



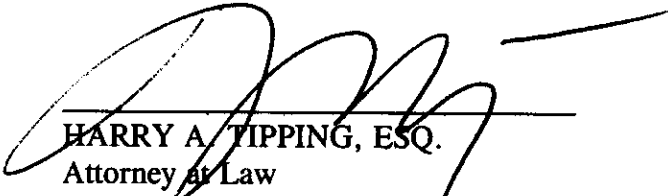
CROSS-INDEX TO PLAT CABINET N SLIDES 201-224

DECLARATION OF COVENANTS AND RESTRICTIONS

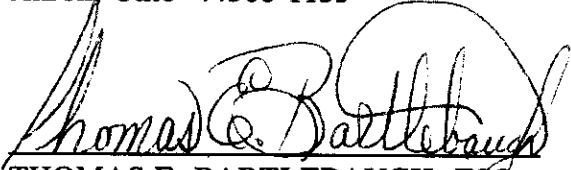
FOR

MYSTIC POINTE SUBDIVISION OF GREEN, OHIO

This instrument prepared by:



HARRY A. TIPPING, ESQ.
Attorney at Law
HARRY A. TIPPING CO., L.P.A.
One Cascade Plaza, Suite 2200
Akron, Ohio 44308-1135



THOMAS E. BARTLEBAUGH, ESQ.
Attorney at Law
2507 Shadow Ridge Lane
Fairlawn, OH 44333

INDEX

	<u>Page</u>
I. Definitions	2
II. Restrictions on Land	3
1. Setbacks	3
2. Easements	3
3. Lot Split	4
III. Building and Architectural Requirements	4
IV. Lot Ownership Responsibilities	8
V. Items Requiring Review and Approval by the Mystic Pointe Homeowners Association, Hereinafter Referred to as the Association	8
1. Decks	9
2. Fences	9
3. Swimming Pools	9
4. Storage Sheds	9
VI. Prohibited Uses	9
VII. Use and Maintenance of Common Areas and Association Easement Areas	11
VIII. Title to Blocks	14
IX. General Provisions	14
X. Purpose of and Restrictions on Use of Common Property	16
A. Purpose	16
B. Restrictions.	16
1. Hazardous Use and Waste	16
2. Animals and Pets.	16
3. Nuisances	16
4. Impairment of Structural Integrity of Building	16
5. Laundry or Rubbish in Common Areas or Facilities.	16
6. Lounging or Storage in Common Areas and Facilities.	17
7. Prohibited Activities	17
8. Alteration of Common Areas and Facilities	17



54182155
Page: 2 of 34
08/24/1998 03:32P
MISC 144.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

XI.	Description of Common Areas and Facilities	17
XII.	Association	17
	A. Formation and Organization	17
	B. Membership	17
	1. Basis	17
	2. Member's Rights and Duties	18
	3. Voting Rights	18
	C. Board of Trustees	18
	D. Authority	19
	E. Delegation of Authority Professional Management	19
	F. Voting	19
	G. Notice of Meeting	20
	H. Agent for Service	20
XIII.	Maintenance and Repair	20
	A. Association Responsibility	20
	B. Individual Responsibility	20
	C. Lot Owner Responsibility	21
XIV.	Condemnation	21
	A. Entire Taking	21
	B. Partial Taking.	21
XV.	Covenants for Assessments	21
	A. Obligation to Pay Assessments	21
	B. Purpose	21
	C. Distinguishment of Assessments.	22
	D. Commencement and Method of Assessment	23
	E. Effect of Non-Payment of Assessment	23
	F. Lien for Delinquent Assessment	23
XVI.	Extent of Homeowners Association Members' Easements	25
XVII.	Extension of Privileges	25
XVIII.	Ownership of the Common Areas	25
XIX.	Easements to Run with Land	26
XX.	Supplemental Provisions Concerning Declaration	26
	A. Construction of the Provisions of this Declaration	26
	B. Declaration Binding on Grantees and Lessees	27
	C. Assignability	27



54182155
Page: 3 of 34
08/24/1998 03:32P
MISC 144.00

D. Severability 27
E. Articles and Regulations of Association 27
F. Duty to Perform 27



54182155

Page: 4 of 34
08/24/1998 03:32P
MISC 144.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

MYSTIC POINTE SUBDIVISION OF GREEN, OHIO

THIS DECLARATION made as of the date hereinafter set forth, pursuant to Ohio law, for the purpose of imposing certain covenants and restrictions of record which shall run with the land pertaining to the MYSTIC POINTE SUBDIVISION

W I T N E S S E T H:

WHEREAS, UNION COMMERCE CORPORATION ("Declarant"), is the owner of certain land situated in the City of Green, Summit County, Ohio, which is known as the MYSTIC POINTE SUBDIVISION; and

WHEREAS, the Declarant intends to develop said land into a residential development of single family residences; and

WHEREAS, Declarant deems it necessary for the efficient preservation of the values, general welfare of the buyers, aesthetic harmony, and for the orderly development and control of all amenities to impose and provide restrictions, covenants, easements and limitations upon the premises and residential structures ultimately comprising the MYSTIC POINTE SUBDIVISION; and

WHEREAS, the owner has received all necessary approvals for the development of the MYSTIC POINTE SUBDIVISION from the City of Green, Summit County, and all other necessary governmental regulatory agencies; and

WHEREAS, the Declarant desires to create, for this property, a site of individually owned units, and commonly owned areas and facilities, and to those ends to develop this property in a harmonious fashion for residential living in the City of Green, Summit County, Ohio.

WHEREAS, the plat of the Mystic Pointe Subdivision, recorded with the Summit County Recorder in Slide Cabinet N , Pages 201 to 224 , contains certain Covenants and Restrictions of which these Covenants and Restrictions are to supercede such earlier filed and recorded Covenants and Restrictions in their entirety.

NOW, THEREFORE, the undersigned, being the owner in fee simple of the property described in Exhibit "A," including any and all improvements thereon and appurtenances thereto, does hereby declare that the hereinafter described property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, assessments, charges and liens hereinafter set forth.



I. DEFINITIONS

- A. The property involved in this Declaration is known as the PROPERTY. The legal description for the Property is shown in Exhibit "A," which is attached hereto and made a part hereof as if fully rewritten herein. The Property is the real estate which shall be held, transferred, sold, conveyed, encumbered and occupied subject to this Declaration.
- B. The SUBDIVISION is Mystic Pointe, which has been approved by the City of Green for the Property.
- C. The CITY is the City of Green, Summit County, Ohio, including any board or commission having jurisdiction over the Subdivision of this Property.
- D. The ASSOCIATION is the Mystic Pointe Development Homeowners Association, Inc.
- E. DECLARANT is the present owner of the Property.
- F. The BLOCKS are the permanent open space of the Subdivision, indicated as "BLOCKS" on any recorded subdivision plat of a portion of the Property and which are specifically intended to be devoted to the common use of the Members, as is contained within this Declaration. Said BLOCKS are further described on Exhibit "A," which is incorporated herein by reference as though fully rewritten.
- G. LOT is a subplot in the Subdivision (or any combination of sublots or parts thereof approved by the City as a single family residential building site).
- H. A MEMBER is a member of the Association.
- I. An OWNER is the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or by deed or by any procedure in lieu of foreclosure. At the signing hereof, Declarant is Owner as to all Lots.
- J. A RESIDENT is one or more persons or entities having an interest in and to any Lot as Owner or pursuant to a lease or rental agreement from the Owner.

