

LAKE COUNTY RECORDER
SEP 20 2000

CROSS CREEK SUBDIVISION

RESIDENTIONAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 31st day of August, 2000 by Oxford Bank & Trust in its capacity as trustee under trust agreement dated April 14, 1998 and known as trust no. 625, hereinafter referred to as "Declarant";

WITNESETH:

WHEREAS, Declarant is the owner in fee simple of that certain real property situated in Lake County, Illinois, more particularly described as:

Lots 1 through 45 inclusive and Lots A, C, D and E in Cross Creek, being a subdivision of part of the Northeast Quarter of Section 1, Township 45 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded July 25, 2000 as document no. 4558004, in Lake County, Illinois ("Property").

WHEREAS, the foregoing Property consists of land to be subdivided into lots for single family residential subdivision purposes.

WHEREAS, Declarant intends to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Association, Owners, and all parties having any right, title, or interest in the Property; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation of the values and amenities of the subject development to create an Association for the purpose of maintaining the Landscape and Easement Areas (hereinafter defined), and for administering and enforcing these covenants, conditions and restrictions, including the collection and disbursement of the assessments and charges described herein;

NOW, THEREFORE, Declarant hereby declares that the Property shall be occupied, held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens contained in this Declaration and any lawful amendments hereto which are for the purpose of protecting the value and desirability of, and which shall run with, the Property submitted hereto and be binding on and inure to the benefit of all parties having any right, title or interest in the described Property or any part thereof, including their heirs, successors and assigns.

ARTICLE I

Definitions

Section 1: "Association" shall mean and refer to an Illinois corporation, its successors and assigns, to be organized and to be known by the name of Cross Creek Homeowners Association.

Section 2: "Board" shall mean the board of directors or other governing body, however designated, of the Association.

Section 3: "Building Envelope" shall mean that area within each Lot delineated by lines or other graphic method on the Plat as that area within which a residence must be located.

Section 4: "Common Expenses" shall mean those expenses incurred by the Association under the authority of this Declaration and under its by-laws and as defined in Article IV, Section 2.

Section 5: "Declarant" shall mean and refer to Oxford Bank & Trust in its capacity as trustee under trust agreement dated April 14, 1998 and known as trust no. 625; provided however that upon conveyance of the Lots to William Ryan Homes, Inc. or its nominee, "Declarant" shall automatically refer to William Ryan Homes, Inc. or such nominee, and the recording of the deed to William Ryan Homes, Inc. or its nominee, without further action, shall be deemed full compliance with the provisions of Article X, Section 10. Thereafter, Oxford Bank and Trust as said trustee and/or its beneficiary, shall have no further obligation hereunder.

Section 6: "Declaration" shall mean the within instrument together with those exhibits which are attached hereto and made a part hereof and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof.

Section 7: "Landscape and Easement Area(s)" shall mean all those areas designated on such Plat or Plats as a) "Stormwater Management Easement" b) Lots A, C, D and E as depicted on the Plat; c) that part of any public right-of-way within the subdivision which contains a landscaped island or boulevard island; d) the full width of the right of way of Cross Creek Lane for a distance of 100 feet from its intersection with Sand Lake Road, and e) the full width of Fox Tail Drive, which areas may be referred to herein collectively either as "Landscape and Easement Areas" or by their individual designation as noted above and on the Plat.

Section 8: "Lot" shall mean and refer to a platted Lot depicted on the Plat

(excluding subdivided lots denoted by a letter rather than a number) which is intended for improvement with a single family detached dwelling unit, and shall include the dwelling unit if a dwelling unit is constructed thereon.

Section 9: "Member" shall mean and refer to an Owner of a Lot who holds membership in the Association.

Section 10: "Owner" shall mean and refer to the record owner of a Lot, the beneficiary of a land trust which is record owner of fee simple title to any Lot, and contract sellers of a Lot, all whether one or more persons or entities, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant to the extent of the number of Lots owned by Declarant and also includes the interest of Declarant as contract seller of any Lot. The term "Owner" also includes the owner of any land in the Commercial Area, but only with respect to such owner's obligation to pay Combined Expenses (as defined in Article IV, Section 3(c)).

Section 11: "Person" shall mean any individual, firm, corporation, trustee, or other entity capable of holding title to real estate.

Section 12: "Plat" or "Plat of Subdivision" shall mean any document recorded In the office of the Recorder of Deeds of Lake County, Illinois as a plat of subdivision affecting all or a portion of the Property.

Section 13: "Property" shall mean and refer to the Property described on page hereof.

Section 14: The "Village" shall refer to the Village of Lindenhurst, Illinois.

ARTICLE II

The Association

A. Initial Organization:

Section 1: The Declarant will cause the Association to be incorporated at the discretion of Declarant. but not later than the time when the control of the Association is turned over to the Members. The Association shall be turned over to the Members not later than 60 days after the conveyance by the Declarant of 75% of the Lots, or three (31 years after the recording of this Declaration, whichever is earlier.

Section 2: Until the Association has been organized and until election of the initial Board. the same rights, titles, powers, privileges, trusts, duties and obligations

vested in or imposed upon the Board and Association by this Declaration and in the By-Laws shall be vested in, and held and performed by Declarant or its beneficiary. The Declarant shall have free use of all assessments for this purpose. All references to the Association shall be deemed a reference to the Declarant or its beneficiary until the Declarant or its beneficiary resigns as the Association in accordance herewith. The election of the initial Board shall occur at the time the Association is turned over to the Members. If the initial Board 's not elected by the Owners at the time so established, Declarant shall continue in office for a period of an additional thirty (30) days whereupon written notice of its resignation shall be sent to all Owners entitled to vote at such election.

