

# Prairie Crossings HOA

## DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR PRAIRIE CROSSINGS SUBDIVISION



*Mailing:*

PO box 289

Beecher, IL 60401

*Email:*

pchoa\_beecher@yahoo.com







**[WWW.PRAIRIECROSSINGSHOA.CO](http://WWW.PRAIRIECROSSINGSHOA.CO)**

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RESTRICTIONS FOR PRAIRIE CROSSINGS SUBDIVISION**

**Legend:**

**Document history**

**Overview: Declarant, Developer, Purpose**

-  **Article 1: Declaration Purposes**
-  **Article 2: Definitions**
-  **Article 3: General Restrictions**
-  **Article 4: Architectural Control**
-  **Article 5: Homeowners Association**
-  **Article 6: Assessments**

## Document history:

### Originated:

MARY ANN STUKEL 23P Will County Recorder Will County

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### Changes:

Robert Abbink, HOA President on the 4<sup>th</sup> day of AUGUST 2025, updated document in new format for distribution. No changes made to the content of the DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR PRAIRIE CROSSINGS SUBDIVISION

(copy of original documentation can be seen upon request with current HOA board)

## **DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS FOR PRAIRIE CROSSINGS SUBDIVISION**

THIS DECLARATION (the "Declaration") made this 24 day of JULY, 2002, by FIRST COMMUNITY BANK AND TRUST, as Trustee under the provisions of the Trust Agreement dated June 6, 2002, and known as Trust No. 2002-0126/(hereinafter referred to as the "Declarant"), and not individually

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of a certain parcel of real estate ("Property") in the County of Will, State of Illinois, legally described on Exhibit "A" attached hereto and made a part hereof.

WHEREAS, Declarant desires to develop a residential development on the Property to be known as PRAIRIE CROSSINGS SUBDIVISION (the "Development"); and

WHEREAS, Declarant is desirous of submitting the Property to the provisions of this Declaration;

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, transferred, occupied and conveyed subject to the following covenants, conditions, easements and restrictions, all of which shall run with the Property and be binding on all parties having or acquiring any right, title, or interest in the Property or any part thereof and shall inure to the benefit of each Owner thereof.

## **ARTICLE I**

### **DECLARATION PURPOSES AND PROPERTY SUBJECT TO DECLARATION**

1.1. The Declarant desires to create on the Property a residential development for future Owners for the following general purposes:

- a. The Declarant, by the imposition of covenants, conditions and restrictions and the reservation of certain powers unto itself, intends to provide for the Property a plan for development which is intended to enhance and to protect the values of Declarant's residential community.
- b. The Declarant desires to provide for the maintenance of the Common Area (as hereinafter defined), portions of which may be owned by the Association (as hereinafter defined) and used in common by the Owners of the Property.

## ARTICLE 2

### DEFINITIONS

The following words, when used in this Declaration or in any supplemental Declaration shall, unless the context otherwise requires, have the following meanings:

2.1. "Association" shall mean and refer to Prairie Crossings Homeowners Association, an Illinois not-for-profit corporation and a common interest community as defined in 735 ILCS 5/7- 102(a)(8) as from time to time amended, its successors and assigns.

**2.2. "Board" shall mean and refer to the Board of Directors of the Association.**

2.3. "By-Laws" shall mean and refer to the By-Laws of the Association. The By-Laws are incorporated into this Declaration by this reference.

2.4. "Common Area" shall mean and refer to entrance monuments and detention areas (as so identified and designated on any plat of subdivision of the Property).

2.5. "Developer" shall mean and refer to Bruti Associates, Ltd., an Illinois corporation, or its successors or assigns.

**2.6. "Dwelling" shall mean any single-family residence.**

2.7. "Member or Membership" shall mean and refer to every person or entity who holds Membership in the Association.

2.8. "Mortgage" shall mean and refer to either a Mortgage or Deed of Trust creating a lien against a portion of the Property given to secure an obligation of the Owner of such portion of the Property.