 **54182155**
Page: 6 of 34
08/24/1998 03:32P
MISC 144.00
JAMES B MCCARTHY SUMMIT CO AUDITOR

II. RESTRICTIONS ON LAND

All lots conveyed shall be used exclusively for single family residence purposes and only one such residence shall be permitted on each lot.

1. Setbacks

- A. Each building shall conform to the setback requirements of the City of Green as specified in the City of Green Zoning Code of the R-1 District and the recorded plat for the Mystic Pointe Development. At the time of the execution of this document the setback requirements are:

Front Yard: 40 feet
Side Yard: 10 feet
Rear Yard: 40 feet

All buildings must conform to either the City of Green setback requirements or those specified on the recorded plat for Mystic Pointe, whichever is greater.

When two or more lots are acquired and used as a single building site, the side lot line shall refer only to the lines bordering on the adjoining property owner.

2. Easements

It is hereby expressly understood that there is a five (5') foot wide easement on the side of each lot and a twelve (12') foot wide easement on the front of each lot and a (10') foot wide easement along the exterior boundaries of the subdivision and along any blocks, which shall be reserved, and which may be used for installing, operating, maintaining, servicing and/or accessing any utilities, including but not limited to; water, sanitary sewer, storm sewer, electric, telephone, cable television, etc. The character of the installation and structures which may be constructed, reconstructed, removed and maintained in, on and through these easements shall include but not be limited to all incidental appurtenances such as guys, conduits, poles, anchors, transformers, pad mount transformers, handholes, etc. Said easement rights shall include the right, without liability therefore, to remove trees and landscaping, including lawns, within said easement premises, which may interfere with the installation, maintenance, repair or operation of the aforementioned facilities, and with right of access, ingress to and from any of the within premises for exercising any of the purposes of this right of way and easement grant.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155

Page: 7 of 34

08/24/1998 03:32P

MISC 144.00

3. **Lot Split**

No lot in the Mystic Pointe Subdivision shall be subdivided or divided, unless or until the Plat showing such proposed subdivision or division shall have been submitted to Declarant or its assigns and the written consent of said Declarant or its assigns to such subdivision or division has been obtained.

III. **BUILDING AND ARCHITECTURAL REQUIREMENTS**

All lots conveyed shall be used exclusively for single family residence purposes and only one such residence shall be permitted on each lot.

A. Single-family dwellings shall meet the following requirements:

1. Type: Single-family dwellings may be one or two story in design.

- a. A one-story dwelling is a structure, the living area being the first floor space only, constructed with or without a basement and a space between the first floor ceiling and the roof of inadequate heights to permit its use as a dwelling space.
- b. A one and one-half (1-1/2) story dwelling is a structure, the living area of which is on two levels connected by a stairway where the second level is at most one-half (1/2) the living area of the first level, constructed with or without a basement.
- c. A two-story dwelling is a structure, the living area of which is on two levels connected by a stairway, constructed with or without a basement.

1. Living Area: The "living area" of any dwelling shall be not less than finished habitable area as set forth below. "Living area" shall not include garages, attics, basements, breezeways, utility rooms, patios, or any enclosed area not heated for year-round living.

- a. Such living area shall not contain less than the following number of "square feet":



Class "A" lots are all lots having frontage on Myersville Road and a portion of lots on Kreighbaum Road, including:

Lots 1-7, 19-21, 40-45, 66-74, 95-101, 120, 122, 191-196, 208-223, and 242

Minimum "Living Area":

- b. One-story dwelling: 1,800 sq. ft. min.
- c. 1 1/2 story dwelling: 1,900 sq. ft. min.
- d. Two-story dwelling: 2,000 sq. ft. min.

Class "B" lots are all lots not designated as Class "A" lots or Class "C" lots; including:

Lots 8-11, 15-18, 22-25, 33, 37-39, 57, 60-65, 75-94, 102-109, 139, 146-159, 163-170, 175, 176, 179, 180, 183-190, 203, 204, 206, 207, 224-241

Minimum "Living Area":

- a. One-story dwelling: 1,900 sq. ft. min.
- b. 1 1/2 story dwelling: 2,000 sq. ft. min.
- c. Two-story dwelling: 2,100 sq. ft. min.

Class "C" lots are all lots abutting Blocks "A", "B", or "C", including:

Lots 12-14, 26-32, 34-36, 46-56, 58, 59, 110-119, 121, 123-138, 140-145, 160-162, 171-174, 177, 178, 181, 182, 197-202, and 205

Minimum "Living Area":

- a. One-story dwelling: 2,000 sq. ft. min.
- b. 1 1/2 story dwelling: 2,100 sq. ft. min.
- c. Two-story dwelling: 2,200 sq. ft. min.



JAMES B MCCARTHY SUMMIT CO AUDITOR

1. Market Value

The appraised fair market value of any dwelling erected or placed upon any part of the land herein conveyed shall be not less than \$150,000 including the value of the lot.

- A. If the consumer price index as of January 1, 1998, as determined by the U.S. Department of Labor, increases thereafter, the required minimum value aforesaid shall likewise increase at the same percentage increase of such consumer price index.

2. Declarant Approval

All matters herein requiring the approval of Declarant by the terms of this instrument, shall be submitted to Declarant in writing, certified mail, accompanied by such specifications, details and other documents in duplicate as are reasonably required by it to make a proper decision. In order to insure that the homes, pools, fences and other buildings will have a uniform high standard of construction, Declarant reserves the right to reject all such plans and specifications as aforesaid for any reasonable ground, including but not limited to aesthetic reasons. Declarant shall approve or disapprove such written submission or application for approval, in writing within twenty (20) days after its receipt of the same and a failure by Declarant to so act within said 20 days period shall constitute approval of the submitted plans. All plans submitted shall be drawn to 1/4" or 1/8" scale and include floor plans for all levels and 4 elevations. Elevations shall call out materials and colors specified. If plans are not submitted to Declarant as required, the Declarant shall have the right to access such property and cease all building of such home until the appropriate plans have been submitted and approved. Entrance onto such owner's lot for such purposes shall not be deemed a trespass. All building plans shall be submitted to the Declarant prior to the commencement of construction on a lot. Declarant shall be entitled to an immediate restraining order, restraining further construction on said lot, until such time as the plans have been submitted to and approved by the Declarant. All lot owners must submit proposed basement elevations for approval before excavation begins. Developer has five (5) business days to respond to requests for approval and may reserve the right to alter requested elevations or plans.

