the will of all Owners of the Lot.

4. **Board and Officers of the Association.** The Board of Trustees initially shall be those three (3) persons named as the initial Board pursuant to the provisions of the Articles of Incorporation of the Association, with such other person or persons as may from time to time be substituted by Declarant. The Declarant shall continue to control all appointments to the Board of Trustees until such time as ninety percent (90%) of the Maximum Number of Lots have been incorporated herein and sold by Declarant, or if Declarant should elect in writing to limit the number of Lots to be incorporated herein, then Declarant shall continue to control appointments to the Board until that date upon which ninety percent (90%) of the limited total number of Lots identified by Declarant have been incorporated herein and sold by Declarant, ("Relinquishment Date"). The Board of Trustees shall be automatically expanded to five (5) Trustees on the Relinquishment Date. Within thirty (30) days after the Relinquishment Date, the then existing Lot Owners, including the Declarant with respect to any unsold Lots, shall duly nominate and elect five (5) Lot Owners to serve as the Board of Trustees. The terms of such Trustees shall be three (3) years as to two (2), two (2) years as to two (2) and one (1) year as to one (1), respectively, starting with the two (2) Trustees receiving the most votes having a three-year term, the two (2) Trustees receiving the next most votes having a two-year term, and the Trustee receiving the least votes having a single-year term. After the initial election, each Trustee

elected will serve for a term of three (3) years. As noted above, in such elections, each Lot Owner shall be entitled to cast one vote for each Lot owned. There shall be no cumulative voting. The Board shall elect the Officers of the Association in accordance with the Bylaws.

5. **Responsibilities of the Association.**

A. **Maintenance and Repairs.** The Association shall be responsible for any necessary maintenance and repair or replacement of or relating to the Common Areas, excluding Limited Common Areas, and the improvements thereon, if any. The Association's maintenance and repair responsibilities shall be as follows:

- (i) All necessary maintenance, repair, or replacement to any private roads located on the Property.
- (ii) All necessary maintenance, repair or replacement of all Common Area improvements, excluding Limited Common Areas; including, but not limited to, any central mail and/or newspaper delivery facilities, perimeter fencing, entrance signs, sewer/water lateral lines and exterior street lighting.
- (iii) Maintenance, care and replacement of trees and/or shrubs planted by Declarant on Common Area, lawn mowing and fertilizing, and trimming of plants, shrubberies and other growth planted by Declarant on Common Areas; provided, however, that, if necessary, lawn and plant watering shall be the individual Lot Owner's responsibility.
- (iv) Although the Association shall not be responsible for maintenance, repair or replacement of Limited Common Areas (or any improvements situated thereon) and/or private driveways, walkways, front steps and/or landings servicing or leading to any Residence, the same being the individual Lot Owner's responsibility, the Association shall provide snow and ice removal from such Limited Common Areas, private driveways, walkways, front steps and landings, as well as snow and ice removal from any private drive located on the Property. Such snow and ice removal services shall be provided at intervals and at such times as the Board shall reasonably determine.
- (v) All necessary maintenance, repair, replacement of the exterior portions of each Residence; including, but not limited to, exterior painting, downspout, roofing and windows/window caulking, but excluding any such maintenance,



repair or replacement which is necessitated as a result, in whole or in part, of the act(s)/omission(s) of an Occupant and/or the guest(s)/invitee(s) of an Occupant.

- (vi) Except as otherwise provided herein, the Association shall not be responsible for maintenance of the interior and/or the exterior of any Residence, Limited Common Area or any improvements located on a Lot, the same being solely the responsibility of the individual Lot Owner.

B. **Management.** The Association shall establish and maintain such policies, programs, rules, regulations and procedures to fully implement this Declaration for the purposes set forth herein and for the benefit of all Members, and in so doing, may, but shall not be required to:

- (i) Adopt reasonable rules and regulations regarding the use, maintenance, upkeep and modification of the Property and/or any improvements thereon;
- (ii) Engage employees and agents; including, without limitation, security personnel, attorneys, accountants and consultants, maintenance or management firms and contractors;
- (iii) Delegate all or any portion of its authority and responsibilities to a manager, managing agent, and/or management company, evidenced by a management contract which shall provide for the duties to be performed by the managing agent and for payment to managing agent of reasonable compensation. Such compensation shall be charged to Lot Owners as a part of the Common Assessments referenced above. Such management agreement may be with an entity owned by or associated with Declarant or owned by, associated with, or controlled or employed by any shareholder, officer, director, agent or employee of Declarant; provided, however, that if any such management agreement is executed by Declarant, then the term thereof shall not exceed three (3) years, unless approved by a majority of the Lot Owners after all of the Lots at The Villas at Autumn Meadow V have been sold;
- (iv) Obtain public liability insurance covering the Association and its Members insuring against any and all damage or injury caused by the negligence of the Association or any of its Members in connection with any act or omission involving the maintenance, repair and/or replacement of the Common Areas. At the election of the Board, the Association shall



also obtain directors, Trustees and officers liability coverage in an amount deemed to be reasonable by the Board;

- (v) The Association shall have the authority to make, determine, levy, and collect Assessments, both Common Assessments and Special Assessments, where appropriate, from Lot Owners, which Common Assessments shall be assessed equally to each Owner of a Lot in connection with costs incurred by the Association for management, repair, maintenance, upkeep and, if necessary, replacement of any or all portions of the Property as may be required herein, which are the responsibility of the Association hereunder, and further for the cost of requiring and/or maintaining any and all insurance coverage referenced herein, or required by the Association in its best business judgment. The Association shall have such rights in connection with the collection of such Assessments, including lien rights and the right to suspend and/or terminate any and all voting rights of a Lot Owner for failure to pay such Assessments in a timely manner, as such rights are set forth hereinbelow; and,
- (vi) The Association shall perform and carry out all duties and acts reasonably necessary to give effect to and implement the intent of the provisions of this Declaration, as the same may be conducted by a corporation under the laws of the State of Ohio.

6. **By-Laws.** Declarant and the initial Trustees of the Association shall adopt the By-Laws thereof. The Association shall conduct its business and the Board of Trustees shall take action in accordance with the By-Laws as the same may be amended from time to time. To the extent that there exist(s) any conflict between the terms and provisions as set forth within the By-Laws and the terms and provisions of this Declaration, the terms and provisions of this Declaration shall wholly control.

7. **Termination.** The Association shall have a perpetual existence; provided, however, that:

- A. Prior to the Relinquishment Date, Declarant shall have the sole and absolute authority and power to terminate and dissolve the Association upon written notice to the Members and the Members do hereby delegate and irrevocably appoint Declarant to act and/or vote for the Members (as applicable) for purposes of any such termination and dissolution of the Association; and,
- B. After the Relinquishment Date, the Members may terminate and dissolve the Association upon the affirmative vote of not less than seventy-five percent





(75%) of the Members of the Association to terminate and dissolve the same. Prior to the Relinquishment Date, the Members shall not have any right and/or entitlement to terminate and dissolve the Association absent the affirmative vote of not less than one hundred percent (100%) of the Members of the Association to terminate and dissolve the same (including Declarant as to any and all Lots which Declarant may then own).