2.9. "Owner" shall mean and refer to the record owner, whether one or more persons, individuals, or entities, of a fee simple title to any Parcel, which is part of the Property, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

2.10. "Parcel" shall mean and refer to that portion of the Property shown upon any recorded subdivision plat or plats of the Property improved or intended to be improved by a Dwelling. The term Parcel shall include any plot of land so designated as a lot on any subdivision plat or plats of the Property, and such lot shall be referred to herein as "Lot."

2.11. "Person" shall mean and refer to a natural individual, corporation, partnership, trustee, or other legal entity capable of holding title to real property.

2.12. "Subdivision Plat" shall mean and refer to any subdivision plat or plats of the Property as recorded with the Office of the Recorder of Deeds of Will County, Illinois.

2.13. "Turnover Date" shall mean and refer to the meaning referred to and set forth in paragraph 5.6 hereof.

## ARTICLE 3

### GENERAL RESTRICTIONS

#### 3.1. Single-Family Residential Buildings and Use Only.

- a. All Parcels shall be used for single-family residential purposes only, and no building erected on any Parcel therein shall be used for any other purpose. No structure shall be erected, altered, placed or permitted to remain, other than one detached single-family dwelling meeting all the requirements of this Declaration.
- b. No business or profession of any nature shall be conducted on any Parcel or in any Dwelling, except the business of sale of Parcels and Dwellings constructed by the Developer or its successors or assigns. The restriction shall not, however, be construed in such a manner as to prohibit an Owner from: i) maintaining his or her personal professional library therein; ii) keeping his or her personal business records or accounts therein; or iii) handling his or her personal or professional telephone calls or correspondence therefrom. Such uses are expressly declared customarily incident to the principal residential use and not in violation of said paragraph.
- c. Nothing herein contained shall be construed to prohibit or prevent the Developer, or its successors or assigns, from erecting a single-family residential building or buildings on any Parcel or Parcels and using and maintaining such buildings as a sales office, model home, business office, storage area, or construction area, for the purpose of the development and sale of Parcels or Dwellings.

3.2. Minimum Lot Setbacks. Each Lot in the Development shall have a minimum setback requirement of thirty (30) feet on the front and rear of the Lot and five (5) feet on each side of the Lot, as established by the Subdivision Plat. No structure, including but not limited to terraces, patios, decks, and dog runs shall encroach over any side yard setback.

#### 3.3. Minimum Living Area. Parcels shall be improved with the following minimum areas:

- a. A one-story Dwelling shall contain at least eighteen hundred (1,800) square feet of living area, exclusive of garage, porches and basement.
- b. A one and one-half story Dwelling shall contain at least two thousand (2,000) square feet of living area, exclusive of garage, porches and basement. (For all the purposes of this Declaration, a one and one-half story Dwelling shall be defined as a Dwelling with a second floor above the first floor, but not to include those buildings commonly described as multi-level, split-level, bi-level or tri-level).
- c. A two-story Dwelling shall contain at least two thousand two hundred (2,200) square feet of living area, exclusive of garage, porches and basement.

d. Pier and slab foundations for the Dwelling are not permitted. Tri-level Dwellings or Dwellings with half basements can utilize fifty (50) percent of the maximum floor area as a slab foundation.

All construction plans submitted to the Architectural Review Committee ("ARC" as described in ARTICLE 4 of this Declaration) shall contain a certification by the architect of the square footage of living area (as defined hereinabove) contained in each floor.

3.4. Exterior Dwelling Materials. The exterior of a Dwelling shall be constructed of natural materials such as brick, stone, wood, aluminum or vinyl or combinations thereof. No imitation stone, brick, cinder or concrete block will be allowed. At least half of the exterior front of each Dwelling shall be constructed of brick or stone materials.

3.5. Roofs. Each Dwelling shall have a minimum roof pitch of 4/12. No roof shall be constructed or composed of metallic roofing materials.

3.6. Attached Garage Required. As appurtenant to the Dwelling permitted by paragraph 3.1 hereof and to be used exclusively in connection with such Dwelling, a private garage of sufficient size to house not less than two (2) nor more than three (3) standard size automobiles shall be constructed or erected, which garage must be attached to such Dwelling as an integral part thereof. Such garage shall, in architectural design and in proportionate construction cost, conform to said Dwelling.