Section 3: Within sixty (60) days following the election of a majority of the Board other than Declarant or its beneficiary, Declarant shall deliver to the Board

- a) All original documents as recorded or filed pertaining to the Property, its administration, and the Association, such as the Declaration, articles of incorporation, other instruments, annual reports, minutes, rules and regulations, and contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Declarant or its beneficiary, or an officer or agent of the Declarant or its beneficiary, as being a complete copy of the actual document recorded or filed.
- b) A detailed accounting by the Declarant or its beneficiary, setting forth the source and nature of receipts and expenditures in connection with the management, maintenance and operation of the property, copies of all insurance policies, and a list of any loans or advances to the Association which are outstanding.
- c) Association funds.
- d) A schedule of all real or personal property, equipment and fixtures belonging to the Association, including documents transferring the property, warranties, if any, for all real and personal property and equipment, deeds, title insurance policies, and all tax bills.
- e) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken concerning the association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any association requirements, copies of any documents relating to disputes involving unit owners, and originals of all documents relating to everything listed in this

subparagraph.

Thereafter, neither Declarant nor its beneficiary shall have any further obligations whatsoever as the Association or to any Member or Owner,

B. Functions of Association

Section 1: The Association shall have the easement rights as separately granted on the Plat and in the Annexation Agreement, in addition to or in conjunction with the rights specified herein, and shall maintain the aesthetic and functional aspects of the Landscape and Easement Areas, with the exception of any public facilities located therein such as roadway or utility improvements. The Association shall also specify rules and architectural guidelines for the use and general aesthetic character of the land and water areas within the Landscape and Easement Areas, not in conflict with original engineering and other approvals given by the Village for any portion of the Property. No Owner shall construct any landscape or other improvements within the Landscape and Easement Areas. The Association shall have the absolute right to enter the Landscape and Easement Areas and remove all non-conforming landscape materials. The Association shall maintain, remove and replace landscaping in its discretion (see Article III).

Section 2: The Association shall have the obligation to treat the water impounded in Lot E for health and weed control purposes when necessary, and to take all action necessary to provide for the orderly collection, retention and discharge of storm water within Lot E, including the making of capital improvements, repairs or replacements.

Section 3: The Association shall take title to Lots A, C, D and E and shall provide for the payment of taxes thereon and the maintenance thereof .

Section 4: The Association shall have the obligations with respect to the Fence as described in Article V, Section 5.

Section 5: The Association shall have the authority to organize social events for the benefit of the Members.

Section 6: The Association shall have all other powers and obligations specified elsewhere in this Declaration, and the power to adopt reasonable rules and regulations to implement the intent of this Declaration, and the power to assess fines and recover attorneys fees and collection or litigation costs in enforcing this Declaration or any such rules or regulations.

Section 7: The Association may perform its function and carry out its duties by entering into agreements for the performance thereof with such persons and

business entities regularly engaged in the performance of generally similar functions and duties as the Board shall determine, which agreements shall be for such length of time, at such rates of compensation and upon such other terms and provisions as the Board shall determine from time to time. Such persons or business entities may, but need not, be persons or business entities owning or otherwise directly or indirectly interested in the Property or any part thereof. The Association itself shall also have the power to perform its functions and carry out its duties.

Section 8: The Association shall have the general powers to enforce in its own behalf or on behalf of the Association Members, in a court of law or otherwise, all of the covenants and conditions appearing in this Declaration, any amendment hereto, the Association by laws, any Plat of Subdivision, deed of conveyance or other interest affecting the Property.

Section 9: The expenses associated with all of the purposes set forth in Article II Section B shall be Common Expenses. Due to the fact that some of the activities of the Association shall benefit the adjacent commercial area ("Commercial Area"), the owners of lots within the Commercial Area shall contribute funds to defray the Common Expenses for Lot E and Cross Creek Lane entry improvements and landscaping, plus interest and costs for late payment, all as described in Article IV, Section 3(c), although the Association shall make the final determination regarding maintenance and administration of the Landscape and Easement Areas.

C. Membership and Voting Rights.

Section 1: Every Person who is a record owner in fee or in undivided fee interest in any Lot, including contract sellers, shall automatically be a Member of the Association and shall remain a Member so long as he remains an Owner of a Lot subject hereto. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Declarant shall be a Member of the Association but shall have no obligation to pay assessments. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2: The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all Members with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds a membership interest in a Lot, all such Persons shall be Members and the vote for such Lot shall be exercised as such Members determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B Member shall be the Declarant who shall be entitled to

three (3) votes for each Lot owned, provided however that the Declarant shall be entitled to only one (1) vote per lot and no greater than forty-nine percent (49%) of the total number of votes outstanding on the happening of either of the following events, whichever occurs earlier:

(a) When seventy five percent (75%) of the Lots have been conveyed by the Declarant to Owners other than Declarant;

(b) Five (5) years after the date the first Lot is conveyed by the Declarant to such other Owners.

D. Insurance.

Section 1: The Association may maintain on behalf of the Association, the Board, its officers, managers and managing agent, comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and other liability insurance as it may deem desirable, insuring the Association from liability of whatever reasonable nature including specifically, without limitation, those liabilities in connection with its maintenance of the Landscape and Easement Areas, even in the case where it holds no title to these premises. Each Owner of land comprising any of the Landscape and Easement Areas shall also maintain public liability insurance for injury or death in amounts satisfactory to the Board for casualty associated with said areas.

Section 2: The Association may (but shall not be obligated to) also maintain such policies of insurance for worker's compensation and property damage. property loss, vandalism and malicious mischief in relation to the Landscape and Easement Areas as the Association may deem desirable and may also obtain such other kinds of insurance as the Association shall from time to time deem prudent with respect to all of its activities pursuant to its by-laws and this Declaration.