3. The architectural review process shall review the following items:

- a. Elevations;
b. Color of trim, doors, roof and exterior features;



- c. Window placements to assure aesthetic alignment;
 - d. All requirements spelled out in this documents including:
 - Roof Pitch
 - Foundation Accidents
 - Chimney Enclosures
 - Setbacks
4. A home of basically the same design cannot be constructed within three (3) lots in either direction or across the street for three lots in either direction from the house in question. In addition to the above, no houses with the same color shall be placed side by side or across the street from each other unless the color is white. The "look alike feature" is being judged on having at least three features that are different from the house being judged:
- a. The first and most important, being the front elevation, which includes reverse elevations.
 - b. The second, being the number and arrangement of windows, porches and the direction of the garage roof with or without cupolas.
 - c. The third, being exterior trim and including such items as corner treatments, window headers and front door treatments.
 - d. The fourth, being the color scheme of the houses in question, which includes roofing, siding, trim, shutters and front doors.
5. All homes must have a roof pitch or not less than 6' rise for every 12' depth (6/12) pitch unless approved by Declarant.
6. All foundation wall treatments which face the street and side yards shall be brick or stone to grade. All basement walls with more than a 36 inch exposure must be brick or stone to grade.
7. Chimneys with metal flues must be enclosed within a chase that must be sided to match the home or a masonry brick material.
8. All driveways shall be paved with concrete, brick or asphalt within six (6) months after construction starts but the cost of paving must be included in the original home construction contract or loan request.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 11 of 34
03/24/1998 03:32P
MISC 144.00

9. Each house is required to install a standard gas light (provided by East Ohio Gas Co.) twenty feet (20') off the roadway and five feet (5') from the inside corner of the driveway.
10. All homes adjacent to the lake or pond are required to install an independent standing gas light thirty feet (30') from the high water mark of the land or pond.
11. All garbage containers shall be placed in screened areas at all times except trash pickup days, so that they are not visible from the adjoining properties.
12. All of the restrictions above shall apply to all land within the platted area of this plat.
13. As used in this Declaration and when required by the context, each number (singular, or plural) shall include all numbers, and each gender (masculine, feminine, or neuter) shall include all genders.

IV. LOT OWNER RESPONSIBILITIES

- A. All lot owners are responsible for costs incurred to repair or replace damaged curbs or gutters along the front of each lot due to construction vehicles or any negligence.
- B. Each individual lot owned shall be bound by Summit County's Standard Soil Erosion Control practice and must comply to the Development's overall Storm Water Pollution Prevention Plan and Sedimentation Prevention Plan.
- C. Any plantings, trees or landscape provisions required by the City of Green shall be implemented by the builder or homeowner.

V. ITEMS REQUIRING REVIEW AND APPROVAL BY THE MYSTIC POINTE HOMEOWNERS ASSOCIATION, HEREINAFTER REFERRED TO AS THE ASSOCIATION.

All matters herein requiring the approval of the Association by the terms of this instrument, shall be submitted to the Association in writing, certified mail, accompanied by such specifications, details and other documents in duplicate as are reasonably required by it to make a proper decision. In order to insure that the homes, pools, fences and other buildings will have a uniform high standard of construction, the Association reserves the right to reject all such plans and specifications as aforesaid for any reasonable ground,



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 12 of 34
08/24/1998 03:32P
MISC 144.00

including but not limited to aesthetic reasons. The Association shall approve or disapprove such written submission or application for approval, in writing within twenty (20) days after its receipt of the same and a failure by the Association to so act within said twenty (20) days period shall constitute approval of the submitted plans. All plans submitted shall be drawn to 1/4" or 1/8" scale and include floor plans for all levels and 4 elevations. Elevations shall call out materials and colors specified. If plans are not submitted to the Association as required, the Association shall have the right to access such property and cease all building of such home until the appropriate plans have been submitted and approved. Entrance onto such owner's lot for such purposes shall not be deemed a trespass. All building plans shall be submitted to the Association prior to the commencement of construction on a lot. The Association shall be entitled to an immediate restraining order, restraining further construction on said lot, until such time as the plans have been submitted to and approved by the Association. All lot owners must submit proposed basement elevations for approval before excavation begins. Items other than house plans requiring approval are:

1. **Decks** - submit plans, elevations and site plan indicating dimensions and location of deck.
2. **Fences** - submit elevations including location, height, pattern, and color. No fence shall be erected unless a detailed drawing of type and location of proposed fence is submitted to the Declarant or its assigns and a written consent for such fence is given. No fences over six (6) feet in height will be permitted.
3. **Swimming pools** - submit a site plan indicating location and dimensions of pool.
4. **Storage Sheds** - submit a site plan indicating location and dimensions of shed and an elevation with all exterior colors indicated.
 - a. Out buildings are limited to shed type structures with a maximum size of ten feet (10') by twelve feet (12'). Any storage structure shall be of similar design, including roof pitch, to match the house using identical exterior materials for roofing and siding.
 - b. No structure may be placed anywhere on the building lot except as described by the building envelope, that area bounded by the front, side, and rear set back lines required by the City of Green Zoning regulations.

VI. PROHIBITED USES

- A. No clotheslines and/or outdoor clothes drying areas shall be allowed in the Mystic Pointe Subdivision.



- B. No spirituous or fermented liquor shall be manufactured or sold, either at wholesale or at retail, on any residential premises and no place of public entertainment or resort of any character shall be established, conducted or suffered to remain on any residential premises.
- C. No unsightly growth such as weeds, underbrush or the like shall be permitted to grow or remain upon any lot and no refuse, pipe, lumber or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. However, the natural wooded and ground cover conditions of portions of the lot may remain provided that they are aesthetically pleasing to the appearance of Mystic Pointe as a whole. In the event that any lot owner shall fail to refuse to keep his/her/its lot free from weeds, underbrush or refuse piles or other unsightly growths or objects, Declarant or the other lot owners within Mystic Pointe shall have the right upon seven (7) days written notice to the offending lot owners, to remove the same at the expense of the lot owner. Entrance onto such owner's lot for such purpose shall not be deemed a trespass. Notwithstanding the above, Declarant Developer shall only be required to remove weeds, underbrush or the like from the edge of the right-of-way to the front building line of any lot(s) owned by Declarant but not transferred to a third party.
- D. Drilling oil or gas wells on land designated for single-family lots.
- E. No oil tanks and/or bottled gas tanks shall be placed underground or in areas that are visible from adjoining properties.
- F. Mining or extraction of any minerals including the removal of sand or gravel; provided, however, this restriction shall not prohibit the removal of any material in connection with development of the property for permitted uses by Declarant.
- G. The keeping, raising and harboring of cattle, swine, fowl, livestock, and horses; provided, however, that nothing in this restriction shall prohibit the keeping of household pets excepting the above provided they are not kept, bred or maintained for commercial purposes, or kept in a manner as to constitute a nuisance.
- H. Temporary structures, or trailers of any kind (travel, camping, motor homes, etc.) shall not be placed or stored on any lot or residence; provided, however, that this restriction shall not prohibit trailers and temporary structures used in connection with the building of an owner's home. Any recreational trailer or boat not in use may be kept provided it is kept in the garage out of sight. No commercial vehicles can be parked for more than four (4) hours in view of neighbors.