3.7. Air Conditioning Units. All air conditioning units shall be located in the rear of the Dwelling.

3.8. Awnings/Canopies. Any awnings or canopies on any Dwelling shall not project or extend more than three (3) feet from the face of the Dwelling, except for awnings or canopies located on the rear of the Dwelling.

3.9. Driveway Requirements. No Dwelling erected or placed on any Parcel shall be occupied in any manner at any time prior to the installation and construction thereon by the Owner thereof (at the Owner's sole expense), of a concrete, brick, asphalt or bituminous paved driveway

extending from the street to the garage, provided, however, that this requirement may be extended by the Architectural Review Committee for a period not to exceed one hundred twenty (120) days in the event such building shall be ready for occupancy during a time when inclement weather or labor strike shall prevent the construction and installation of such driveway. No driveway, sidewalk, walkway, private road or drive shall be constructed or allowed to exist on any Parcel unless it shall be surfaced with concrete, brick, asphalt or bituminous concrete; provided, however, that slabs of stone, exposed aggregate concrete or like materials may be used only upon the prior written approval of the Architectural Review Committee.



3.10. Final Grading. The final grading on all Parcels must conform to the Master Grading Plan established for the Development and approved by the Village of Beecher.

3.11. Lawn and Landscaping. Within one hundred and eighty (180) days after issuance of an occupancy permit, the Owner of each Parcel shall establish a lawn (plant grass or sod) and complete any required landscaping, including the installation of trees in the parkway in conformity with the requirements and specifications of the Village of Beecher. No corner Parcel shall have any plantings or landscaping which will obstruct the view of vehicles traveling on streets in the Development.

3.12. Parkway Trees. Each Owner of a Parcel shall, at the Owner's sole expense, plant or cause to be planted in the parkway in front of Owner's Dwelling, two (2) trees of a type which are on an approved tree list of the Village of Beecher.

3.13. Sidewalk Installation and Curb Repair. Each Owner of a Parcel shall, at the Owner's sole expense, install or cause to be installed a sidewalk extending parallel to the full street frontage of Owner's Parcel prior to the issuance of an occupancy permit for any Dwelling upon such Parcel. Such sidewalk shall conform in all respects to the requirements and specifications of the Village of Beecher.

In the event the Village of Beecher shall require the replacement or repair of damaged curbing or sidewalks upon or adjacent to a Parcel within one (1) year following construction of a Dwelling thereon, the Owner of such Parcel shall, at the Owner's expense, repair or replace such sidewalks or curb in accordance with the requirements of said Village. It shall be the responsibility of each Parcel Owner to prevent such damage from occurring by adequately protecting the curb and sidewalk during construction of his Dwelling.

3.14. Accessory Buildings. No accessory buildings or structures shall be erected, constructed, installed, or maintained on any Parcel.

3.15. Fences and Dog Runs. No fence, dog run, or enclosure shall be erected or constructed on any Parcel without the specific written approval of the Architectural Review Committee, and only such type of fence, run or other enclosure as shall be acceptable to and approved by the Architectural Review Committee shall be so erected, constructed or maintained.

3.16. Signs. No advertising or signs of any type or character, including "for sale" and "for rent" signs, shall be erected, placed, permitted or maintained on any Parcel, or on or in any building, except that one name plate of the occupant and street address not exceeding 2 x 1 in size may be affixed to each Dwelling. Notwithstanding the foregoing, the Developer may erect such temporary signs as it deems appropriate for the purpose of identifying and/or advertising the Development, or any model home(s) which may be erected and maintained by the Developer. Such signs shall be erected and maintained solely by the Developer.

In addition, the Developer may erect a permanent sign or signs for purposes of identifying the Development and/or the streets located therein, and such sign(s) shall be maintained and kept in good repair and condition by the Association.