Section 3: The premiums for all Insurance purchased pursuant to the provisions of this Section shall be Common Expenses and shall be paid at least thirty (30) days prior to the expiration date of any policy.

ARTICLE III

Landscape and Easement Areas

Section 1: The Landscape and Easement Areas shall be maintained in perpetuity and shall not be developed for any use which would limit or cause to limit the function and purpose of the facilities.

Section 2: A perpetual easement is hereby granted for the benefit of the

Declarant or its beneficiary or its agents, and the Association, their successors and assigns, over, upon and across the Landscape and Easement Areas for the purpose of administering such areas as described in Article II B.

Section 3: The Declarant (while a Member of the Association) or its beneficiary or its agents, and the Association shall further have the right of ingress and egress over and upon the Lots not within said Landscape and Easement Areas for any and all purposes connected with the maintenance of the Landscape and Easement Areas and the construction, operation, repair, maintenance and reconstruction of any facilities thereon.

Section 4: A perpetual easement is hereby granted for the benefit of the Village or its successors, over, upon and across the Landscape and Easement Areas for the purpose of inspecting such areas. In the event that the Association does not adequately maintain the Landscape and Easement Areas to the standards of the Village, the Village shall have the right to repair or maintain the faulty portion of the facilities. Upon exercise of such right, the Village shall give fourteen (14) days written notice of such failure and said notice shall indicate when the Village will exercise its right to repair. If the Village makes repairs or performs maintenance, it shall be entitled to reimbursement by the Association in the amount of 125% of the Village cost plus interest on past due amounts at 9% per annum, and in default thereof may collect from each Lot Owner its prorata share of such expense and have a lien against such Lot until it has been paid. No written notice shall be necessary if in the opinion of the Village Administrator an emergency requiring immediate action is required. In the exercise of its rights hereunder, the Village shall not be deemed guilty of any manner of trespass.

Section 5: The Landscape and Easement Areas shall be maintained at all times in compliance with the ordinances of the Village of Lindenhurst.

Section 6: Lettered lots (Lots A, C, D and E) may not be used for any purpose other than (a) storm water management and water flow regulation, (b) open space, aesthetic preservation and landscaping (including entry monuments); or c) maintenance, in accordance with rules and regulations of the Association adopted from time to time. No other use thereof of any kind or nature will be permitted.

Section 7: Notwithstanding any provisions herein to the contrary, the easements herein created shall be subject to easements of record on the date hereof, including those easements granted on the final Plat of Subdivision.

ARTICLE IV

Covenants for Maintenance Assessments

Section 1: Each Owner of a Lot, except Declarant, by acceptance of a deed therefore or otherwise, whether or not It shall be so expressed in any such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association and/or Declarant, as the case may be, for each Lot owned (or to a mortgage company or other collection agency designated by the Association or Declarant) the fees, assessments or charges as provided in this article IV. The amounts thus collected by the Association or Declarant shall constitute the fund of the Association for Common Expenses.

Section 2: Each Owner, other than Declarant, shall pay to the Association or Declarant assessments representing his or its allocated share of (a) the expenses of improvement, maintenance, repair, replacement, administration and operation with respect to the Landscape and Easement Areas; (b) the cost of maintaining and enforcing the rules and regulations adopted pursuant hereto, easements, covenants, conditions and restrictions established and reserved by this Declaration and by any Plat of Subdivision, deed of conveyance or other instrument affecting the Property including reasonable attorneys fees; (c) the administrative expenses of the Association; (d) the expenses for matters set forth in Article II B and II D; (e) the full performance of all obligations by the Association imposed by the Declaration and the Association's by-laws, (f) a reserve for contingencies and replacements and (g) any further manner not otherwise enumerated herein which is consented to by 75% or more of the Owners. Said expenses hereinabove referred to shall be known as "Common Expenses". To the extent, if at all, that any assessments for any fiscal year are not expended by the Association or Declarant, any such savings shall be applied by the Association or Declarant In reduction of its budget for the following year, except with respect to amounts held by the Association or Declarant as reserves which shall be deemed to be held by the Association or Declarant in trust for the Members for the uses and purposes for which such reserves have been established. Any interest of any Owner in and to such reserve funds shall be deemed appurtenant to such Owner's membership and shall automatically transfer and inure to such Owner's successor in interest.

Section 3: Payments of assessments shall be In such amounts and at such times as provided below:

(a) Upon each sale or transfer of any Lot from the Declarant or from any future Owner to a new owner, including the sale of a beneficial interest in a land trust or such similar transfer intended to directly or indirectly vest a person or entity other than the Owner with use and ownership of the Lot (except assignments to secure and obligation, transfers by foreclosure, death or to the same real party in interest such as a conveyance into a land trust where the grantor is the majority beneficial owner of the trust), there shall be paid at closing to the Association or Declarant, as the case may be, a sum equal to one-half of the then current amount for annual Association dues provided, however, that the initial amount as of the date of recording hereof shall

be the fixed amount of \$100.00 until the first budget is prepared and an assessment based thereon is calculated. Said sum shall be known as the "Initial Fee."

(b) Until December 31, 2001, the maximum annual assessment (not including any special assessment) shall be One Hundred Fifty and 00/100 Dollars (\$150.00) per Lot, in addition to the \$100.00 Initial Fee.