- I. Signs, billboard or advertising devices of any kind except:
 - 1. Signs not larger than six (6) square feet for offering homes for sales shall be permitted on the premises to be sold.
 - 2. An entrance sign.
 - 3. Builder model home signs that shall identify Developers and/or Builders and the area.
- J. No fences of any type shall be erected at or around the front yard of any lot or residence, and shall only be permitted and erected in accordance with the City of Green local rules and ordinances, if permitted, in or around the back yard area.
- K. Nuisances and noxious or offensive activities of any kind.
- L. Satellite T.V. dishes shall not exceed 24" in diameter.
- M. Any unlicensed vehicle of any description that is kept outside.
- N. Restrictions for unattached storage buildings, barns, etc.:
 - 1. At no time should any debris or materials of any kind accumulate around storage structure.
 - 2. No structure or portion thereof shall be constructed between a street right-of-way line and the building line shown on the plat of Mystic Pointe.
- O. No garage or vehicle storage shall be erected which is not connected to the main building. All garages must be of sufficient size to house two automobiles (440 square feet minimum).

VII. USE AND MAINTENANCE OF COMMON AREAS AND ASSOCIATION EASEMENT AREAS.

1. Block "A": Conservation Area

The following uses and requirements shall apply to all lots adjoining the Conservation Area identified as Block "A" on the recorded plat.

- a. The specific lots included in this area are:

12-14, 26-32, 34-36, 46-56, 58 and 59.



- b. Cutting of trees and brush within thirty feet (30') of the rear property line is prohibited.
- c. Access to and travel through Block "A" shall be by entrances and pathways approved by the Ohio Department of Natural Resources.
- d. Block "A" shall be maintained in its natural state in order to provide a wetlands education and protection area. The maintenance of Block "A" shall be the responsibility of the City of Green and the Ohio Department of Natural Resources.

2. Block "B": 8.75 Acre Lake

The following uses and requirements shall apply to all lots adjoining the 8.75 acre lake identified as Block "B" on the recorded plat.

- a. The specific lots included in this area are:
110-119, 121, 123-138 and 140-145.
- b. All the lot owners adjoining the lake (Block "B") shall elect a three (3) member committee (Lake Committee) to be responsible for all maintenance and approval actions regarding the lake. Until such time as seventy percent (70%) of the lots adjoining Block "B" are transferred, the Developer shall act as the Lake Committee.
- d. Docks: Are prohibited in Block "B".
- e. No trees exceeding a four inch (4") caliper shall be removed from an area forty feet (40') from the high water mark without the express approval of the Lake Committee. Lot owners should mark trees exceeding four inches (4") in diameter that they want to have removed and have the Lake Committee or its agent approve the removal of the stated trees. The Association can order the replacement of trees that are removed without approval. If a lot owner does not replace the required trees, the Association has the right to come on to the lot owner's property, plant the required trees, and assess to lot owner for the work and materials.
- f. Use of motorized boats or watercraft within Block "B" is prohibited.
- g. Every lot owner described herein shall have a right and easement of enjoyment in Block "B", and such easement shall be appurtenant to and shall pass with the title to each lot as is set forth herein.



**ALL LOT OWNERS ADJOINING BLOCK "B", THEIR GUESTS,
AND INVITEES ACCEPT ALL RISK AND RESPONSIBILITY
ASSOCIATED WITH THE USE AND ENJOYMENT OF BLOCK "B".**

3. **Block "C": 6.04 Acre Pond**

The following uses and requirements shall apply to all lots adjoining the 6.04 Acre Pond identified as Block "C" on the recorded plat:

- a. The specific lots included in this area are:

160-162, 171-174, 177, 178, 181, 182, 197-202 and 205.
- b. All the lot owners adjoining the pond (Block "C") shall elect a three (3) member committee (Pond Committee) to be responsible for all maintenance and approval actions regarding the pond. Until such time as seventy percent (70%) of the lots adjoining Block "C" are transferred, the developer shall act as the Pond Committee.
- c. Docks: Are prohibited in Block "C".
- d. No trees exceeding a four inch (4") caliper shall be removed from an area forty feet (40') from the high water mark without the express approval of the Lake Committee. Lot owners should mark trees exceeding four inches (4") in diameter that they want to have removed and have the Pond Committee or its agent approve the removal of the stated trees. The Association can order the replacement of trees that are removed without approval. If a lot owner does not replace the required trees, the Association has the right to come on to the lot owner's property, plant the required trees, and assess to lot owner for the work and materials.
- e. Use of motorized boats or watercraft within Block "C" is prohibited.
- f. Every lot owner described herein shall have a right and easement of enjoyment in Block "C", and such easement shall be appurtenant to and shall pass with the title to each lot as is set forth herein.

**ALL LOT OWNERS ADJOINING BLOCK "C", THEIR GUESTS,
AND INVITEES ACCEPT ALL RISK AND RESPONSIBILITY
ASSOCIATED WITH THE USE AND ENJOYMENT OF BLOCK "C".**



VIII. TITLE TO BLOCKS

As the plat for the Subdivision is recorded, Declarant shall convey lien-free absolute fee simple to the Blocks in the Subdivision to the Association, with the exception of Block "A", subject to easements and restrictions of record including the Covenants and Restrictions contained in this Declaration, and taxes and assessments, both general and special, not yet due and payable which shall be assumed by the Association. It is understood that the Association may receive title to the Blocks in stages as segments of the Subdivision are developed. The Association shall have no interest in the ownership or operation of any Block until Declarant shall have deeded such Block (or any part thereof) to the Association. Declarant shall have the duty to construct on each Block such improvements as may be required by the City (including storm drainage facilities) and to maintain each Block until such time as it is conveyed to the Association. Maintenance shall include, but not be limited to: repairing, replacing and caring for all drainage facilities and appurtenances, trees, shrubs, grass areas, signs, driveways, walls and all other improvements in and/or on the Blocks at the roadway entrances to the Subdivision. The Association shall have the same duty to maintain all Blocks and the said improvements as does Declarant after title to such Blocks has been conveyed to the Association.