3.17. Lighting. Each Dwelling shall have sufficient exterior lighting to provide reasonable safety, and each Dwelling shall have a lit exterior home street address. Any spotlights or floodlights on any Lot or Dwelling shall be shielded to prevent side glare.

3.18. Pools. No swimming pools (above ground or below ground) shall be constructed or installed on any Parcel without specific written approval by the ARC.

3.19. No Temporary Buildings, Out Buildings, Campers, Trailers, Etc. No temporary house, campers, habitable motor vehicles, trailers, tents, stands, recreational vehicles, shacks, sheds, or other structures or buildings of a temporary character shall be constructed, placed, allowed to exist or used on any Parcel as a Dwelling, either temporarily or permanently, and no Dwelling erected on any Parcel shall be occupied in any manner at any time prior to its full completion in accordance with approved plans as hereinabove provided.

3.20. No Trucks, Campers, Etc. to be Kept on any Parcel or on any Street. No trucks, truck-mounted campers, motor homes, trailers, house trailers, buses, boats, boat trailers, campers, junk automobiles, dilapidated or disabled vehicles of any kind shall be maintained, stored or parked on any dedicated or undedicated street or right-of-way in the Development, and the dedication of any such right-of-way or street in any Plat of Subdivision shall be subject to this provision. No trucks, truck-mounted campers, motor homes, trailers, house trailers, buses, boats, boat trailers, campers, junk automobiles, dilapidated or disabled vehicles of any kind shall be maintained, stored or parked on any Parcel unless housed or garaged completely within a structure which complies with this Declaration, and which has been architecturally approved by the Architectural Review Committee, so as to fully screen them from view from the streets and from neighboring yards. Notwithstanding the foregoing provisions, trucks used by service or construction companies or trades may be parked upon a street, right-of-way or Parcel while providing services to the Owner of the Parcel.

3.21. Antennae and Satellite Dishes. No exterior television antennae, radio antennae, communication antennae, or satellite dishes (except dishes thirty (30) inches or less which may be mounted only on the side or rear of a Dwelling) of any type whatsoever shall be erected, installed or maintained, whether temporarily or permanently, on any Parcel or on the exterior of any Dwelling. The operation of a "ham" or other amateur radio station shall be prohibited.

3.22. Mailbox. Mailboxes shall not be permitted on the parkway. Community cluster boxes will be provided in each neighborhood of the Development.

3.23. Animals. No more than two (2) dogs, cats, or other bona fide household pets may be kept in each Dwelling, provided that such pets are not kept, bred or maintained for any commercial purposes, and provided they do not make any objectionable noises and do not otherwise create a nuisance or inconvenience to any of the residents of the Development. Livestock and poultry of any kind are prohibited. Any pets which cause objectionable noises or otherwise constitute a nuisance or inconvenience in the judgment of the ARC shall immediately, following written notice by the ARC, be removed from the premises by the person having custody of the same.

3.24. Nuisances. No noxious or offensive activity shall be carried on, in or upon the Property and/or Parcel, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No plants or seed or other conditions, harboring, or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a Parcel. No Owner shall conduct or permit any person to conduct any unlawful activity on the Parcel owned by such Owner.

3.25. Timely Completion. The work of constructing, altering or remodeling any Dwelling on any Parcel shall be prosecuted diligently from its commencement and until the completion thereof. Unless otherwise specifically authorized in writing by the Architectural Review Committee, the complete exterior structure or shell, not including finished exterior wall materials (e.g. brick or other approved material), must be erected, constructed and completed within ninety (90) days after the date of commencement of construction. The entire Dwelling shall be substantially completed and ready for issuance of a Certificate of Occupancy not more than six (6) months after the date of commencement of construction.

3.26. Storm Water Detention and Drainage Areas. All areas of the Parcels designed or intended for the proper drainage or retention of storm water, if any, including swale lines and ditches and drainage easements, shall be kept unobstructed and shall be mowed regularly. Trees, planting, shrubbery, fencing (if allowed), patios, structures, landscaping treatment, or other like improvements may be planted, placed, or allowed to remain in any such areas so long as they do not substantially obstruct or alter the rate or direction of flow of storm water from any Parcel. No Owner shall alter the rate or direction of flow of storm water from any Parcel by impounding water, changing grade, blocking or redirecting swales, ditches or drainage areas, or otherwise. Each Owner acknowledges, by acceptance of a deed to a Parcel, that each drainage or detention area is for the benefit of the entire Property.