(c) On or before October 31, 2001 and on or before each October 31st thereafter, the Board shall estimate the total amount necessary to pay the costs and expenses of the Association as are provided for herein and in the by-laws of the Association, which will be required during the ensuing calendar year, together with a reasonable amount necessary for a reserve for contingencies and replacements. Such estimate shall reflect an adjustment for amounts payable by the Commercial Area for its proportionate share of such expenses, determined as follows: The Board shall separately itemize the expenses ("Combined Expenses") for those Landscape and Easement Areas noted on the plat as Lot E and that part of the right of way Cross Creek Lane (excluding roadway improvements such as pavement, curbs and utilities), beginning at the right of way line of Sand Lake Road, and proceeding northerly for a distance of 100 feet. The amount due from the owners of the Commercial Area shall be the Combined Expenses multiplied by the gross area of the Commercial Area subdivided lots, divided by the sum of the gross acreage of the Commercial Area lots plus the gross area of the Residential Area lots (excluding dedicated rights of way, and common area lots and lettered lots) (which latter sum shall be known as the "Denominator"). The amount due for each subdivided lot in the Commercial Area shall be the Combined Expenses, multiplied by the gross area of such Commercial Area subdivided lot, divided by the Denominator. No failure of the Commercial Area owners to pay their proportionate share shall relieve the Association from its duties hereunder, and the Association shall levy any additional or special assessment as may be needed to cover any shortfall. The Association shall have the right to sue for and collect all assessments due under this subparagraph (c) plus attorneys fees, costs, and interest at the highest lawful rate until paid pro rata from the Commercial Area lot owners, and shall have the right to record and enforce a lien against such Commercial Area lots in the amounts due for each. For the purpose of enforcement of this subparagraph, the property described on Exhibit A is made subject to this Declaration, and the terms of this subparagraph shall bind and run with the Exhibit A property and its owners and their successors, assigns or heirs.

The Board shall on or before November 30 of each year, notify each Owner within the Commercial Area in writing as to the amount of such estimates, with a reasonable itemization thereof, and of the date not less than 10 nor more than 30 days prior to any meeting concerning the adoption of the proposed annual budget or any increase in the budget, or establishment of an assessment. All obligations of the Owners hereunder, including but not limited to the Common Expenses, for assessments, special assessments or other levies by the Association, pursuant to this

Declaration or the by-laws of the Association, shall be levied equally against each Owner (or as otherwise provided herein with respect to Combined Expenses), with the exception of the Declarant. The new annual assessments or charges as calculated above are to be paid in one annual installment due January 31.

An Owner shall be responsible for payment in full of the annual assessment for said Lot and the Initial Fee upon taking title to a Lot from the Declarant.

(d) If said estimated cash requirement proves inadequate, for any reason, to defray the operating expenses and costs during any given year, then the Board shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessments accordingly. The Board shall serve notice of such further or adjusted assessment on all Owners by a statement in writing giving the amount and reasons therefore, and such further or adjusted assessment shall become effective sixty (60) days after the delivery or mailing of such notice. Any increase in the annual assessment pursuant to a supplemental budget in excess of fifty percent (50%) of the approved assessment must be approved by two-thirds (2/3) of the Lot Owners subject to payment of assessments at the time.

(e) The Association shall also have the power to borrow funds not to exceed one-half (1/2) of the annual budget on terms calling for repayment not to exceed three (3) years, or in such additional amounts and for such additional time periods as are approved by two-thirds (2/3) vote of the membership in accordance with Article II. C. in person or by proxy at a meeting duly called for such purpose. Supplemental budgets and/or future annual budgets may contain provisions to repay such borrowing.

(f) In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any taxes, construction, reconstruction, repair or replacement of a capital improvement upon the Landscape and Easement Areas. Any such assessment shall be levied equally against each Owner (or as otherwise provided herein with respect to Combined Expenses), with the exception of the Declarant.

(g) The Board shall establish and maintain reasonable reserves for contingencies and replacements as it shall deem necessary, and any extraordinary expenditure not included in the estimated cash requirements shall be first charged against such reserves in the year of such expenditure. If such reserves are depleted or, in the opinion of the Board, significantly reduced, then any supplemental budget, or the next regular estimated cash requirements shall provide for the re-establishment of such reserves to the extent the Board deems reasonably appropriate.

(h) The failure or delay of the Board to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall

not constitute a waiver or release in any manner of such Owner's obligation to pay the adjusted assessments or necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the annual charge at the then existing rate established for the previous period until 30 days after the new assessment amount shall have been adopted and mailed or delivered. If the annual assessment has already been paid, any increase in the new assessment over that which has been paid shall be due from the Owner at such time.

(i) The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.

On or before the date of the annual meeting of each calendar year, the Board shall supply all Owners with an itemized accounting of the maintenance expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or under the actual expenditures plus reserves.

(j) No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use or abandonment of his Lot.

Section 4: Any assessments which are not paid when due shall be delinquent.

Any Owner who is delinquent in his or her assessments shall have no power to vote on any matter affecting the Association until such delinquency is fully cured, including the payment of interest and costs provided herein.

The annual and special assessments, together with interest thereon at the rate of nine percent (9%) per annum thereon and costs of collection thereof, including, but not limited to reasonable attorneys' fees, shall be a charge on the Lot and Commercial Area as the case may be, and shall be a continuing lien upon each Lot and the Commercial Area against which each such assessment is made and shall be enforceable by the Association. The Association shall have the power to record a notice of its lien created by this document by filing an appropriate certificate with the Recorder of Deeds of Lake County, Illinois. No sale or transfer shall relieve such Lot or the Commercial Area from liability from the lien of any unpaid assessment or for any assessment thereafter becoming due.

Each such assessment, together with such interest thereon and costs of collection thereof, including but not limited to reasonable attorneys' fees, as

hereinafter provided, shall be the continuing personal obligation of the person who was the Owner of such Lot or Commercial Area property at the time when the said assessment fell due. The grantee from any Owner will be jointly and severally liable with such Owner (excluding Declarant) for all unpaid assessments and accrued interest due and payable at the time of conveyance without prejudice, however, to the rights of the grantee to recover from the grantor any amounts paid by the grantee.