**ARTICLE III**  
**COVENANTS AND RESTRICTIONS**

The intent of this Declaration is to cause the Property to be kept and maintained as a high-quality senior citizen development and community. The development of the Property and the design and location of the improvements will provide an environment which is conducive to senior citizens residency and occupancy and will fulfill housing needs and provide necessary housing opportunities for older persons. Declarant's intent hereunder is that all terms, conditions and restrictions contained herein shall at all times be construed and implemented in such a manner as to comply with The Fair Housing Act. The Covenants and Restrictions contained herein shall be applicable to the Lot Owners, any lessees, tenants and/or Occupants of the Property.

1. **Building Plans and Standards.**

- A. Each Lot shall be used only for private, single-family residential purposes and only one single-family Residence with attached garage shall be constructed or permitted to remain on any one Lot. As permitted by applicable zoning laws or ordinances such Residences may share common walls with adjacent Residences located upon an abutting Lot(s). Residences to be located on the Property shall be designed by and/or approved by Declarant, with any modification thereof requiring Declarant's prior written consent thereto, which consent may be withheld by Declarant at its discretion. All landscaping plans and/or designs are likewise subject to prior approval of Declarant. Once a Residence has been completed, no alteration in the exterior appearance thereof may be made without Declarant's prior written approval. Declarant shall have ten (10) working days after receipt of a request to alter a Residence in which to approve, reject or modify the same in writing. Failure of Declarant to respond to a Lot Owner within such time period will constitute rejection of the plans and shall require re-submittal and approval prior to commencement of construction.
- B. No fence or other device installed for the purpose of separating Lots shall be maintained on any Lot, unless the same has been approved by Declarant. This restriction, however, excludes any perimeter fence installed or to be installed upon the Property by

Declarant.

- C. No awnings, canopies and shutters shall be permitted or fixed to the exterior of a Residence unless the same are approved by Declarant.
- D. No accessory structures, such as decks, privacy fences, play houses, tool sheds, dog houses, dog runs, antennas, transmitters, satellite dishes, or other receivers or other communication devices, sculptures, bird baths, fountains or like decorative items shall be located upon a Lot or any other portion of the Property without Declarant's prior written approval.

2. **Maintenance, Repair, Replacement.** Each Lot Owner shall keep and maintain the Lot Owner's Residence and any Limited Common Area, driveway, walkway, windows (including caulking) and all other improvements situated upon his or her Lot or any portion(s) thereof, not to be maintained and/or repaired by the Association, in a clean and safe condition and in good order and repair, and shall maintain the appearance thereof in a good condition consistent with good property management, making all repair(s)/replacement(s) as and when reasonably necessary.

3. **Lot Uses.** Each Lot, or portion thereof improved by a Residence, is to be utilized for residential purposes only, and should not be utilized for transient and/or hotel purposes, or otherwise utilized in connection with leasing activities involving leases having a term which are less than twelve (12) months. In addition, in accordance with Declarant's intent that the Property be utilized as a residential community for at least one person fifty-five (55) years of age or older per Unit, each Residence must be occupied by at least one person who has attained the age of fifty-five (55) years of age or older. If the Occupant who is fifty-five (55) years of age or older should die, then a surviving spouse or children who reside in the Residence at the time of the Occupant's death may continue to reside in the Residence. In all other circumstances, the age and occupancy requirement set forth herein shall apply and shall be enforceable. To facilitate and encourage occupancy by at least one (1) person fifty-five (55) years of age or older, the design, floor plans and specifications for each Residence will address and be conducive to the common needs and concerns of such person(s). No Owner shall carry on, or permit to be carried on, any trade, business or profession which can be perceived in any manner by any person not physically present on the Lot upon which such trade, business or profession is being carried on. This provision shall, however, not preclude the location of a home office and/or library within a Residence or otherwise restrict or prohibit an Occupant from conducting craft activities and/or similar activities or events which are generally associated with person(s) who are fifty-five (55) years of age or older in keeping with Declarant's stated development intentions.

4. **Obstruction.** No Owner shall cause and/or permit the obstruction of any private drive, walkway, Common Area or Limited Common Area located on the Property.



5. **Laundry and Rubbish.** No Owner shall permit clothes, sheets, laundry or any other articles to be hung out or exposed on any part of the Property and all Lots and/or any and all other portions of the Property shall be kept free and clear of rubbish, debris and other unsightly materials. All trash, garbage and other rubbish shall be deposited only in accordance with the rules and regulations for weekly pickup by a refuse collection company selected by the Association. Such refuse collection fees, however, shall not be a part of the Common Area Assessments and shall be paid separately by each Lot Owner.

6. **Exterior Appearance.** Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (other than curtains, drapes or other customary window coverings, which shall not adversely affect, in the opinion of Declarant or thereafter the Board or the Architectural Control Committee, the exterior appearance of a Residence) or placed on the outside walls of a Residence or building or otherwise placed or displayed outside of a Residence, building or any part thereof, and no sign, awning, canopy, shutter or television antenna or transmitter or other device or ornament shall be affixed to or placed upon the exterior walls or roof of a Residence or building or any part thereof, nor shall any alterations of any type, including painting or other decorating activities be permitted to the exterior walls or roof of a Residence or any part thereof, unless authorized by the Declarant.

7. **Nuisances.** No loud, noxious or offensive activity shall be carried on, caused or permitted on any Lot, in any Residence, or on any other portion of the Property, nor shall any Residence, Lot or other portion of the Property be used in any way or for any purpose which may endanger the health of or reasonably disturb any Lot Owner and/or Occupant or otherwise result in an unsafe condition, or affect or cause casualty and/or liability insurance to lapse and/or have the cost thereof increase.

8. **Vehicles.** Operation, parking and storage of vehicles shall be subject to reasonable rules and regulations promulgated by the Association, which shall include, but not be limited to, the following:

- A. Subject to other restrictions set forth herein and/or otherwise established by the Board, no trucks (other than two-axle trucks with no more than four (4) tires) shall be parked in front of any Lot or Residence except in an enclosed structure, and further except as is necessary for moving in and/or relocating from the Property, in which event, access and/or use of any private or public roadways shall not be hindered in any manner.
- B. No Owner shall make repairs to a vehicle of any kind in front of or on any Lot or other portion of the Property except in an enclosed structure.
- C. All cars and/or other vehicles must be parked in a garage space or in the driveway directly in front of




such garage or in any other spaces specifically provided for parking, if any. Although Declarant recognizes that at times visitor parking may be necessary upon private or public roadways, at no time should such parking become intrusive upon the use of any private or public roadway by other Lot Owners or otherwise obstruct free access to and from a Residence or the Common Areas.

- D. No boats, trailers or other recreational vehicles, or inoperable vehicles or trucks may be stored on any Lot, or on any other portion of the Property unless within a garage, except as may be necessary for a limited period of time, not to exceed two (2) days during any given month, as is necessary to provide for transportation of such vehicle to an appropriate storage facility off of the Property.
- E. Speed of all vehicles upon the Property and any and all roadway(s), easement(s) and/or right(s)-of-way serving the same shall not exceed twenty (20) miles per hour.
- F. The Board may promulgate regulations restricting the parking of automobiles, inoperable vehicles, trucks, boats and recreational vehicles on the Property, and may enforce such regulations or restrictions by levying fines, having such vehicles towed away, or taking such other action as the Board, in its sole discretion, deems appropriate.