3.27. Condition of Property. No implements, machinery, lumber or building materials shall be permitted to remain exposed upon any Parcel so that they are visible from the streets or any neighboring Parcel, except as necessary during the period of construction of a building thereon. No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any Parcel, whether vacant or improved, and no refuse pile or unsightly object

shall be allowed to be placed or maintained upon any Parcel. Trash, garbage, or other waste shall not be kept except in sanitary

containers, which must be properly maintained. No trash, garbage, or other waste containers shall be stored, kept or maintained anywhere except within the Dwelling or garage on each Parcel, except on such days as such trash, garbage, or other waste material is to be collected and removed.

3.28. Compliance with Applicable Laws and Ordinances. The provisions of all applicable laws, regulations and ordinances, whether federal, state or local, including but not limited to all applicable provisions of the zoning ordinance, subdivision regulations, building code, electrical code, plumbing regulations and other applicable ordinances of the Village of Beecher, as may be in effect and amended from time to time, shall be strictly adhered to at all times. This provision shall not limit the applicability or enforceability of any covenant herein contained which is or may be more restrictive than a similar provision of any of said laws, regulations or ordinances.

## ARTICLE 4

### ARCHITECTURAL CONTROL

4.1. General Review and Approval. The Developer shall establish an Architectural Review Committee ("ARC") which shall be operated and administered, prior to the Turnover Date, by the Developer. From and after the Turnover Date, said ARC shall consist of three (3) or more Members appointed by the Association, through its Board. Except for improvements constructed by Developer, no building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Property or upon any Parcel, Dwelling, garage, or other improvements thereon, nor shall any exterior addition to or change or alteration therein be made, unless the plans, specifications and location of same shall have been submitted to, and approved in writing by, the ARC. All plans and specifications shall be evaluated as to harmony of external design, avoidance of monotony and propriety of location in relationship to surrounding structures and topography. The ARC shall have the following powers and duties:

a. To require submission to the ARC of two (2) complete sets of all plans and specifications for any improvement or structure of any kind, including, without limitation, any building, swimming pool, tennis court, screen enclosure, decorative building, landscape device or object, structure, or other improvement, the construction or placement of which is proposed within the Development. The ARC may review and pre-approve preliminary plans of an Owner or builder prior to the submission of plans and specification from an architect, with the final review and approval to be contingent upon submission of plans and specification from a licensed architect as provided for herein. The construction plans and specifications shall include drawings, specifications, exterior elevations, construction materials, a site/grading plan showing location and top of foundation grades and finish grades (as established by the Master Grading Plan approved by the Village of Beecher) of the buildings, landscape plan, gas or electric yard light, and other structures on the Lot. The ARC may require submission of samples of building and construction materials proposed for use on any Parcel and such additional information as reasonably may be

necessary for the ARC to completely evaluate the proposed structure or improvement in accordance with this Declaration.

b. The ARC shall have the unrestricted right to prevent the building of, and to disapprove of, any construction plans submitted to it as aforesaid if, in the sole but reasonable opinion of the ARC:

i) Such construction plans are not in accordance with all of the provisions of this Declaration; or

ii) If the design, exterior and interior size, exterior shape, exterior construction materials, or color scheme of the proposed Dwelling or other structure is not in harmony with the adjacent buildings, structures or the character of the Development; in no event will a particular exterior home design be duplicated within two hundred-eighty (280) feet of each other; or

iii) If such construction plans as submitted are incomplete; or

iv) If the ARC deems the construction plans or any part thereof or any material used on the exterior of the Dwelling to be contrary to the spirit or intent of these conditions and restrictions, or contrary to the interest, welfare, or rights of all or any part of the real property, subject hereto, or the Owners thereof, or the adjacent property Owners, all in the sole but reasonable discretion of the ARC; or

v) If the ARC shall, within its sole but reasonable discretion, deem the construction plans or any part thereof or the Dwelling or structure to be unacceptable or of such design or proportions, or to be constructed of such unsuitable materials or exterior color schemes as shall depreciate or adversely affect the values of other sites or buildings in the Development.