Section 5: The lien of the assessment provided for herein shall be superior to all other liens except for tax liens and a bona fide first mortgage (or equivalent security interest) on a Lot and to any liens of Declarant's Lender(s).

ARTICLE V

Standards of Construction

Section 1: The following table sets forth the minimum number of residences that are required to have the following improvements:

<u>Improvement</u>	<u>Number of Houses</u>
Full Basement	45
Walk out basement	8
English basement	4
Architectural shingles	45
3 car garage	12
Fireplace	25
Elevation option upgrade	12
Air conditioning	25
Lots 19,20,21,25,26 and 29	Premium due to above average size
Lots 27, 28 and 40 through 43	Premium for abutting pond
Lots 3 through 15	Premium for abutting park

In the event that William Ryan Homes, Inc. is not the purchaser of the Residential Area and the builder of structures thereon, and the Developer or purchaser of the Residential Area or lots therein seeks to vary the requirements of this section 9.10, such person may appear before the Village Board and establish that premiums and upgrades will be required on as many lots as are necessary, using the prevailing customary costs for such premiums and upgrades, and the current industry average cost per square foot for the proposed base Structures, such that the average minimum

value of the base structure and upgrades is equal to or greater than \$250,000. This Agreement may then be amended to describe upgrades, premiums, house sizes and verification procedures in the same manner as described in this section 1.

In the event that William Ryan Homes, Inc. is not the purchaser of the Residential Area and the builder of structures thereon, then the Owner of a Lot or Lots shall either obtain approval of the plan commission and village board of its elevation plans in the event of a bulk purchaser; or, if not a bulk purchaser, the following provisions shall apply:

No landscaping or grading or construction of a building, fence, wall, or other structure (collectively "Structure") shall be commenced, erected, or maintained nor shall any addition to or change or alteration thereto be made (except interior alterations), until the Declarant or its beneficiary, assigns or successors has approved such landscaping, grading, construction or installation in accordance with the terms hereof. The Declarant or its beneficiaries, assigns or successors shall retain such authority until such time as title to each of the Lots is conveyed by the Declarant to the Owners and a permanent residence is constructed thereon, notwithstanding that the Declarant has resigned, or been removed by passage of time, from the Association; provided however, that Declarant may, at any time after formation of the Association vest by written assignment all such powers in the Association. All such authority shall also vest in the Association upon refusal of the Declarant to perform its architectural review function under this Article V. After title to each Lot is so conveyed, all further powers of architectural control shall be vested in the Board, which shall be entitled to a reasonable fee for its and/or its consultants' architectural review, as established by the Board.

Declarant shall obtain the approval of the Village Plan Commission of its architectural plans in accordance with architectural monotony and review ordinances now or hereafter enacted by the Village.

Owners are required to first submit preliminary sketches of any Structure to be built or installed for "informal comment" showing the nature, kind, shape, height, material, color scheme, proposed location on Lot, and any proposed landscaping and modification of the grade of the Lot to the Declarant for review prior to the submittal of detailed architectural or other plans and specifications for full review. Declarant, or its beneficiary, successors or assigns, shall have the sole and exclusive right to refuse to approve any such preliminary sketches, which are not suitable or desirable in the opinion of the Declarant or its beneficiary, successors or assigns, for aesthetic or other reasons; and in so passing upon such preliminary sketches, Declarant, or its beneficiary, successors or assigns, shall have the right to take into consideration the suitability of the proposed building or other Structures with the surroundings, and the overall design intent of a residential community which may exceed the general standards of the surrounding community. Such approval or disapproval of preliminary

sketches shall be given within sixty (60) days after submission to Declarant, or its assigns. If the Declarant, or its successors or assigns, fail to approve or disapprove preliminary plans within sixty (60) days after submission, approval shall be deemed to have been given.

If such preliminary sketches are approved, the Owner shall then submit to the Declarant a detailed landscape and grading plan and architectural and final construction plans and specifications relating to such proposed construction. All plant material in any landscape plan shall be indigenous to the northeastern Illinois region. Declarant or its beneficiary, successors or assigns shall approve such architectural and construction plans if the same are in substantial conformity with the preliminary sketches previously approved. No architectural and construction plans may be submitted without a detailed landscape and grading plan. Landscaping shall be installed in accordance with the approved landscape and grading plan prior to the issuance of a final occupancy permit, which shall include, without limitation, sodding or seeding of the Lot, and the installation of plant material in front of and on all sides of all residences. In the event Declarant, or its beneficiary, successors or assigns, fails to approve or disapprove such detailed plans and specifications or other material within sixty (60) additional days after submission, approval shall not be required, and the requirements of this Declaration shall be deemed to be complete. After any disapproval, an Owner may resubmit amended plans for a like review period to attempt to again meet the architectural review criteria.

Declarant, or its beneficiary, successors or assigns, following the submission of both the informal sketches and detailed plans and specifications, will aid and assist the respective Owners, or their agents, and will make every attempt to reasonably cooperate with the wishes of the Owner within the parameters of this Declaration.

No building or improvement, or any part thereof, excluding driveways but including garages and porches shall be erected on any Lot other than wholly within the Building Envelopes, or as otherwise designated by Village ordinance, whichever is more restrictive.

Section 2: No residence shall have less than a two (2) car attached garage.

Section 3: Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone, or other approved base material and shall have a wearing surface of asphalt, concrete or brick.

Section 4: All electrical services and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antennas shall be erected, placed, or maintained on any part of such premises including specifically, without limitation, satellite dishes, unless 18" or less in diameter and then only when a) approved by

Declarant under the standards for architectural review in Article V, b) screened from view from the public roadway, and c) located within the Building Envelope. All such receiving antennas with the exception of such approved satellite dishes shall be placed in the attic or elsewhere entirely within the building premises.