IX. GENERAL PROVISIONS

- A. All the lots and land in Mystic Pointe are subject to all easements and rights of way of record.
- B. Declarant reserves the right for itself, its agents, employees, successors, and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to, the completion of any filling, grading, or installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass.
- C. The provisions herein shall run in favor of and shall be enforceable by any person, and the heirs and assigns of such person, who is or becomes an owner of any lot in this development as well as Declarant, its successors or assigns.
- D. All of the provisions of this instrument shall be deemed as covenants running with the land and not as conditions, and shall be binding on all owners of any part of Mystic Pointe and all persons claiming under them until January 1, 2008, and shall be automatically extended beyond that date for successive ten (10) year periods unless an appropriate instrument signed by the majority of then current owners of the lots in Mystic Pointe has been recorded, agreeing to change said covenants in whole or in part.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 18 of 34
08/24/1998 03:32P
MISC 144.00

- E. Invalidation or un-enforceability of any one or more of the provisions herein by judgment or court order shall in no manner affect any of the other provisions hereof, and such other provisions shall remain in full force and effect.
- F. In the event of a violation of any of the restrictions herein contained, Declarant reserves unto itself, its successors or assigns, for so long as Declarant owns any part of the premises, the right to enforce said restrictions by appropriate legal action against any person or persons who violate or attempt to threaten to violate said restrictions; or to enter upon the property where such violation exists and summarily abate and remove, at the expense of the owner thereof, any structure, use or condition that may be or exist thereon contrary to these restrictions. Declarant shall not be deemed guilty of trespassing for such entry, abatement or removal. Failure of Declarant to enforce any of the restrictions contained herein, shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of the restrictions. However, the failure, refusal or neglect of Declarant to enforce said restrictions or to prevent violations thereof shall in no event make Declarant liable for such failure, refusal or neglect.
- G. The Declarant reserves the right to transfer its rights in these covenants to the Mystic Pointe Homeowners' Association, Inc. (The "Association"), a non-profit corporation, made up of the owners of the lots in Mystic Pointe. The Declarant also reserves the right to transfer to the Association title to certain common areas and facilities.
- H. The terms, covenants, conditions and restrictions of this Declaration shall create perpetual, mutual and reciprocal benefits and servitudes upon the premises, running with the land. The terms, covenants, conditions and restrictions of this Declaration shall be binding upon anyone having any right, title or interest in a Lot or any part thereof and shall inure to the benefit of Declarant, the Association and each Owner.
- I. Until the earlier of January 1, 2020, or the date that the owners other than the Declarant first own in the aggregate ninety-five percent (95%) or more of the lots, these restrictions may only be amended by the Declarant, who shall have the right to amend these Restrictions at any time and from time to time. Thereafter, except as hereinafter provided, these Restrictions may be amended only by an instrument in writing signed by owners owning not less than sixty-six and two-third percent (66-2/3%) of the lots in the Development. No amendment to these Restrictions shall be effective unless it is in recordable form and until it has been filed for record with the office of the Summit County Recorder or any successor office.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 19 of 34
06/24/1998 03:32P
MISC 144.00

X. PURPOSE OF AND RESTRICTIONS ON USE OF COMMON PROPERTY

- A. **Purpose.** The common property of Mystic Pointe shall be used for purposes auxiliary to family residential uses and purposes thereto, and for no other purpose except for the control, administration and maintenance of the commonly owned open space in said subdivision. Neither a member, owner nor resident shall engage in any activities in the common areas within the subdivision which will interfere with the quiet enjoyment or comfort of any other member, owner, resident or occupant.
- B. **Restrictions.** There shall be no obstruction of the common areas and facilities, nor shall anything be stored in the common areas and facilities without the prior consent of the Association, except as hereinafter expressly provided.
1. **Hazardous Use and Waste.** Nothing shall be done or kept on any portion of the common areas and facilities which will increase the rate of insurance of any building or contents thereof applicable for residential use without the prior written consent of the Association. No waste will be committed of the common areas and facilities.
 2. **Animals and Pets.** No animals, rabbits, livestock, fowl or poultry of any kind shall be raised, bred or kept in the common areas and facilities subject to Rules and Regulations adopted by the Association; provided they are not kept, bred or maintained for any commercial purposes; and provided further that any such pet creating a nuisance or unreasonable disturbance shall be permanently removed to the common areas subject to these restrictions upon three days written notice from the President of the Association.
 3. **Nuisances.** No noxious or offensive activity shall be carried on in the common areas and facilities, nor shall anything be done therein, either willfully or negligently, which may be or may become an annoyance or nuisance to any member, owner or resident.
 4. **Impairment of Structural Integrity of Building.** Nothing shall be done in any common area and/or facility which will impair the structural integrity of any building or structure within the common area which would structurally change the building.
 5. **Laundry or Rubbish in Common Areas or Facilities.** No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed in any part of the common areas and facilities. The common areas and facilities shall be kept free and clear of all rubbish, debris and other unsightly materials.

6. **Lounging or Storage in Common Areas and Facilities.** There shall be no playing, lounging, parking of baby carriages or playpens, bicycles, wagons, toys, vehicles, benches or chairs on any part of the common areas and facilities except in accordance with the Rules and Regulations therefore adopted by the Association.
7. **Prohibited Activities.** No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designated for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the property, nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted on any part of the common area, which is the subject of this Declaration.
8. **Alteration of Common Areas and Facilities.** Nothing shall be altered on, constructed in or removed from the common area and facilities, except as hereinafter provided, and except upon the written consent of the Association.

XI. DESCRIPTION OF COMMON AREAS AND FACILITIES

The entire land and the improvements thereon not included within any lot, as is described in the legal description as the block areas, shall be the common areas and facilities.

XII. ASSOCIATION

- A. **Formation and Organization.** The Association is and shall remain a non-profit, non-stock corporation organized and existing under the laws of Ohio, and charged with the duties and vested with the powers prescribed by law, and set forth in these Restrictions, the Articles of Incorporation, and Bylaws, as such may be amended from time to time, providing no other documents shall for any reason be changed or interpreted so as to be inconsistent with these Restrictions.
- B. **Membership**
 1. **Basis.** Every lot owner shall be a member ("Member") of the Association. Membership shall be appurtenant to and may be separated from ownership of any lot. Transfer of a lot shall automatically transfer membership to the transferee.



54182155

Page: 21 of 34
08/24/1998 03:32P

MISC 144.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

2. **Member's Rights and Duties.** Members shall have all such rights, and be burdened with such obligations as are set forth in these Restrictions, the Articles of Incorporation, the Bylaws and any resolutions adopted by the Association.