c. The ARC shall approve or disapprove the submitted material as soon as practical, but the written approval or disapproval of the ARC shall, in any event, be given within thirty (30) days after all necessary material has been delivered to the ARC. If the ARC disapproves of any submitted material, or if the ARC requires a modification of any kind, it shall, within said thirty (30) day period, inform the Owner or builder of the reasons for the disapproval of the ARC.

d. The decisions of the ARC shall be final.

e. Neither the Developer nor any agent of the Developer nor any member of the ARC shall be responsible in any way for any defects in any construction plans submitted, revised, or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such construction plans.

f. The ARC may require the deposit of a reasonable fee from the Owner or builder prior to review and approval of the plans or specifications.

## **ARTICLE 5**

### **MEMBERSHIP AND BOARD OF DIRECTORS PRAIRIE CROSSINGS**

#### **SUBDIVISION HOMEOWNERS ASSOCIATION**

5.1. Membership. Every Owner of a Parcel shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Parcel. Ownership of a Parcel shall be the sole qualification for Membership.

5.2. Voting Rights. Each Parcel shall have an allocation of one (1) vote. However, if more than one (1) person is the record Owner of Parcel, the vote(s) for such Parcel shall be exercised by such person ("Designee") which such Owner or Owners shall designate. Such designation shall be made in writing to the Board or in such other manner as may be provided in the By-Laws. In case of unresolved dispute as to an authorized Designer, the Board may, in its sole discretion, make a determination as to acceptance of the vote of an alleged Designee or the Board may, in its sole discretion, disqualify the vote of such alleged Designee.

5.3. Board of Directors. The Association shall be governed by a Board comprised of three (3) persons, or such greater number as may be determined by Board resolution. The Board shall maintain and administer the Common Area and certain portions of the Parcels and improvements thereon in accordance with the terms and provisions of this Declaration and the By-Laws. Notwithstanding anything contained herein to the contrary, for a period commencing on the date of execution hereof and ending upon the qualification of the Directors elected at the initial meeting of the Association after the Turnover Date set forth in paragraph 5.6 below, Developer shall have the right to designate the three (3) person Board and select the persons who shall serve as Members of said Board and who shall exercise the powers of said Board. After the Turnover Date, the Board shall be comprised of three (3) persons, all of whom must be Owners of a Parcel.

5.4. Officers. The Association shall have such Officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly provided otherwise by the corporate charter or By-Laws, all power and authority to act on behalf of the Association, both pursuant to this Declaration and otherwise, shall be vested in its Board and its Officers, under the direction of the Board, and shall not be subject to the approval of the Members. The corporate charter and By-Laws of the Association may include such added provisions for the protection and indemnification of its Officers and Directors as shall be permissible by law. The Directors and Officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or omissions made in good faith as such Directors or Officers.

5.5. Director and Officer Liability. Neither the Directors nor the Officers of the Association shall be personally liable to the Owners or the Association for any mistake of judgment

or for any other acts or omissions of any nature whatsoever as such Directors or Officers except for any acts or omissions found by a court to constitute fraud or gross negligence. The Association shall indemnify and hold harmless the Directors and Officers, their heirs, executors, administrators, personal representatives and assigns, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association or arising out of their status as Directors or Officers unless any such contact or such act shall have been made fraudulently or with gross negligence. The foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited to, attorneys fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit, or proceeding, whether civil, criminal, administrative, or other, in which any such Director or Officer may be involved by virtue of being or having been such Director or Officer, provided, however, that such indemnity shall not be operative with respect to any matter as to which such person shall have finally been adjudged in such action, suit, or proceeding to be liable for fraud or gross negligence in the performance of his or her duties as such Director or Officer.