9. **Signs.** No sign of any kind shall be displayed to the public view on the Property except (i) a sign at the entrance to The Villas at Autumn Meadow installed by or at Declarant's election, identifying The Villas at Autumn Meadow V and/or advertising Lots and/or Residences for sale; (ii) a single sign which may be installed by a Lot Owner advertising the Owner's Lot and/or Residence for sale, which sign shall not exceed four (4) square feet, and which sign shall be located upon Owner's Lot; and (iii) at Declarant's or a Lot Owner's election, a temporary sign for not more than a 24-hour period, indicating an open house for a Residence to be sold.

10. **Mail Boxes and Newspaper Delivery Receptacles.** A centralized location for mail delivery and for newspaper delivery may be provided by Declarant and, if so, shall be maintained by the Association. No private or individual mail boxes or newspaper receptacles shall be installed or permitted at any other location on the Property. Delivery of newspapers to a Lot Owner's front doorstep shall be permitted provided no receptacle is necessary.

11. **Animals.** Except as provided herein, no animals shall be permitted on the Property, and under no circumstances shall animals be raised, bred, or kept on the Property or within any residence for commercial purposes. Notwithstanding the foregoing, not more than two (2) household domestic pets, not bred or maintained for commercial purposes, may be maintained in a residence, provided that:

  
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- A. No dogs or other domestic pets shall be permitted in any portion of the Property except on a leash maintained by a responsible person;
- B. Animals permitted on the Property shall be subject to rules and regulations promulgated by the Board from time to time, which may include limitations as to the size and number of pets and may include the right to fine Owners or Occupants who do not clean up after their pets or who otherwise violate applicable rules and regulations; and
- C. The right of a Lot Owner or Occupant to maintain a pet shall be subject to termination if the Board reasonably determines that maintenance of the animal constitutes a nuisance or if the Lot Owner is in violation of rules and regulations governing such pet ownership.

12. **Additions and Modifications to Property and Landscaping.** No additions or alterations may be made to the exterior of a Residence, to the Limited Common Area, to the Common Area, or to the landscaping and/or plantings upon the Property by any Owner without first obtaining the prior written consent of the Declarant. Upon receipt of approval of any such additional plantings and/or modifications to the landscape plan of a Lot or other portion of the Property, the subsequent maintenance and care thereof shall become a part of the Association's responsibility, and if appropriate, the Association may elect to levy a Special Assessment upon a Lot Owner, in order to cover additional costs incurred as a result of such landscape additions and/or modifications.

13. **Building on Easement.** As set forth in Article V herein, the Common Areas, Limited Common Areas and the Lots are subject to easements and rights of way for location of utility services, private roadways, perimeter fencing, the mail box and newspaper facility, entrance sign(s) and/or lighting, a walking track, if any, and such other public utilities and/or facilities as Declarant may deem to be necessary. At no time shall any Lot Owner utilize or locate any improvement, building or other structure upon any portion of the Property which is subject to the above-referenced easements, so as to in any manner interfere with the intended use thereof.

14. **Building on Limited Common Area.** If a Lot Owner acquires appurtenant to the Lot Owner's Lot the rights to or benefits from any adjacent Limited Common Area, as shown on any applicable Plat for The Villas at Autumn Meadow (Phase III), then provided the applicable zoning and building codes and ordinances permit the same, the Lot Owner may, with Declarant's prior written consent, erect a deck or patio on such Limited Common Area, provided that such improvement in no way interferes with any easements, lines or other improvements upon or servicing the Property. The Lot Owner shall maintain and repair any such improvements.

  
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15. **Storage Prohibited.** No Owner shall utilize any space located beneath any decks and/or elevated terraces, or otherwise utilize any exterior portion of a Lot Limited Common Area or Common Area for storage of personal property, trash and/or waste, unless such area is shielded from public view. Further, no Owner shall allow trash or garbage to accumulate on any part of the Property except in containers to be emptied in accordance herewith, and such containers shall be kept in the rear of the residences, or otherwise shielded from public view from any private or public roadway and shall be visible from any private or public roadway only at such time as such trash is to be removed.

16. **Conveyance.** Any conveyance by a Lot Owner of the fee simple title ownership of such Lot, and/or permitted lease thereof, shall be subject to the terms, conditions, easements and rights of way and rules and regulations set forth herein and/or referenced hereby. The right of a Lot Owner to sell, transfer or otherwise convey a Lot and/or any Residence thereon is not subject to any right of first refusal or similar restriction, and any Lot Owner may transfer a Lot and any Residence thereon free of any limitations, excepting and subject to the terms, conditions and restrictions contained herein; including, but not being limited to, the requirement that at least one Occupant of a residence be at least fifty-five (55) years of age. To enable the Association to maintain accurate records of the names and addresses of Lot Owners, each Lot Owner agrees to notify the Board, in writing, within five (5) days after an interest in a Lot has been transferred to another person. In addition, each Lot Owner agrees to provide to a purchaser, a copy of this Declaration and all effective rules and regulations.

17. **Arbitration.** In the event of any dispute between Lot Owners as to the application of these Restrictions or any rule or regulation to any particular circumstance, the Owner claimed to be aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time, date and place for a hearing thereon within thirty (30) days thereafter and give written notice to each party thereof no less than three (3) days in advance. The Board shall thereupon hear such evidence on the dispute that the Board deems proper and shall render a written decision of the matter to each party within thirty (30) days thereafter. No action at law may be instituted by either party to such a dispute unless arbitration pursuant hereto has first been completed.

18. **Declarant's Right of Approval.** Declarant's right to approve of or reject all plans and specifications prior to construction and to approve of or reject proposed modifications to any residence or other improvement upon the Property shall continue until such time as Declarant no longer holds any interest in any portion of the Property. After such final conveyance, such approval rights shall be held by the Architectural Control Committee or, at the Board's discretion, by such other committee(s) as the Board should reasonably determine.

19. **Gardening.** Upon prior written application to the Board of Trustees of the Association, and with the subsequent written

approval of the Board (which such approval the Board may withhold in the sole and absolute discretion of the Board), a Lot Owner may plant and maintain a garden (as either a private vegetable garden and/or as a flower garden) within the Common Area (or any Limited Common Area adjacent to the Lot Owner's Residence and benefiting the same hereunder); provided, however, that:

- A. The size of the garden area shall be no greater than one hundred (100) square feet;
- B. The Lot Owner shall at all times keep and maintain the garden area such that the garden area does not become unsightly (in the sole and absolute judgment of the Board); and,
- C. The garden does not become a nuisance and/or attract any wildlife/vermin (in the sole and absolute judgment of the Board).

Within his or her application as aforesaid, the Lot Owner shall specify the following:

- A. The proposed location of the garden area;
- B. The size (in square footage) of the proposed garden area; and,
- C. The purpose of the garden and the vegetation which the Lot Owner proposes to plant/cultivate therein.