3. **Voting Rights.** The voting rights of the Association shall be divided into two classes, and shall be entitled to the voting rights hereinafter (and in the Articles) set forth with respect to such classifications. The two classes of voting membership shall be, Class A and Class B, and shall possess the following rights:
 - a. Class A Members shall be all lot owners, with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each lot owned.

 - b. Class B Member shall be the Declarant. The Class B Member shall originally be entitled to ten (10) votes for each lot owned by the Declarant provided that the Class B membership shall cease and become converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
 - (i) January 1, 2027; or

 - (ii) The date that owners other than the Declarant own ninety-five percent (95%) or more of the lots.

- C. **Board of Trustees.** The Board of Trustees initially shall be those three (3) persons named as the initial trustees pursuant to the provisions of the articles, or such other person or persons as may from time to time be substituted by the Declarant. No later than the time that fifty percent (50%) of the residential lots are sold in which an ownership interest of fifty percent (50%) has been vested in the owners in the common areas appertain have been sold and conveyed by the Declarant, the landowners shall meet and from after that date there shall be six (6) trustees. The owners, other than the Declarant, shall elect one-third (1/3) of the total trustees, i.e., three (3), at such meeting, and the Declarant shall designate the other two-thirds (2/3) or four (4) of the trustees who shall serve until the meeting described in the next paragraph. For purposes of computing the undivided interest referred to in this paragraph, those interests shall be computed by comparing the number of lots sold and conveyed to the maximum number of lots that may be created.

Within thirty (30) days after the earlier of (a) three (3) years from the date of the establishment of the Association, and (b) the sale and conveyance to purchasers in good faith and for value of lots to which seventy-five percent (75%) of the undivided interest in the common areas appertain, the Association shall meet and



all owners, including the Declarant, shall elect six (6) trustees to replace all of those trustees earlier elected or designated by the owners or the Declarant respectively and elect new officers of the Association. The term of the six (6) trustees shall be staggered so the terms of one-third (1/3) of the trustees will expire and successors will be elected at each annual meeting of the Association. Thereafter, at such annual meeting, successors to the three (3) trustees whose terms then expire shall be elected to serve three (3) year terms. Notwithstanding the foregoing, the Declarant shall have the right at any time to waive its right to select one (1) or more trustees or to vote in an election of trustees. If the Declarant waives its right to select one (1) or more trustees, the Membership shall meet and elect the members of the board otherwise to have been selected by the Declarant.

- D. **Authority.** The Board shall have all authority to manage, maintain, repair, replace, alter and improve the common areas in accordance with the terms and provisions of this Declaration, and assess and collect funds for the payment thereof as is provided herein, and do all things and exercise all rights provided by this Declaration that are not specifically reserved to the owners.
- E. **Delegation of Authority Professional Management.** The Board may delegate all or any portion of its authority to discharge its responsibilities to a managing agent. This delegation of authority and responsibility to a managing agent may be evidenced by one (1) or more management contracts which may provide for the payment of reasonable compensation to such managing agent as a common expense; provided, however, that any agreement for professional management shall be terminable by the Association for cause on thirty (30) days written notice; shall be terminable by either party without penalty on ninety (90) day's written notice; shall not exceed one (1) year unless renewed by agreement of the parties for successive one (1) year periods; and shall be bona fide and commercially reasonable at the time entered into under the circumstances then prevailing. Subject to the foregoing, nothing contained herein shall preclude the Declarant, or any other entity designated by the Declarant, from being employed as managing agent. The managing agent or the board, if there is no managing agent, shall have the authority to enter into contracts with the Declarant or one (1) or more other firms or corporations affiliated with the Declarant for the providing of management, maintenance, and repair service, provided the same are bona fide and commercially reasonable to the landowners at the time entered into under the circumstances then prevailing and are terminable by the Association without cause and without penalty, on ninety (90) day's written notice.
- F. **Voting.** Unless a greater percentage is required by these Restrictions or by the Articles of Incorporation or Bylaws, all decisions requiring a vote of the Members shall be determined by a majority of the currently paid-up Members in attendance at a meeting where all owners were properly notified.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 23 of 34
08/24/1998 03:32P
MISC 144.00

- G. **Notice of Meeting.** Written notice of any meeting called for the purpose of taking any action requiring a vote of the Members shall be sent to all Members not less than seven (7) days and not more than sixty (60) days in advance of such meeting.
- H. **Agent for Service.** The person to receive service of process for the Association at the date of the filing of the within Declaration, shall be Jack Perelman, whose address is 2206 Pinetree Lane, Twinsburg, Ohio 44087, and he shall remain the person upon whom process shall be served until such as his name is removed from the records of the Secretary of State of Ohio as statutory agent for the Mystic Pointe Homeowners Association, Inc., an Ohio Corporation, not for profit. In the event Jack Perelman is subsequently removed as statutory agent for the corporation, or for any other reason is no longer registered with the Secretary of State of the State of Ohio as statutory agent for the Mystic Pointe Homeowners Association, Inc., an Ohio Corporation, not for profit, and in that event the person designated on the records of the Secretary of State as statutory agent for such corporation shall be the person to receive service of process for the Association.

XIII. MAINTENANCE AND REPAIR

- A. **Association Responsibility.** The Association shall maintain and repair the Common Areas, including but not limited to utility facilities serving more than one lot, utility lines in the Common Areas, lawn, shrubs, trees, walkways, drives, parking areas, drainage structures, and the structural portions and exterior portions of all buildings which are a part of the Common Areas and that do not constitute part of a lot.
- B. **Individual Responsibility.** Each lot owner shall repair his or her particular lot or lots, and all components thereof, owned by the lot owner. Without limiting the generality of the foregoing, this repair and maintenance responsibility shall include repair and maintenance of all windows, screens, and doors, including the frames, sashes, and jambs, and the hardware thereof. In the event a lot owner fails to make any such repair or perform such maintenance, or in the event the need for maintenance or repair of any part of the Common Areas or Limited Common Areas is caused by the negligent or intentional act of any lot owner or occupant, or occurs as a result of the failure of any lot owner or his, her, or its predecessors in title to timely pursue to conclusion a claim under any warranty, express, implied, or imposed by law, and the cost of repair is not covered by insurance, the cost of such maintenance and repair shall constitute a special individual lot assessment, as hereinafter defined, on the lot owned by such lot owner. The determination that such maintenance or repair is necessary, or has been so caused, shall be made by the Board.



54182155
Page: 24 of 34
08/24/1998 03:32P
MISC 144.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

- C. **Lot Owner Responsibility.** All lot owners are responsible for costs incurred to repair or replace damaged curbs or gutters along the front of each lot due to construction vehicles or any negligence.