5.6. Turnover. The Developer shall, through the Board appointed by it in accordance with paragraph 5.3, exercise control over all Association matters, until the first to occur of the following dates: (a) twenty (20) years from the date of this Declaration, (b) the sale and conveyance of legal title to all of the Parcels to Owners other than Declarant or an assignee of Declarant as provided in paragraph 9.10 hereof, or (c) Developer elects voluntarily to turn control of the Association over to the Members of the Association by not less than thirty (30) days written notice, addressed to each Member of the Association. The date upon which the control of the Association passes to the Members is hereinafter referred to as the "Turnover Date". On or prior to the Turnover Date, the Developer shall cause Declarant to convey the Association, and the Association shall accept, the Common Area to be owned by the Association hereunder and the Association shall undertake to maintain the Common Areas pursuant to the terms hereof.

5.7. Duties and Powers of the Association. In addition to the duties and powers otherwise provided for and enumerated in this Declaration, and without limiting the generality thereof, the Association, acting by and through its Board of Directors, shall have the following powers and duties:

- a. Own, and otherwise manage, the Common Area and all Improvements thereon.
- b. Maintain, repair, and if needed, replace the Common Area and all facilities, improvements and equipment thereon and pay for all expenses and services in connection therewith, including, without limiting the generality of the foregoing: landscape maintenance, sign and



lighting maintenance, utilities, insurance, payment of all taxes (including real estate taxes), assessment and other liens and encumbrances which are assessed to or charged against the Common Area.

- c. Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties
- d. If deemed necessary by the Board, establish and maintain a working capital and contingency fund in an amount to be determined by the Board.
- e. Levy and collect assessments in accordance with the provisions of ARTICLE 6.
- f. Maintain such policy or policies of insurance as the Board deems necessary or desirable for furthering the purpose of and protecting the interest of the Association.
- g. Have the power to enforce the provisions of this Declaration by appropriate means, including without limitation the expenditure of funds of the Association, the employment of legal counsel and the commencement of actions.
- h. Exercise all powers, duties and authority vested in or conferred upon the Association by this Declaration, its Articles of Incorporation and By-Laws, and the Illinois General Not-For-Profit Corporation Act.

5.8. Duties and Powers of the Board. The Board of Directors shall have the power to exercise for the Association all powers, duties, and authority vested in or conferred upon the Association by the Declaration, the Association's Articles of Incorporation and By-Laws, and the Illinois General Not-for-Profit Corporation Act.

#### **5.9. Developer Rights. The Developer shall have the following rights:**

- a. Until the Turnover Date, the Developer shall have all the rights and powers herein granted to the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take as otherwise herein provided.
- b. Until the Turnover Date, Developer may elect to maintain the Common area and all signs and monuments located thereon and shall pay all expenses and costs in connection with the Common Area, including, without limitation, the costs of improving and maintaining the Common Area (and any signs and monuments located thereon) and general real estate taxes payable in connection with the Common Area. In such case, Developer shall bill, and have the right to recover from Association Members, the portion of such expenditures which are attributable to Owners. To the extent that any real property taxes payable after the Turnover Date are attributable to the period prior to the Turnover Date, Developer shall reimburse the Association, on a pro rata basis, for such real property taxes. Declarant shall, not later than the

Turnover Date, convey to the Association that portion of the Common Area to be owned by the Association.

c. Developer shall be entitled at all times to conduct sales of Parcels from the Property and shall have the right, for itself and its agents, employees, guests and invitees, to utilize roads, streets, Common Area and all other portions of the Property, excluding sold Parcels, for such purposes until all Parcels are sold. Developer may at all times utilize signage, lighting and establish temporary construction and sales office, buildings and trailers and construct model homes to conduct its construction, sales and marketing of the Property. The rights granted to Developer under this Section 5.9(c) shall extend to and be applicable to any developer who acquires in any single transaction four (4) or more Parcels from Developer, except such rights shall extend only to such parcels so purchased by the developer.

d. Developer shall have the rights set forth in ARTICLE 4 regarding architectural control.

e. Notwithstanding anything contained herein or, without limiting the generality of the foregoing in this ARTICLE 5 or in ARTICLE 6 to the contrary, any rights and powers reserved herein to the Board shall be exercised by the Developer prior to the Turnover Date. This instrument shall be construed and interpreted, as and where necessary, mutatis mutandis, with the term "Developer" being substituted (prior to the Turnover Date) for the term "Board".