20. **Retention/Drainage.** The Association and any and all Owner(s) shall not in any manner whatsoever change, alter, modify, restrict, obstruct, damage or destroy any of the retention ponds, retention basins, retention areas, retention facilities, drainage contours, drainage easement areas and/or any other hydrologic aspects at, upon or serving the Property absent Declarant's prior written approval, which Declarant may withhold in Declarant's sole and absolute discretion, ("Declarant's Approval"). Absent Declarant's Approval, this restriction cannot be amended, modified and/or deleted from the Declaration notwithstanding any of the terms and/or conditions contained herein, but shall otherwise run with the Property in perpetuity.

#### **ARTICLE IV** **INSURANCE**


1. **Fire and Extended Coverage Insurance.** Each Lot Owner shall obtain and maintain fire and extended coverage insurance upon the Lot Owner's residence and any and all improvements upon the Lot Owner's Lot or Lots upon the Property providing for coverage not less than the replacement value of the residence/improvements. Each Lot Owner is responsible for maintaining contents coverage with respect to any and all personal property, fixtures, equipment and/or assets located on and/or utilized upon the Property. Upon the request of Declarant or the Association, each Lot Owner shall furnish to the Declarant and/or Association (as applicable) a Certificate of Insurance evidencing

the Lot Owner's obtainment and maintenance of the aforesaid insurance. Each Lot Owner shall additionally maintain fire/extended coverage insurance upon any Limited Common Area improvements which the Lot Owner constructs, maintains and/or benefits from.

2. Insurance to be Covered by Association. The Association shall obtain and maintain a comprehensive policy of public liability insurance insuring the Association, the Board of Trustees, the Lot Owners and Occupants, such insurance to be with such limits as the Board may determine (provided, that such coverage shall be for at least Three Hundred Thousand Dollars (\$300,000.00) per occurrence, for personal injury and/or property damage) covering claims for personal injury and/or property damage occurring upon the Common and Limited Common Areas, or otherwise arising from Association activities, acts or omissions in connection with the maintenance, upkeep, repair and/or replacement obligations of the Association hereunder. This insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Lot Owner or Occupant because of negligent acts of the Association, the Board or other Lot Owners or Occupants. In addition, the Board may purchase and maintain contractual liability insurance, trustees' and officers' liability insurance and such other insurance as the Board may determine. Finally, at the Board's election, fidelity bond coverage against dishonest acts on the part of Trustees, officers, employees, agents or volunteers responsible for handling funds belonging to or administered by the Association may be obtained in amounts deemed reasonable by the Board. The Association shall likewise maintain casualty insurance upon any Common Area improvements completed by Declarant.

**ARTICLE V**  
**GRANTS AND RESERVATIONS OF RIGHTS AND EASEMENTS**

1. Declarant's Reservation of Easement. All of the Property is subject to any easements and rights of way of record, as the same affect the Property at the time of the execution and recording hereof. In addition, the Declarant hereby reserves unto itself, the sole right to grant consents, rights, easements and rights-of-way for the construction, maintenance and operation of public utility facilities, electric, telephone and telegraph lines, conduits for gas, water, sanitary and storm sewer pipes, mains, connections, downspouts, and other lines, together with cable television and other communication lines and/or cables, and for any other public and/or quasi-public facility, service or function, whether the same are above ground, underground and/or in, or upon any and all highways, streets, dedicated or otherwise, now existing or hereafter established upon any portion of the Property. Declarant hereby further reserves unto itself the right to grant consents, easements and rights-of-way and to petition the gas, electric, telephone, water, sewer and cable television companies or authorities for the extension of their respective service mains, connections, lines or cables, which in Declarant's opinion, may be necessary to further service any Residences upon the Property and/or on any adjacent property as the same may be

  
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owned by Declarant. In addition, Declarant herein reserves a right and easement upon the Lots, the Limited Common Areas and the Common Areas to enter thereon for the purpose of tying into and extending any existing utility lines and/or facilities, roadways or other improvements for the purposes of further developing other real property owned by Declarant which is near or adjacent to the Property, whether or not such real property is to be incorporated herein or otherwise developed by Declarant. At such time as Declarant no longer owns a Lot or any other portion of the Property, then, except for Declarant's rights reserved in the immediately preceding sentence, which right shall be retained by Declarant, the Declarant's rights reserved herein, shall be conveyed, without grant or instrument, to the Association to be exercised by the Board thereof.

2. **Easement for Common Area Improvements.** Declarant hereby reserves, on Declarant's behalf and on behalf of Declarant's successors, designees or assigns, an easement upon any and all Common Area and Limited Common Area of the Property for the purpose of locating a mail and newspaper delivery facility, a walking track, and any entrance and/or directional signs, lighting and/or any other improvement which Declarant may elect to locate thereon in accordance with the terms hereof. Such easement shall subsequently be for the benefit of all Lot Owners on the Property, and at such time as Declarant no longer holds any interest in a Lot or a portion of the Property, then such rights shall transfer without written instrument or other act on the part of Declarant to the Association.

3. **Easement for Services.** A non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, garbage and trash removal personnel, and all similar persons, and to the local governmental authorities, and the Association, but not to the public in general, to enter upon any private roadway and such other portions of the Property in order to perform their duties as required hereunder. Individual easements shall be granted to the Association so that snow and ice removal and lawn care can be conducted upon each Lot herein.

4. **Lot Owner's Easements.** An easement is hereby granted to all Lot Owners and their heirs, successors, assigns and invitees for the use of any private roadways, walking tracks and Common Areas, other than Limited Common Areas.

5. **Common-Wall Easements.**

A. All Lot Owners owning a Lot and Residence adjacent to another Lot and Residence shall have an easement for the use of any common wall which such Lot Owner shares with an adjacent Lot Owner, for the following purposes:

- (i) The erection and support of such Lot Owner's Residence;
- (ii) The construction, erection and maintenance or repair of an external wall on such Lot Owner's



Residence;

- (iii) For any purpose necessary for the enjoyment of such Lot Owner's Lot and/or Residence, so long as such use shall not interfere with the adjoining Lot Owner's use and enjoyment of his or her Lot and/or Residence;
- (iv) The excavation or performance of other work necessary for the construction or repair of a Lot Owner's common-wall or Residence; and,
- (v) In order to address minor construction errors, settlement or shifting of a party-wall and/or Residence and further to accommodate any encroachment which may occur upon an adjacent Lot Owner's Property as a result thereof.


B. All Lot Owners shall have the obligation to repair or reconstruct all common walls if damaged or destroyed by any cause. The expense of such repair shall be born equally by the adjoining Lot Owners. All walls attached to a common wall that are damaged or destroyed shall be repaired at the Lot Owner's sole expense.

6. **Easement Reservations.** Declarant hereby creates and/or reserves (as applicable and/or as necessary) unto Declarant, and/or Declarant's successors and/or assigns, a perpetual easement benefiting any and all of Declarant's real properties situated adjacent to, bordering and/or neighboring the Property (inclusive of the Additional Property) enabling and entitling Declarant and/or Declarant's successors and assigns to fully enjoy, use, access and benefit from any and all retention basins, retention ponds, retention facilities, storm and/or drainage easement(s) and/or rights-of-way servicing or situated upon any of the Property (inclusive of the Additional Property) as identified in any manner on any Plats of the "Property" however the same are designated thereon (whether denoted as proposed, preliminary, permanent or otherwise).