Section 5: Subject to contrary Village ordinances with respect to swimming pool or other fencing, all fencing within a Lot shall be a maximum of four (4) feet in height, shall be made of wood, and may not be of a stockade style.

Each Owner of Lots 3 through 15 inclusive ("Fence Lots") shall have the obligation to maintain to its original condition that portion of (4) foot high, board on board cedar fence and gate ("Fence") installed on each such Owner's west property line, and may not change the color of such Fence unless all of the Owners of the Fence Lots and the Board agree on a different color and the entire Fence is painted at one time. Any other fence constructed within the rear yard of the Fence Lots shall be of the same design and color of the Fence.

The Association and the Village shall have the right, without committing a trespass, to make any repairs or to maintain the Fence (including painting) after 14 days notice to the affected Lot Owner of its intent to make such repairs or perform such maintenance, and the cost thereof shall be paid by the Lot Owner on whose Lot the affected Fence exists. In furtherance hereof, the Village and the Association are granted an easement over the westerly 15 feet of each Fence Lot for the purpose of such maintenance, and across any affected Fence Lot for the purpose of access to conduct such maintenance. If the cost is paid by the Association, the cost allocable to a specific Lot shall be treated as an additional assessment under Article IV hereof for such Lot. If the cost is paid by the Village, 125% of the cost allocable to a specific Lot shall be treated due from the Lot Owner immediately upon billing by the Village, with interest due on all unpaid amounts from the date of billing to the date of payment at 10% per annum. The party performing such work shall also have the right to apportion the amounts due against the affected lots and record a lien for the cost thereof plus any interest and penalties against the affected Lot.

ARTICLE VI

Use and Control of the Property

Section 1: Except as otherwise set forth in this Section 1, each and every Lot (excluding lettered lots, i.e. Lots A, C, D and E) shall be used only for single family detached residential purposes. No building or Structure or portions thereof on a Lot shall be adapted to business purposes, other than the business of the Owner requiring no visitation by persons or vehicles or extraordinary deliveries. To the extent the Village adopts a home office ordinance which would otherwise apply to the Property, the terms of such ordinance shall supersede the preceding sentence. No apartment

house, double house, lodging house, rooming house, multiple family dwelling or any other than a single family residential structure constructed according to the standards set forth herein shall be erected, placed, permitted or maintained on the Property, or any part thereof, and no house shall be occupied by more than a single family. (A "family" may include in-laws, parents or siblings who do not themselves inhabit the Residence with a separate family of more than one generation).

Section 2: Each Owner shall be responsible for the maintenance and repair of his Lot and the improvements thereon not otherwise subject to maintenance by the Association. To the extent, if at all, that any Owner shall fail to perform the maintenance of his own Lot at reasonable times and in a reasonable manner, the Declarant, the Association and/or the Village may, but shall not be required to, perform such maintenance or repair and, in such event, the cost thereof shall be added to such Owner's annual assessment and such amount shall be immediately due and payable, and the Association shall have such rights and remedies with respect to the collection of the same as are herein provided with respect to the annual assessments. If the Village performs maintenance, it shall be entitled to reimbursement by the affected Owner and in default of such payment the Village shall have the right to place a lien against such Lot for the amount due. Neither the Association, the Village nor the Declarant shall be liable to an Owner for trespass, property damage for any other actionable wrong whatsoever in the reasonable exercise of its rights hereunder.

Each Owner, from and after the date of taking title to his Lot(s) shall maintain such Lot(s) in a neat and trimmed appearance notwithstanding that no improvements have been constructed thereon. No storage of any goods or materials shall be permitted on any Lot prior to construction of a residence thereon, and thereafter only in compliance herewith. If no improvements have been constructed on said Lot(s) within three (3) years of sale of each Lot from Declarant, the then current Owner shall grade and seed his Lot(s) with hydro seed and thereafter shall maintain the Lot(s) to a finished lawn appearance. In default thereof, an officer of the Association (including Declarant) or its agents may enter any such lot, without committing a trespass or other actionable wrong against such Owner, and remove any such materials or goods and grade, seed and maintain said Lot(s) and such Owner shall pay to the Declarant or the Association, as the case may be, its costs of the same, which shall be collectable in the manner set forth in Article IV, Section 4.

Section 3: No private dwelling house erected upon any Lot shall be occupied in any manner (a) while in the course of construction, (b) at any time prior to its being fully completed, as herein required, or (c) at any time prior to the issuance of an occupancy permit by the Village of Lindenhurst or appropriate governing authority; and no such house shall be permanently occupied pursuant to a permanent occupancy certificate prior to the issuance or a letter from the Declarant or its assigns that any Structure or landscaping placed upon the Owner's Lot conforms with the architectural, construction, landscape and grading plans as approved for the Lot in accordance

herewith. No residence, when completed, shall be in any manner occupied until made to comply with the approved plans, the requirements herein, and all other covenants, conditions, reservations, and restrictions herein set forth. All construction shall be completed within one year from the start thereof. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, or other temporary structure shall be placed or erected upon any Lot, provided however that Declarant reserves the right for itself, or its agents, or assigns, to use any Lot for office, sale or display purposes and to place such temporary facilities on a Lot in furtherance thereof.

Notwithstanding the above, any Lot Owner shall be entitled to leave portions of the interior of the premises unfinished for future completion as long as all exterior surfaces conform to the requirements herein, and as long as all structural and foundational components of the residence are complete to the extent needed for an occupancy permit prior to occupancy.