XIV. CONDEMNATION

- A. **Entire Taking.** In the event all of the common areas and facilities are taken by condemnation, the net proceeds of the award shall be paid to the Association and considered as one fund, and shall be distributed to all owners and their respective mortgagees jointly and proportion to each owners respective percentage of interest in the common areas and facilities.
- B. **Partial Taking.** In the event of a partial taking of the common areas and facilities, this condemnation declaration shall automatically and by itself be amended so that the parcel of land taken by the condemning authority is excluded from this Declaration.

All awards granted for the taking of common areas and facilities and/or damage to the residual of the common areas and facilities shall be paid to the Association and distributed to individual owners and their mortgagees jointly as determined by three reputable real estate appraisers, who shall be members of the Society of Real Estate Appraisers or other similar organization. The owners will select an appraiser and the other party will select an appraiser, and those two appraisers will select the third appraiser. The appraiser shall render written instructions to the Executive Committee allocating the total award to the owners in such proportion as they, in their sole discretion, determine to be the damages caused to the owners. It is agreed their determination shall be final and binding upon all owners and their respective mortgagees.

XV. COVENANTS FOR ASSESSMENTS

- A. **Obligation to Pay Assessments.** Each Member, by acceptance of a deed for such Member's lot, is deemed to covenant and agree to pay to the Association, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments shall be a charge on and a continuing lien on each lot of the owner responsible for the payment of such assessment. Each such assessment shall also be the personal obligation of the person or persons who owned the lot at the time the assessment fell due, but such personal obligation shall not pass to the successors in title of such person or persons unless expressly assumed by them.
- B. **Purpose.** The assessment levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents and owners in Mystic



Pointe, and for the improvement, maintenance, repair and replacement of the common areas and facilities, and for purposes incidental or related thereto. The Declarant also anticipates transferring to the Association ownership rights to the entrance ways of Mystic Pointe and other common areas such as retention areas and recreation areas. The lot owners or Homeowners' Association shall be responsible for the maintenance of the drainage easement(s), landscaped common areas, and entranceways, and any repair or improvement cost to them, which shall be equally divided among all owners of the lots shown on this plat. These costs will also be shared with other lot/property owners or Homeowners' Association within the Mystic Pointe Subdivision. Any drainage easement(s) shown on this plat shall be accessible to the City of Green and the lot owners/Homeowners' Association. Maintenance shall include cleaning, dredging and other work within the drainage easement or block to maintain the capacities, elevations, lines and grades for storm sewers, ditches, and storm water facilities there, to the original design. Notification of maintenance required shall be the responsibility of the City. Mowing and the other law care items within the drainage easement(s) and blocks, entrance ways, and landscaped common areas shall be the responsibility of the lot owners or Homeowners' Association.

C. Distinguishment of Assessments

1. All lots shall be assessed equally for maintenance and general operating expense for the following items:
 - a. Operation of the Homeowner's Association.
 - b. All entrances and common areas.
2. All lot owners shall be equally responsible for the payment of the liability insurance premium of not less than Ten (10) Million Dollars and D&O insurance of not less than Ten (10) Million Dollars.
3. Lots adjoining Block "A" shall be equally assessed for any costs associated with the maintenance of Block "A" that are not the responsibility of the City of Green and the Ohio Department of Natural Resources.
4. Lots adjoining Block "B" shall be equally assessed for any costs associated with the maintenance of Block "B". These additional cost items may include, but are not limited to:
 - a. Chemical treatment of the Lake.
 - b. Costs associated with the Lake Committee.
 - c. Maintenance of all common areas within Block "B".

 **54182155**
Page: 26 of 34
06/24/1998 03:32P
MISC 144.00

JAMES B MCCARTHY SUMMIT CO AUDITOR

5. Lots adjoining Block "C" shall be equally assessed for any costs associated with the maintenance of Block "C". These additional costs items may include, but are not limited to:
 - a. Chemical treatment of the Pond.
 - b. Costs associated with the Pond Committee.

D. **Commencement and Method of Assessment.** The assessment fees shall commence upon transfer of title to that lot prorated on the calendar year basis to the date of transfer. The initial assessment shall be adjusted according to the number of days remaining in the calendar year, and such assessments shall thereafter be on a full calendar-year basis. The Board shall fix the amount of subsequent assessments at least thirty (30) days in advance of each annual assessment period. The due date for such assessment shall be established by the Board. Each Member shall pay such Member's assessment in one annual payment commencing on the date designated by the Board. Separate due dates may be established by the Board for partial annual assessments and special assessments, as long as made thirty (30) days in advance thereof. Written notice of the assessments shall be sent to each Member. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessments payable with respect to a specific lot have been paid.

E. **Effect of Non-Payment of Assessment.** Any assessment not paid within thirty (30) days after the due date shall be deemed in default. Members may not waive or otherwise escape liability for the assessments provided for herein by non-use of the common areas and facilities or abandonment of such owner's lot. A delinquent assessment shall bear interest from the date of delinquency at the rate of fifteen percent (15%) per annum, and the Association shall have the right to prohibit the use of the common areas and facilities by Members and their families who are delinquent in the payment of their assessments. The Association may bring an action at law against the Member, and upon obtaining a judgment such judgment shall include interest on the assessment at the rate of ten percent (10%) per annum and reasonable attorney's fees to be fixed by the court, together with the cost of the action.

F. **Lien for Delinquent Assessment.**

1. At any time after an assessment levied pursuant hereto remains unpaid for thirty (30) or more days after the same has become due and payable, a Certificate of Lien for all or any part of the unpaid balance of that assessment, and interest and costs, may be filed with the Recorder of Summit County, Ohio, pursuant to authorization given by the Board. The



certificate shall contain a description of the lot against which the lien exists, the name or name of the record owner or owners thereof, and the amount of the unpaid portion of the assessments, and shall be signed by the President or other chief officer of the Association.