7. **Irrevocable and Perpetual Easements.** All of the above easements shall be irrevocable and potentially perpetual in duration. All of the above easements shall run with the land and any conveyances of Lots or any and all portions of the Property shall be subject thereto. Acceptance of a deed conveying an interest in any Lot or other portion of the Property shall be subject to the above easements, as applicable, and acceptance thereof shall constitute agreement by the grantee that the Property shall remain subject thereto.

**ARTICLE VI**  
**ASSESSMENTS**

As used herein, Assessments shall mean all costs and expenses incurred by the Association in the exercise of its obligations hereunder, including, without limitation:

  
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1. All expenditures required to fulfill the responsibilities of the Association;

2. All amounts incurred in collecting Assessments, including all legal and accounting fees;

3. Reasonable reserves for uncollectible Assessments, unanticipated expenses and contingencies;

4. Such other costs, charges and expenses which the Association determines to be necessary and appropriate within the meaning and spirit of this Declaration; and

Each Lot Owner shall be responsible for paying an equal share of Common Assessments. Payment of such Owner's share of Assessments shall commence on the date that an Owner, other than Declarant, acquires title to a Lot. No Lot Owner may exempt himself or herself from liability for Assessments levied against such Lot Owner by waiver of use of any portion of the Property or other amenities or facilities located thereon. Likewise, if any party other than Declarant should acquire a Lot prior to completion of a Residence thereon, failure and/or refusal to build a Residence upon a Lot shall not result in a Lot Owner's being released from liability for payment of Assessments.

**ARTICLE VII**  
**ELEMENTS, APPORTIONMENT AND DUE DATES OF ASSESSMENTS**

1. **Common Assessments.**

A. At the time of the filing of this Declaration, the Declarant shall, and thereafter the Board shall, prior to the beginning of each fiscal year of the Association, estimate and prorate among the Lots, common expenses of the Association, consisting of the following:

- (i) the estimated next fiscal year's cost of the maintenance, repair, replacement, and other services to be provided by the Association;
- (ii) the estimated next fiscal year's costs for insurance and bond premiums to be provided and paid for by the Association;
- (iii) the estimated next fiscal year's costs for utility services not separately metered;
- (iv) the estimated amount required to be collected to maintain a general operating reserve to assure availability of funds for normal operations of the Association, in an amount deemed adequate by the Declarant and/or by the Board;
- (v) an amount deemed adequate by the Declarant and/or by the Board to maintain in a reserve for



the cost of unexpected repairs and replacements of any Common Area improvements, for which cash reserves over a period of time in excess of one year ought to be established; and

(vi) the estimated next fiscal year's costs for the operation, management and administration of the Association, including, but not limited to, fees for property management, if to be provided, fees for legal and accounting services, costs of mailing, postage, supplies and materials for operating the Association, and any other costs constituting common expenses not otherwise herein specifically excluded.

- B. The Declarant and/or the Board shall thereupon allocate to each Lot Owner an equal share of all of these items, with each of the Lots and residences equally sharing the annual operating expenses of the Association. For administrative convenience, such assessments may be rounded to the nearest whole dollar.
- C. The Common Assessment shall be payable in advance, annually or in such periodic installments (monthly, quarterly, etc.) and shall have such due dates, as the Declarant and/or the Board shall determine.
- D. If the amounts so collected are, at any time, insufficient to meet all obligations for which those funds are to be used, the deficiency shall be assessed by the Declarant and/or the Board among the Lots on the same basis as heretofore set forth.
- E. If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be allocated and paid to the reserve applicable to that type of expense, and shall in no event be deemed profits nor available, except on dissolution of the Association, for distribution to Lot Owners.

2. **Special Assessments.** There may be levied a Special Assessment against an individual Lot Owner to reimburse the Association for those costs incurred in connection with that Lot and/or Lot Owner properly chargeable by the terms hereof to that Lot Owner (such as, but not limited to, the cost of making repairs the responsibility of a Lot Owner, the cost of insurance premiums separately billed to a Lot Owner, and a Lot Owner's enforcement and arbitration charges). Any such assessment shall become due and payable as soon as such expenses are incurred.

3. **Effective Date of Assessment.** Any Assessment created pursuant hereto shall be effective, provided it is created as provided herein, if written notice of the amount thereof is sent by the Declarant and/or the Board to the Lot Owner subject thereto at least ten (10) days prior to the due date thereof, or the due

date of the first installment thereof, if to be paid in installments. Written notice mailed or delivered to a Lot Owner's Lot shall constitute notice to that Lot Owner, unless the Lot Owner has delivered written notice to the Board of a different address for such notices, in which event the mailing of the same to the last designated address shall constitute notice to that Lot Owner.

4. Effect of Nonpayment of Assessment; Remedies of the Association.

- A. If any Assessment or any installment of any Assessment is not paid within ten (10) days after the same has become due, the entire unpaid balance of the Assessment shall, without demand or notice, forthwith become due and payable, and bear interest thereafter at the rate of twelve percent (12%) per annum.
- B. Common Assessments and Special Assessments, together with interest and costs, shall be a charge and a continuing lien in favor of the Association upon the Lot against which each such Assessment is made.
- C. At any time after an Assessment levied pursuant hereto remains unpaid for ten (10) or more days after the same has become due and payable, a certificate of lien for the entire unpaid balance of that Assessment, interest and costs, may be filed with the Stark County Recorder at the option of the Board. The certificate shall contain a description of the Lot against which the lien exists, the name or names of the record Owner or Owners thereof, and the amount of the unpaid portion of the Assessments, and shall be signed by the president of the Association. If the president is the defaulting Owner, then any officer of the Association may sign the certificate on behalf of the Association.
- D. The lien provided for herein shall remain valid for a period of five (5) years from the date a certificate of lien was duly filed therefor, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or discharged by the final judgment or order of a court in an action brought to discharge the lien.
- E. Any Lot Owner who believes that an assessment of lien to his, her or its Lot (for which a certificate of lien has been filed by the Association) has been improperly charged against that Lot, may bring an action in the Stark County Court of Common Pleas for the discharge of that lien. In any such action, if it is finally determined that all or a portion of the Assessment has been improperly charged to that Lot, the court shall make such order as is just, which may provide for a discharge of record of all or a portion of that lien.

- F. Each such Assessment together with interest and costs shall also be the joint and several personal obligations of the Lot Owners who owned the Lot at the time when the assessment fell due. The obligation for delinquent Assessments, interest and costs shall not be the personal obligation of the Owner's or Owner's successors in title unless expressly assumed by the successors, provided, however, that the right of the Association to a lien against that Lot, or to foreclose any lien thereon for these delinquent assessments, interest and costs, shall not be impaired or abridged by reason of the transfer, but shall continue unaffected thereby.
- G. The Association, at the option of the Owner or Owners of Lots who are not in default with regard to such matter, may file a lien to secure payment of the entire unpaid balance of a delinquent Assessment, interest and costs, and bring an action at law against the Owner or Owners personally obligated to pay the same, or an action to foreclose the lien, or any one or more of the above. In any such foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale. In any such action, interest and costs of such action (including attorneys fees) shall be added to the amount of any such Assessment, to the extent permitted by Ohio law.