5.10. Village of Beecher. In the event the Association fails to maintain the Common Area, the Village of Beecher, after written notice to the Association, may undertake the Common Area maintenance and the Village of Beecher shall have lien rights for any costs incurred in connection therewith.

## ARTICLE 6

### COVENANT FOR ASSESSMENTS

6.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Parcel (excluding Declarant and Developer), by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other covenants, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association, for each Parcel owned by such Owner, all assessments and charges levied pursuant to this Declaration. Such assessment, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a continuing lien upon the Parcel against which such assessment is made. Each such assessment, together with such interest and costs, shall also be the continuing personal obligation of the person who was the Owner of such Parcel at the time when such assessment fell due. Notwithstanding the foregoing, no Parcel or Dwelling owned by the Developer shall be subject to assessment unless a Certificate of Occupancy has been issued by the Village for that Dwelling and same shall not be

subject to any assessment for a capital contingency reserve. In addition, if any developer acquires from Developer at least four (4) Parcels in any single transaction, those Parcels so acquired shall not be subject to assessment so long as the developer continues to own said Parcels and until a Certificate of Occupancy has been issued by the Village of Beecher for the dwelling to be constructed on said Parcels.

6.2. Purpose of Assessments. The Assessments levied by the Association shall be used for the purpose of promoting the recreation, health, safety and welfare of the Members of the Association and, in particular, without limited the foregoing, for maintenance, repair, replacement, improvement and additions of and to the Common Area and the improvements thereon, for all taxes, insurance, utilities, professional and other services, materials, supplies, equipment and other costs and expenses incident to the ownership of the Common Area and all facilities and improvements thereon, for certain maintenance and for otherwise carrying out the duties and obligations of the Board and of the Association as stated herein and in its Articles of Incorporation and By-Laws.

#### 6.3. Assessment Procedures; Regular Assessments.

a. Prior to January 1, 2003, Developer shall maintain all common areas, entrance signage and detention areas. On January 1, 2003, the regular assessments shall commence but shall not exceed \$50.00 per year per Lot until the Turnover Date.

b. On or before December 1st of each year, commencing after the Turnover Date and pursuant to the By-Laws of the Association, the Board of Directors shall hold a meeting or meetings:

(i) To estimate all expenses provided for in Section 6.2 of this ARTICLE 6;

- (ii) To fix the amount assessed against the individual Lots for the forthcoming year; and
  - (iii) To establish the date or dates on which such assessments or installments thereof shall be due the Association and in lieu thereof the amount of the prior year's annual assessment shall be the fixed amount. Should the Board of Directors fail to establish a payment date, all regular assessments shall be due in twelve (12) equal installments on the first day of each month of the year for which they are assessed.
- c. The Board of Directors shall prepare an itemized list of all estimated expenses and shall give written notice of assessments to each Owner subject thereto.

#### **6.4 Assessment Procedures; Special Assessments.**

- a. Special assessments may be levied by the Association to defray the expense, in whole or in part, of any capital improvement or unforeseen expenses. Such capital improvements shall include the construction or unexpected repair or replacement of the entrance signage and landscaping.
- b. Whenever the Board of Directors shall determine there exists a need for levying a special assessment as herein provided, the Board of Directors shall adopt a resolution setting forth the need, amount, period of payment and due date or dates for the proposed special assessment. All special assessments must be approved by a two-thirds (2/3) vote of the voting Members of the Association. Such vote shall be taken at a meeting called by the Board of Directors for that purpose.

6.5. Uniform Assessments. Both annual and special assessments must be fixed at a uniform rate for all Members. Parcels or Lots