2. 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.
3. Any lot owner who believes that an assessment chargeable 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 Court of Common Pleas of Summit County, Ohio 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.
4. Each such assessment together with interest and costs shall also be the joint and several personal obligation of the lot owner who owned the lot at the time when the assessment fell due. The obligation for delinquent assessment, interest and costs shall not be the personal obligation of that owner's or owners' 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.
5. The Association, as authorized by the Board, may file a lien or liens to secure payment of delinquent assessments, interest and costs, bring an action at law against the owner or owners personally obligated to pay the same, and an action to foreclose a lien, or any one or more of these. In any foreclosure action, the owner or owners affected shall be required to pay a reasonable rental for that lot during the pendency of such action, and the Association as plaintiff in any such action shall be entitled to become a purchaser at the foreclosure sale. In any such action, interest and costs of such action (including attorney fees) shall be added to the amount of any such assessment, to the extent permitted by Ohio law.
6. No owner may waive or otherwise escape liability for the assessments provided for in this instrument by non-use of common areas, or any part thereof, or by abandonment of his, her or its lot.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155

Page: 28 of 34
05/24/1998 03:32P
MISC 144.00

XVI. EXTENT OF HOMEOWNERS ASSOCIATION MEMBERS' EASEMENTS

The rights and easements of enjoyment created hereby shall be subject to the following:

1. The rights of Declarant and of the Association, in accordance with its Articles and Regulations, to borrow money for the purpose of improving, maintaining or repairing the Blocks, and in aid thereof to mortgage all or any portion thereof; and
2. The right of the Association to take such steps as are reasonably necessary to protect the Blocks against foreclosure; and
3. The right of the Association in accordance with its Articles and Regulations, to adopt uniform rules and regulations regarding use of the Blocks, to suspend the enjoyment rights of any Member and his guests for any period during which any assessment remains unpaid, and the right of the Association to suspend the enjoyment rights of any Member or any person to whom rights are extended pursuant to this Declaration for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and
4. The right of the Association to dedicate to public use or convey any part or all of the real estate owned by the Association consistent with the purposes contained in this Declaration and as provided in the Articles and Rules, Regulations and By-Laws of the Association; and
5. The right of the Association to grant easements and rights-of-way to any public utility, public agency or governmental authority.

XVII. EXTENSION OF PRIVILEGES

A Member's right of enjoyment in the Blocks and the facilities located thereon shall extend automatically to all members of his immediate family within any portion of the Subdivision. No guests shall be entitled to such right of enjoyment except as provided in rules and regulations promulgated by the Association.

XVIII. OWNERSHIP OF THE COMMON AREAS

The percentage of ownership of the common areas and facilities attributable to the ownership interest of each owner in the specific Block designated for the owner's particular lot, shall be determined by the following formula:



Each owner shall own an interest in the common Block area designated for his or her lot, including facilities equal to a ratio as the Summit County Real Estate Tax Value of each owner's residence unit bears to 100% of the Summit County Real Estate Value of all owners, residences within the development. Also, the undivided percentage of interest in the common areas and facilities shall not be separated or separately conveyed, encumbered, inherited or divided, and each said undivided interest shall be deemed to be conveyed or encumbered with its respective residence, even though the description set forth and contained in the instrument, conveyance or encumbrance may refer only to the fee title to said individual resident.

IX. EASEMENTS TO RUN WITH LAND

All easements and rights described herein, are easements of appurtenant, running with the land, perpetually in full force and effect, and, at all times, shall inure to the benefit of and binding on the Declarant, its successors and assigns, and any owner, purchaser, mortgagee or other person having an interest in said land, or in any part or portion thereof. In addition, failure to refer specifically to any or all of the easements and/or rights described in this Declaration, in any deed of conveyance or in any mortgage or trustee, or other evidence of obligation, shall not defeat or fail to reserve said rights or easements, but same shall be deemed conveyed or encumbered as is described herein.

XX. SUPPLEMENTAL PROVISIONS CONCERNING DECLARATION

- A. **Construction of the Provisions of This Declaration.** The Association shall have the right to construe and interpret the provisions of this Declaration, and in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefitted or bound by the provisions hereof. Any conflict between any construction or interpretation of the Association and that of any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association.

The Association, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any findings, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Members and



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155

Page: 30 of 34

08/24/1998 03:32P

MISC

144.00

the Blocks, to the end that the Blocks shall be preserved and maintained as a high quality environmental and open space asset.

In granting any authorization, as herein provided, the Association may impose any conditions or limitations thereon as it shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

- B. **Declaration Binding on Grantees and Lessees.** Each grantee accepting a deed, lease or other instrument conveying any interest in any Lot, whether or not the same incorporates or refers to this Declaration, covenants for himself, his heirs, personal representatives, successors and assigns to observe, perform and be bound by this Declaration and to incorporate the same by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.
- C. **Assignability.** The Signatories hereto, notwithstanding any other provision herein to the contrary, shall at all times have the right to fully transfer, convey and assign all of their right, title and interest under this Declaration, provided that such transferee, grantee or assignee shall take such rights subject to all obligations also contained herein.
- D. **Severability.** Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
- E. **Articles and Regulations of Association.** The Articles of Incorporation and Regulations of the Association may contain any provisions not in conflict with the Declaration and its covenants as are permitted to be set forth in such Articles and Regulations by the Non-Profit Corporation Law of Ohio as from time to time in effect.
- F. **Duty to Perform.** Notwithstanding anything in this Declaration to the contrary, the duties and obligations of either Declarant or the Association, as they relate to the Blocks, and the authority to enforce these duties and obligations, shall be of unlimited duration, shall be non-modifiable, and shall be non-waivable without the prior written consent of the City.



JAMES B MCCARTHY SUMMIT CO AUDITOR

54182155
Page: 31 of 34
05/24/1998 03:32P
MISC 144.00

IN WITNESS WHEREOF, Declarant has executed this Declaration of Covenants and Restrictions at TWINSBURG, Ohio, this 20th day of August, 1998.

UNION COMMERCE CORPORATION

Signed in the presence of:

Lisa G. Kalifon
LISA G. KALIFON

Thomas E. Bartlebaugh
THOMAS E. BARTLEBAUGH

BY: Stephen M. Krutowsky, J.P.
Declarant STEPHEN M. KRUTOWSKY, Its Vice Pres.

MYSTIC POINTE LOT OWNERS OF LOT NOS.

Print: _____

Print: _____

Print: _____

Print: _____

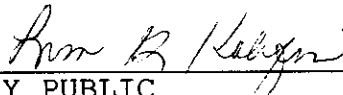
Print: _____



STATE OF OHIO :
: SS
SUMMIT COUNTY :

BEFORE ME, a Notary Public, in and for said County and State, appeared the above-named Union Commerce Corporation, by Stephen M. Krutowsky, its Vice President, who acknowledged that he did sign the foregoing and that the same is his free corporate act and deed.

IN WITNESS WHEREOF, I have set my hand and seal at Twinsburg, Ohio, this 20th day of August, 1998.




NOTARY PUBLIC

LISA G. KALIFON
NOTARY PUBLIC, CUYAHOGA COUNTY
MY COMMISSION EXPIRES 9/1/2002

 **54182155**
Page: 33 of 34
08/24/1998 03:32P
MISC 144.00
JAMES B MCCARTHY SUMMIT CO AUDITOR

EXHIBIT "A"

Situated in the City of Green, County of Summit and State of Ohio and known as lots 1 through 242, including Blocks B & C and all other common areas, as reflected in the Plat and as further described in Slide N, Pages 201-224 of the Summit County Records.

 **54182155**
Page: 34 of 34
08/24/1998 03:32P
MISC 144.00
JAMES B MCCARTHY SUMMIT CO AUDITOR