5. **Subordination of the Lien to First Mortgages.** The lien of the Assessments provided for herein shall be subject and subordinate to the lien of any duly executed first mortgage on a Lot recorded prior to the date on which such lien of the Association arises, and any holder of such first mortgage which comes into possession of a Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale, shall take the property free of any claims for unpaid Assessments or charges against the mortgaged Lot which became payable prior to the time such holder or purchaser took title to that Lot.

6. **Certificate Regarding Assessments.** The Board shall, upon demand, from time to time, furnish a written statement setting forth whether the assessments on a Lot have been paid. This certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

#### **ARTICLE VIII** **REMEDIES OF THE ASSOCIATION**

1. **Denial of Voting Rights.** If any Lot Owner fails to pay an Assessment when due, or otherwise is in breach of any of the rules and regulations contained herein or properly promulgated by the Board hereafter, such Lot Owner and the Occupants of any and all dwelling units of such Lot Owner shall not be entitled to vote on Association matters until said Assessment is paid in full and/or until such Lot Owner is in full compliance with the terms



and conditions hereof.

2. **Specific Remedies.** The violation of any rule, or breach of any Restriction, Covenant or provision contained in this Declaration, in the By-Laws of the Association or subsequently promulgated by the Board shall give the Association and/or the Declarant the right, in addition to all the rights herein set forth, and as provided by law, to enter upon a Lot or Residence upon which such violation or breach exists and summarily abate and remove, at the expense of the Lot Owner, any structure, thing, or condition that may exist thereon, contrary to the intent and meaning of this Declaration, the By-Laws, or the rules and regulations promulgated by the Board, and the Board, the Association, and/or any agent utilized in connection therewith, shall not be deemed guilty in any manner of trespass. In addition, the Association and/or the Declarant may enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, and/or may commence and prosecute an action to recover any damages which may have been sustained by the Declarant and/or the Association or any of its members.

**ARTICLE IX**  
**DECLARANT'S RIGHT TO ADD LOTS AND PROPERTY TO**  
**THE VILLAS AT AUTUMN MEADOW V**

1. **Reservation of Expansion Option.** Declarant hereby expressly reserves the right and option to from time-to-time expand The Villas at Autumn Meadow V by adding additional Lots, Limited Common Area and/or Common Area thereto as provided in this Article. Declarant's right to expand shall be exercisable at all times within a period of twenty (20) years from the date this Declaration is filed for record and may be waived by Declarant only by written instrument, duly executed and/or recorded at Declarant's sole discretion and election.

2. **Lots and Real Property which may be Added Hereunder.** The real property which by the exercise of Declarant's option hereunder may from time-to-time be added in whole or in part(s) to The Villas at Autumn Meadow V is identified and delineated upon the drawing is attached hereto and made a part hereof as Exhibit "B", (the "Additional Property").

3. **Use and Composition of Property Added.** Declarant shall not be required to add all or any portion(s) of the Additional Property hereto and at Declarant's sole discretion, Declarant may elect to incorporate all, none or a portion of the Additional Property to the terms hereof. Should Declarant elect from time-to-time to add all or any portion(s) of the Additional Property to the terms hereof, then the Maximum Number of Lots and Residences shall not exceed one hundred (100). Any Lots and/or Residences so added shall be subject to the same requirements and restrictions as those set forth herein, and shall be of compatible construction style and/or design with those Residences located upon the Property at the time that such Lots and/or Common Areas are added thereto. Compatible style and/or design shall however not be construed to require that any Residences added to The Villas at Autumn Meadow V identical in style, design and/or quality of

construction to those existing at the time of Declarant's election to add Additional Property. Rather, this requirement shall be deemed to require comparable and/or harmonious styles, designs or architectural configuration with the then existing Residences and/or Common Area improvements.

4. **Improvements other than Buildings.** Declarant may, at its election, include as a part of any Additional Property being added hereto, additional sidewalks, drives, landscaped or yard areas, walking track or other Common Area improvements which are consistent with the development plans contemplated hereby and referenced herein.

5. **Procedures for Expansion.** Declarant may from time-to-time elect to add all or any portion(s) of the Additional Property to The Villas at Autumn Meadow V as set forth within this Article IX by executing and filing for record an Amendment or Amendments to this Declaration, containing a legal description of the property being added thereto, with such Amendment requiring only the signature of the Declarant, and if such Additional Property is not owned by the Declarant, the signature of the party holding title to the Property being added and subjected to the terms hereof.

6. **Effects of Expansion.** Upon the filing for record of any Amendment(s) to Declaration adding all or any portion(s) of the Additional Property, all Lots and/or Residences so added shall become subject to the terms contained herein, and the Lot Owners at the Additional Property shall thereafter be subject to the same obligations and/or responsibilities imposed upon Lot Owners hereby. All such Lot Owners shall likewise become Members of the Association as set forth herein and shall be entitled to the rights and easements of all Lot Owners and Members established hereunder.

**ARTICLE X**  
**CONVEYANCE AND REAL ESTATE TAXES OF COMMON**  
**AND LIMITED COMMON AREAS**

1. **Conveyance of Common and Limited Common Areas.** At any time(s) during the twenty (20) year expansion period set forth in Article IX above, Declarant may from time-to-time elect to convey all or any portion(s) of the Common Area and Limited Common Area which is included as a part of the Property to the Association. All Lot Owners, by acceptance of a Deed conveying a Lot situated upon the Property, do hereby consent to accept such conveyance of title of the Common Areas and/or Limited Common Areas to the Association, and further agree and acknowledge that the Association shall thereafter be solely responsible for all maintenance, upkeep and improvements of such Common Area and/or Limited Common Area, in accordance with the terms hereof, including the requirement that liability insurance be obtained and maintained with respect to the use and operation thereof, and further that any and all Common Area Improvements be insured against fire and other extended coverage casualty, insuring such improvements for the full replacement value thereof. Such conveyance(s) may be effected by Quit Claim Deed from Declarant to



the Association, subject to such development liens as may at that time exist.

2. **Real Estate Taxes/Assessments.** Declarant intends and directs that the Stark County Auditor shall consider and treat the Common Areas and Limited Common Areas as separate and distinct parcels (with assigned lot numbers as Declarant shall obtain) for real estate tax and assessment purposes, with all real estate tax and assessment invoices to be billed and forwarded to the Association for payment by the Association.

**ARTICLE XI**  
**AMENDMENTS**

1. **Power to Amend.** The terms of this Declaration may be amended by Declarant unilaterally from time-to-time until such time as a Lot has been sold to a third party other than Declarant, and otherwise as set forth in paragraph 4 below. However, except as set forth in paragraphs 2 and 4 below, following such sale, except as specifically set forth below, the terms of this Declaration may only be amended with the written consent of at least seventy-five (75%) of the Lot Owners of the Lots then incorporated hereunder. Provided, however, that as long as Declarant owns a Lot or any portion of the Property, no such Amendment shall be effective without Declarant's prior written consent. Further, Declarant reserves the right and power, and each Lot Owner, by acceptance of a deed, gives and grants to Declarant a power of attorney, which right and power is coupled with an interest, and runs with the title to a Lot and is irrevocable for a period of ten (10) years from the date hereof, to amend the Declaration to the extent necessary to conform with requirements then governing the purchase or insurance of mortgages by the Federal National Mortgage Association, the Government National Mortgage Association, the Mortgage Guaranty Insurance Corporation, the Federal Housing Administration, the Veterans Administration or any other such agency and further to comply with any other applicable law, order or regulation; and, further provided, that if there is a Lot Owner other than the Declarant, the Declaration shall not be amended to increase the scope or the period of control by the Declarant.