Section 4: None of the Lots shall at any time be divided into as many as two or more building sites. A single Lot together with contiguous portions of one or more lots may be used for one building site, provided however that any improvements thereon must be constructed within a building envelope acceptable to the Village, if different from the Building Envelope appearing on the Plat.

Section 5: No commercial vehicles, construction, or like equipment, recreational vehicles or boats, snowmobiles or mobile or stationary trailers of any kind or large items of personal property not intended primarily for use on the lot shall be permitted on any Lot within the Property unless kept in a garage or approved storage building and completely enclosed, except such construction vehicles as are necessary for the period of any approved construction.

Section 6: The Declarant may determine location, color, size, design, lettering and all other particulars of all mail or paper delivery boxes and lamp posts and the standards and brackets and name signs for such boxes in order that the area shall be uniform in appearance with respect thereto. Upon such determination, no Owner shall install a delivery box unless it conforms to such design, notwithstanding the foregoing, each mailbox must be placed in accordance with post office standards.

Section 7: No dogs or animals shall be allowed to run free within the Property unless properly restrained by a leash. No horses, cattle, swine, goats, poultry, fowl, non-domesticated animals, vicious animals (including specifically, without limitation, all pit bull terriers) or offensive animals shall be kept on any Lot.

Section 8: No clotheslines or drying yards shall be permitted unless concealed by hedges acceptable to the Association.

Section 9: No signs or other advertising shall be displayed unless the size, form

and number of the same are first approved in writing by the Declarant or its successor, or the Association.

Section 10: No refuse pile or other unsightly objects shall be allowed to be placed or suffered to remain anywhere upon a Lot, other than for regular household garbage pickup. All construction refuse shall be placed in a dumpster or roll off box of sufficient capacity. No Lot shall be used in whole or part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit a foul or obnoxious odor or that causes any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property, or that will constitute a violation of local, state or federal environmental laws.

Section 11: No bird baths or non-natural building or landscaping materials shall be placed in any front yard, and no tennis court or swimming pool shall be placed or located on a Lot in any front or side yard or outside of the Building Envelopes established by the Plat, and shall not be located within any easement appearing of record or on the Plat of Subdivision. There shall be no above ground swimming pools other than (a) whirlpools built into outdoor decks joined to a residence, or (b) small temporary pools meant for use by small children.

Section 12: Outbuildings, shacks, barns or other detached buildings on the premises shall be allowed only when permitted by the Declarant or its successors and approved in accordance with Article V, and when placed entirely within the Building Envelope. The architecture of said out buildings shall resemble the architecture of the residence and be in conformance with the general character of the neighborhood. No prefabricated metal storage buildings shall be erected, constructed or placed on any portion of any Lot.

Section 13: All streams and drainage ways, whether natural or artificial shall remain totally unobstructed by each Owner. No parcel shall be graded in a manner that will in any way affect the drainage to or from a Lot or which would be in contravention to the engineering drawings or specifications which are a part of the Plat and which have been approved by and are on file with the Village. No lot or parcel shall be increased in size by filing in the water it abuts. No rock, gravel, or clay shall be excavated or removed from any property for any commercial purposes, but may be removed for the purpose of construction only in accordance with Village ordinances, regulations and codes.

ARTICLE VII

Remedies

Section 1: The violation or breach of any provision of this Declaration, any rule or regulation promulgated pursuant to the authority granted herein, any Plat of Subdivision, any deed, conveyance, or other instrument executed by Declarant affecting lands in the Property, will not create a forfeiture, but will give the Declarant and, upon resignation, the Association, in addition to any other rights herein granted or otherwise available to it and under law, the right, in its discretion, to (a) enter on the Lot(s) on which such violation or breach exists and summarily abate, remove or correct at the expense of the applicable Owner, any Structure, thing, or condition that may exist, thereon contrary to the provisions of such instrument including specifically, without limitation, any nonconformity with approved plans, and the Declarant or the Association, as the case may be, and its agents, will not thereby be deemed guilty of any manner of trespass; or (b) remedy the same by appropriate legal proceedings, at law or in equity, including, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien or any combination thereof,

Section 2: In the event that an action is instituted to enforce any of the rights described in the preceding Section 1 or otherwise contained in this Declaration, the Declarant or Association shall be entitled to recover from the other party thereto as part of any judgment in its favor, reasonable attorneys' fees, interest at the rate of 9% per annum and costs of such suit,

Section 3: All rights, remedies and privileges granted to the Association pursuant to this Declaration will be deemed to be cumulative, and the exercise of any one or more will not be deemed to constitute an election of remedies, nor will it preclude the Declarant or Association from exercising such other or additional rights, remedies, or privileges as may be granted to it by this Declaration or at law or in equity,

Section 4: No restriction imposed hereby will be abrogated or waived by any failure to enforce any provision hereof, no matter how many violations or breaches may occur.

Section 5: The invalidity of any restriction hereby imposed, or of any provisions hereof, or of any part of such restriction or provision, will not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration.

ARTICLE VIII

Conveyances

Section 1: All conveyances of Lots are subject to this Declaration (as amended from time to time), the rules and regulations of the Association, Village of Lindenhurst ordinances, and all easements and other matters appearing of record and on the Plat of Subdivision.

Section 2: Each Owner, and each grantee by the acceptance of a deed of conveyance of any Lot or any portion of the Property, accepts the Property subject to the provisions of this Declaration, including without limitation, and the right at the Association to remedy any breach hereof by the actions specified under Article VII. All such provisions will run with the land and bind, apply to, and inure to the benefit of every Owner of any interest therein, and all persons claiming thereunder, as though the provisions of this Declaration were recited and stipulated at length in each deed of conveyance.