2. **Amendment(s) to Add Property and Lots to The Villas at Autumn Meadow V.** Notwithstanding any other provision contained herein, this Declaration and, if necessary, the Bylaws may be unilaterally amended by Declarant in accordance with Article IX above, for the purposes of adding Lots and Property to The Villas at Autumn Meadow V in accordance with the terms hereof.

3. **Method to Amend.** An amendment to this Declaration adopted with the consents hereinbefore provided, in a writing executed with the same formalities as this Declaration by the parties required hereunder, shall be effective upon the filing of the same with the Stark County Recorder.

4. **Amendment by Declarant.** For so long as either of the Declarant, or a successor developer designated by Declarant, is the Owner of a fee simple interest in any portion of the Property

and/or any of the Additional Property which Declarant may add to the Villas at Autumn Meadow V, the Declarant shall be entitled from time to time to amend or modify any provisions of this Declaration or to waive any of the provisions, either generally or with respect to particular Lots and/or portion(s) of the Property or such Additional Property, if in its judgment, the development or lack of development of The Villas at Autumn Meadow V requires such modification or waiver, or if in its judgment the purposes of the general plan of development of the Property will be better served by such modification or waiver, provided no such amendment, modification or waiver shall materially and adversely affect the value of existing Lots or shall prevent a Lot or Residence from being used by a Lot Owner in the same manner that the Lot or Residence was used prior to the adoption of said amendment, modification or waiver. In order to effect such amendment, the Declarant need only file a Supplemental Declaration setting forth the amendment, which Supplement need not be executed by the Association, or any other Owners of a Lot on the Property.

**ARTICLE XII**  
**GENERAL PROVISIONS**

1. **Covenants Running with the Land.** The covenants, conditions, restrictions, easements, reservations, liens and charges created hereunder or hereby shall run with and bind the land, and each part thereof, and shall be binding upon and inure to the benefit of all parties having any right, title or interest in or to all or any part of the Property, and the Association, and their respective heirs, executors, administrators, successors and assigns.

2. **Duration.** Unless sooner terminated or amended, as hereinabove provided, the Covenants and Restrictions of this Declaration shall continue for a term of twenty-one (21) years from the date hereof, after which time, the Covenants and Restrictions shall automatically be extended for successive periods of ten (10) years each unless repealed as provided herein. However, if any of the privileges, covenants or rights created by this Declaration and/or by any of the exhibits hereto shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision, (ii) the rule restricting restraints on alienation, or (iii) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George Bush, the presently serving President of the United States of America.

3. **Severability.** Invalidation of any one of the covenants, restrictions or provisions contained herein shall in no way affect any other provision, which shall remain in full force and effect.

4. **Captions.** The captions of the various provisions of this Declaration are not part of the context hereof, but are merely labels to assist in locating the various provisions hereof.

**FAIR HOUSING DISCLOSURE**

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DECLARANT FULLY INTENDS AND CONTEMPLATES THAT:

- (A) THE DECLARATION, THE DEVELOPMENT AND THE ASSOCIATION DO NOW AND AT ALL TIMES HEREAFTER SHALL COMPLY WITH AND NOT BE VIOLATIVE OF THE FAIR HOUSING ACT (42 U.S.C. §3601, ET SEQ.), ("ACT");
- (B) THE DEVELOPMENT WILL PROVIDE HOUSING FOR AT LEAST ONE (1) PERSON FIFTY-FIVE (55) YEARS OF AGE OR OLDER PER EACH RESIDENCE AS SET FORTH WITHIN THE DECLARATION; AND,
- (C) THE DEVELOPMENT AND THE ASSOCIATION WILL PROVIDE SIGNIFICANT FACILITIES AND/OR SERVICES WHICH ARE SPECIFICALLY DESIGNED TO MEET THE PHYSICAL AND/OR SOCIAL NEEDS OF OLDER PERSONS WITHIN THE MEANING OF SECTION 3607 OF THE ACT; INCLUDING, WITHOUT LIMITATION, PROVISION OF SINGLE STORY FLOOR PLANS AND OTHER IMPROVEMENTS DESIGNED FOR THE NEEDS OF OLDER PERSONS, CARE AND MAINTENANCE OF THE UNITS AND COMMON AREAS, INCREASED LIGHTING WITHIN THE DEVELOPMENT, QUIET ATMOSPHERE AND READY ACCESSIBILITY TO RETAIL AND RECREATIONAL ESTABLISHMENTS.

BY ACCEPTANCE OF A DEED TO ANY UNIT, THE OWNER ACKNOWLEDGES AND AGREES THAT TO THE EXTENT ANY TERM, CONDITION OR PROVISION OF THE DECLARATION AND/OR THE BY-LAWS SHALL BE FOUND TO BE IN VIOLATION OF THE ACT, THE DECLARATION AND/OR BY-LAWS (AS APPLICABLE) SHALL BE REFORMED AS NECESSARY TO CURE ANY SUCH VIOLATION WITHOUT OTHERWISE IMPACTING THE OPERATION, EFFECT AND/OR ENFORCEABILITY OF THE SAME AND/OR WITHOUT AFFECTING THE ASSOCIATION AND/OR THE DEVELOPMENT EXCEPT TO THE EXTENT OF SUCH REFORMATION.

IN WITNESS WHEREOF, Declarant has, by Declarant's duly authorized President, executed this Declaration on and effective this 14<sup>th</sup> day of November, 2005.

Signed and acknowledged  
in the presence of:

*Fred E. Etheridge*  
Witness  
Print name: Fred E. Etheridge

*Roberta J. Etheridge*  
Witness  
Print name: Roberta J. Etheridge

SCHALMO PROPERTIES, INC.,  
("Declarant"),

By: *Donald J. Schalmo*  
Donald J. Schalmo,  
its President

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STATE OF OHIO )  
 ) ss:  
STARK COUNTY )

Before me, a notary public in and for Stark County, Ohio, personally appeared the above-named Schalmo Properties, Inc., an Ohio corporation, ("Declarant"), by Donald J. Schalmo, its President, who acknowledged that he did sign the foregoing Declaration and that the same is Declarant's free act and deed and his free act and deed, both individually and as such Officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Stark County, Ohio, this 14th day of November, 2005.



*Fred E. Etheridge*  
\_\_\_\_\_  
Notary Public

FRED E. ETHERIDGE  
Notary Public, State of Ohio  
My Commission Expires 10-21-08



Instr: 200511160077202 11/16/2005  
P: 29 of 30 F: \$252.00  
Rick Campbell 3:19PM MISC  
Stark County Recorder T20050055535

Exhibit "A"  
September 27, 2005  
DESCRIPTION OF A 3.986 ACRE PARCEL

Situated in the State of Ohio, County of Stark, City of Canal Fulton, now or formerly owned by Schalmo Properties, Inc. and being further described as follows:

Beginning at the northeast corner of Outlot 248 of said City of Canal Fulton;

1. Thence N78°30'15"W (basis of bearings from the Villas at Autumn Meadow Phase Sixteen (#200406070040668) along the north line of said Outlot 248, a distance of 225.00 feet to a 5/8" bar found;
2. Thence N67°01'15"W along the northerly line of said Outlot 248, a distance of 148.76 feet to a 5/8" bar found;
3. Thence N53°30'16"W along the northerly line of said Outlot 248, a distance of 37.67 feet to a 5/8" bar found;

Thence along the northeasterly line of Outlot 241 the following seven courses;

4. N42°10'23"W, a distance of 76.70 feet to a 5/8" bar found;
5. N33°59'05"W, a distance of 47.16 feet to a 5/8" bar found;
6. N23°43'50"W, a distance of 64.81 feet to a 5/8" bar found;
7. N01°58'29"E, a distance of 15.35 feet to a 5/8" bar found;
8. N08°23'00"W, a distance of 63.58 feet to a 5/8" bar found;
9. N30°51'00"W, a distance of 49.40 feet to a 5/8" bar found;
10. N39°20'48"W, a distance of 80.59 feet to a 5/8" bar found;
11. Thence along the arc of a curve to the right having a radius of 675.00 feet, a tangent of 93.45 feet, a central angle of 15°45'52", a chord of 185.13 feet bearing N84°32'37"E, a distance of 185.72 feet to a 5/8" bar found;
12. Thence S87°34'27"E, a distance of 63.87 feet to a 5/8" bar set;
13. Thence along the arc of a curve to the right having a radius of 175.00 feet, a tangent of 42.28 feet, a central angle of 27°09'47", a chord of 82.19 feet bearing S73°59'34"E, a distance of 82.96 feet to a 5/8" bar set;
14. Thence S60°24'40"E, a distance of 103.27 feet to a 5/8" bar set;
15. Thence along the arc of a curve to the left having a radius of 200.00 feet, a tangent of 34.58 feet, a central angle of 19°37'17", a chord of 68.16 feet bearing S70°13'19"E, a distance of 68.49 feet to a 5/8" bar set;
16. Thence S23°24'48"E, a distance of 230.82 feet to a 5/8" bar set;
17. Thence S10°26'42"E, a distance of 111.80 feet to a 5/8" bar set;
18. Thence S15°07'09"W, a distance of 62.15 feet to the place of Beginning and containing 3.986 acres as surveyed by James L. Emmons, S-7955 in September, 2005.

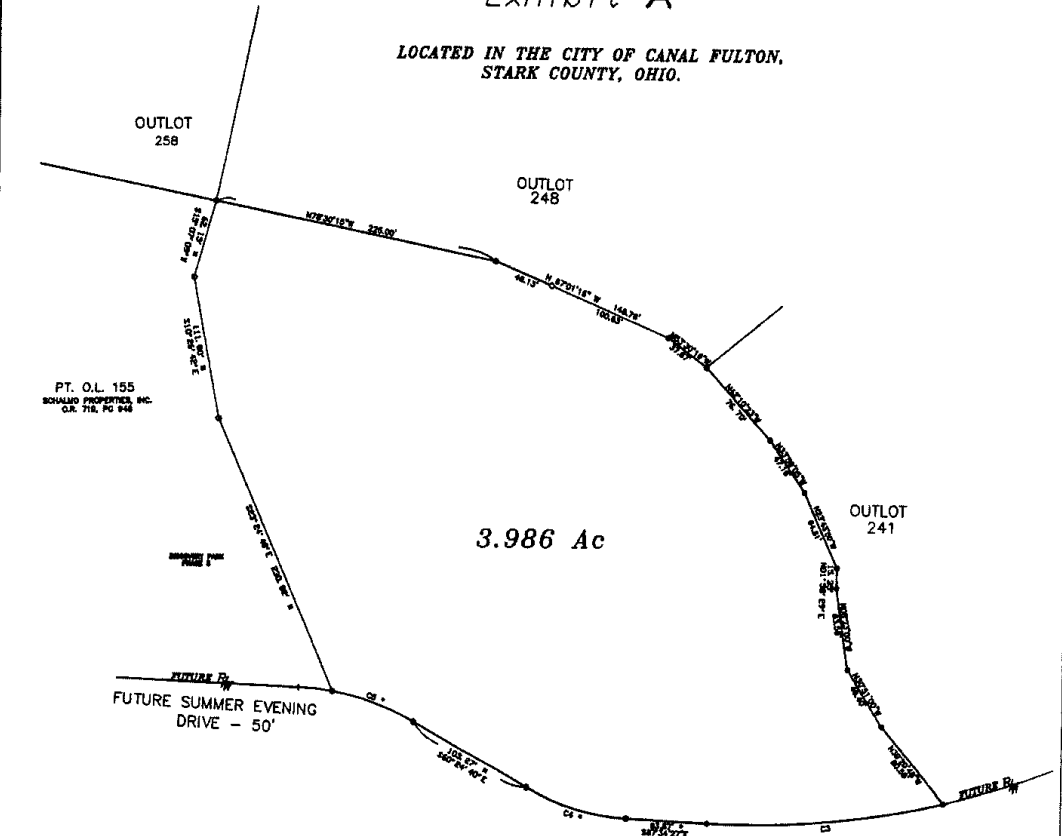


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**THE VILLAS AT AUTUMN MEADOW  
 HOME OWNERS ASSOCIATION V**

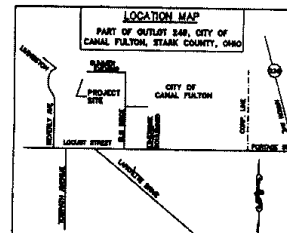
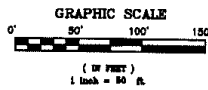
**Exhibit "A"**

LOCATED IN THE CITY OF CANAL FULTON,  
 STARK COUNTY, OHIO.



**PROPERTY MAP  
 3.986 Ac TRACT**

CURVE	CHORD	ARC	CHORD BEARING	CHORD LENGTH	ARC LENGTH	CHORD BEARING	CHORD LENGTH
1	100.00	100.00	S 89° 57' 12" E	100.00	100.00	S 89° 57' 12" E	100.00
2	100.00	100.00	S 89° 57' 12" E	100.00	100.00	S 89° 57' 12" E	100.00
3	100.00	100.00	S 89° 57' 12" E	100.00	100.00	S 89° 57' 12" E	100.00



	<b>VILLAS HOMEOWNER ASSOC. V</b> CITY OF CANAL FULTON, STARK COUNTY, OHIO	Date: 10/07/08	<table border="1"> <thead> <tr> <th>REVISIONS</th> <th>DATE</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </tbody> </table>	REVISIONS	DATE						
		REVISIONS		DATE							
Drawn By: JML											
Checked By: JLE											
Scale: 1" = 80'											