Section 3: No Owner shall have any right or power to disclaim, terminate or withdraw from his membership in the Association or any of his obligations as such Member or as a contributor to Combined Expenses, and no purported disclaimer, termination or withdrawal thereof or therefrom on the part of any such Owner shall be of any force or effect for any purpose.

Section 4: No Lot shall be transferred or conveyed after initial construction of improvements thereon until the Declarant or its successors has issued its written statement that the improvements are in conformance with previously approved architectural and landscape and grading plans as provided for in Article V.

ARTICLE IX

Permits

Section 1: All fees for building permits or permits for water or sewer service and all school donations and structural, plumbing or other fees whatsoever affecting any Lot or the Property are to be paid by the Lot Owner, unless otherwise agreed to in writing by Declarant or its beneficiary, or their successors and assigns. Any such agreement shall not be assignable unless expressly made so.

ARTICLE X

Miscellaneous Provisions

Section 1: If and to the extent that any of these covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of George Bush, former President of the United States, living at the date of this Declaration.

Section 2: The provisions of this Declaration will be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential community.

Section 3: All article and section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 4: This Declaration may be amended from time to time, or terminated, as follows:

- (a) Prior to the conveyance of any Property from the Declarant, by an instrument executed by the Declarant.
- (b) After conveyance of any or all of the Property by Declarant, by an instrument having the affirmative assent or vote of not less than seventy-five percent (75%) of the outstanding Owners in the subdivision at the time of the amendment.

No amendment of the Declaration which in any manner affects the use of any Lot or affects the Landscape and Easement Areas may be made without first obtaining the consent of the Village. Each such instrument will be effective only upon being filed in the Office of the Recorder of Deeds of Lake County, Illinois.

Notwithstanding the foregoing, the owner of all of the remaining lots which do not contain residential structures may amend this Declaration with only the Village's written consent, by a recordable instrument, to give effect to Section 10 of this Article X.

Section 5: This Declaration does not amend or modify nor is it intended to modify any engineering statements or any requirement of the respective ordinances

of the Village or County of Lake, Illinois, dealing with the subdividing and planning of the Property or the design and the construction of all improvements, but is intended to create additional covenants and agreements for the purposes herein set forth.

Section 6: The Village is granted a perpetual easement, right and privilege to enter upon the Property herein for the purpose of providing police and fire protection services and maintaining all utilities and roadways accepted by the Village.

Section 7: Any notices required to be sent to any Member or Owner shall be deemed to have been properly sent when mailed, postage prepaid to the last known address of such Member as it appears on the records of the Association at the time of such mailing.

Section 8: All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Section 9: In the event of any conflict between this Declaration and the bylaws or Articles of Incorporation of the Association, this Declaration shall control.

Section 10: Declarant or its beneficiary may by written document assign all rights hereunder (including without limitation the approval powers set forth in Article V), and delegate all of its duties, which survive the recording of this Declaration to a third party which acquires all or a majority of the Lots for resale, and thereafter Declarant shall have no further rights or obligations hereunder; provided however that no such assignment shall be effective unless the assignee agrees to construct all of its residential structures with the improvements required herein, or amends this Declaration to require improvements, which are in the Village's opinion similar in value to those required in herein.

Section 11: This Agreement is executed by the undersigned, Oxford Bank & Trust, not individually but solely as Trustee, as aforesaid, and said Trust Agreement is hereby made a part hereof and any claims against said Trustee which may result from the signing of this Agreement shall be payable only out of the trust property which is the subject of this Agreement, and it is expressly understood and agreed by the parties hereto, notwithstanding anything herein contained to the contrary, that each and all of the undertakings and agreements herein made are made and intended not as personal undertakings and agreements of the Trustee or for the purpose of binding the Trustee personally, but this Agreement is executed and delivered by the Trustee solely in the exercise of the powers conferred upon it as such Trustee and no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforced against said Trustee on account of any undertaking or agreement herein contained, either expressed or implied.

DECLARANT: Oxford Bank & Trust, as trustee under trust no. 625

By: Erane J. Noyce

Its: ATP - Trust Officer

Attest: [Signature]

Its: UP

STATE OF ILLINOIS)

) SS.

COUNTY OF)

I, _____, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that _____ (Trust Officer) of Oxford Bank & Trust as trustee under no. 625. and _____ (Trust Officer) of said trust company personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ and _____ respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said trust company, for the uses and purposes therein set forth; and the said Trust Officer did also then and there acknowledge that he, as custodian of the corporate seal of said trust company, did affix the said corporate seal of said trust company to said instrument as his own free and voluntary act and as the free and voluntary act of said trust company for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this ____ day of _____

NOTARY PUBLIC

CONSENTED TO: Oxford Bank & Trust, in its individual capacity as mortgagee

By: _____

Its: _____

STATE OF ILLINOIS)

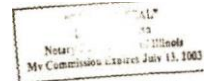
) SS.

COUNTY OF)

I, _____, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY THAT _____ personally known to me to be the _____ of Oxford Bank & Trust, an Illinois banking association, and personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____, he signed and delivered the said instrument as _____ of said banking association as his free and voluntary act, and as the free and voluntary act and deed of said banking association for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this _____ day of _____, 19__.

NOTARY PUBLIC



COMMISSION EXPIRES:

Prepared by and to be mailed to:

Mark C. Eiden
EIDEN & O'DONNELL, LTD.
230 Center Dr.
Suite 102
Vernon Hills, Illinois 60061

EXHIBIT A TO DECLARATION

Commercial Lots subject to Assessment

Lots B, F and G in Cross Creek, being a subdivision of part of the Northeast Quarter of Section 1, Township 45 North, Range 10, East of the Third Principal Meridian, according to the plat thereof recorded July 25, 2000 as document no. 4558004, in Lake County, Illinois