

## DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENT LIENS

This is a Declaration Of Covenants, Easements, Restrictions And Assessment Liens made this 5<sup>th</sup> day of December, 2005, by Rockford Homes, Inc., an Ohio Corporation (hereinafter referred to as "Declarant").

### Background

- A. Declarant is the owner in fee simple of certain real estate, situated in the Township of Orange, County of Delaware, State of Ohio and more particularly described as:

Being Lots 6968 through 6994, inclusive, of Abbey Knoll Section 5 Phase A, as the same are numbered and delineated upon the recorded plat thereof, of record in Cabinet 3, Slide 665, Recorder's Office, Delaware County, Ohio.

and

Being Lots 6995 through 7013, inclusive, of Abbey Knoll Section 5 Phase B, as the same are numbered and delineated upon the recorded plat thereof, of record in Cabinet 3, Slide 664, Recorder's Office, Delaware County, Ohio.

- B. Declarant intends during the course of development of the real estate described in paragraph A., which is hereafter referred to as Abbey Knoll, to construct and develop certain common improvements, including landscaped and preservation areas, street islands, entrance walls, bicycle and walking paths, common open spaces, streams, ponds, and similar features for the benefit of Declarant as well as owners of all of the lots in Abbey Knoll, and all other real estate which may be added to the Subdivision (as defined in Article I, Section 8 hereof).
- C. Declarant desires to create a plan of restrictions, easements and covenants concerning the lots in Abbey Knoll and to retain in Declarant plan approval of the dwelling units to be constructed on the lots in Abbey Knoll and the easements and covenants shall also relate to overall development for the benefit of and to protect the interest of the public, Declarant, each lot owner, and their respective heirs, successors and assigns.

### COVENANTS, EASEMENTS, RESTRICTIONS AND ASSESSMENT LIENS

**NOW THEREFORE**, Declarant hereby declares that the Lots (as defined in Article I, Section 5 hereof) shall be held, sold, conveyed and occupied subject to the following covenants, easements, and restrictions which are for the purpose of protecting the values and desirability of, and which shall run with the title to the land and each part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of and be enforceable by Declarant, its successors and assigns, the Trustees of Orange Township, each Lot Owner in the Subdivision (as defined in Article I, Section 8 hereof), the respective heirs, successors and assigns of each Lot Owner, and the Abbey Knoll Homeowners Association, both Ohio not-for-profit corporations, whose members are all Lot Owners of the Subdivision formed to maintain and administer certain common improvements which have been, and will be, transferred to it by Declarant, its successors and assigns, and administer and enforce the covenants created hereunder.

### ARTICLE I DEFINITIONS

As used herein, the following terms shall have the following definitions:

Section 1. **"Association"** shall mean the Abbey Knoll Homeowners Association, an Ohio not-for-profit corporation, its successors and assigns.

Section 2. **"Common Improvements"** shall mean those areas owned by the Association or designated by the Developer, which the Association and their respective

Lot Owners are required to construct, maintain and administer, including fences, landscaped and preservation areas, street islands, entrance walls, bicycle and walking paths, common open spaces, streams, ponds, and other improvements owned, maintained or administered by the Association or which are designated by the Developer or government authorities as the responsibility of the Association or Lot Owners.

Section 3. **"Developer"** shall mean Rockford Homes, Inc., an Ohio corporation, its successors and assigns.

Section 4. **"Improvement"** shall mean any change of any kind in any Lot or Common Area and anything located thereon.

Section 5. **"Lot"** shall mean any Lot described in Background paragraph A., and any Lots added in accordance with Article V, Section 6 hereof.

Section 6. **"Owner" or "Lot Owner"** shall mean the holder of record title to the fee simple interest in any Lot, whether or not such title holder actually resides on or in any part of the Subdivision, his or her heirs, successors and assigns.

Section 7. **"Restrictions"** shall mean these covenants, restrictions, conditions and assessments together with all of the provisions contained herein as they now appear or as they may hereafter be amended.

Section 8. **"Subdivision"** shall mean the Abbey Knoll subdivision in Orange Township, Delaware County, Ohio, and each additional area as may be added in accordance with Article V, Section 6 hereof.

## **ARTICLE II**

### **ARCHITECTURAL CONTROL**

Section 1. **Approval Required.** No improvements or change of any kind, including without limitation any;

- (a) building, construction, placement of or addition to or alteration of any structure (whether temporary or permanent);
- (b) changes in color, material finish, or appearance of any improvement;
- (c) excavation, alteration of grade;
- (d) landscaping, tree or shrubbery removal or plantings, or landscaping plan;
- (e) construction, placement of or addition to or alteration of any:
  - I. fencing, walls, screening;
  - II. walkways, driveways, parking area;
  - III. patio, deck, porch;
  - IV. swimming pool, hot tub, spa;
  - V. children's recreational equipment or structures (including treehouses, playhouses, basketball hoops, and playground equipment);
  - VI. tennis court or other athletic facility; or
  - VII. flag pole, exterior lighting, ornamentation, or sign;
- (f) any other change which in any way alters the exterior appearance of the Lot from its theretofore natural or improved state, including a change, alteration or other modification of any of the foregoing previously approved hereunder;

shall be commenced or permitted to remain on any Lot unless such Improvement or change has the prior written approval of the Developer.

Section 2. **Method to Request Approval.** All approvals shall be requested by submission to the Developer of plans and specifications in duplicate, showing the following:

- (a) The arrangement of the interior and exterior of the residential structure including:
  - (i) color and texture of building materials;

- (ii) type and character of all windows, doors and exterior lighting fixtures;
  - (iii) type and character of chimneys;
  - (iv) location of the structure and orientation of the structure to the topography;
- (b) Existing and proposed land contours and grades;
- (c) All buildings and other Improvements including walkways, access drives and parking areas, and other improved areas, and the locations thereof on the site, existing or proposed;
- (d) All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), mail box locations, and exterior ornamentation (a detailed landscape plan must be submitted);
- (e) Plans for all floors, cross sections and elevations, including projections and wing walls;
- (f) Exterior lighting plans;
- (g) Plans and specifications for all outdoor recreational and play areas, including swimming pool, spa, or other athletic facility;
- (h) Plans and specifications for walls, fencing, and screening;
- (i) Plans and specifications for patios, decks, and porches or any other exterior changes or improvements;
- (j) The names and credentials of the architects, including landscape architects, and builders, of the Improvements;
- (k) Such additional information, data, specifications and drawings as may be reasonably requested by the Developer.

Specifications shall describe types of construction and exterior materials to be used, including, without limitation, the colors and manufacturers thereof, and shall otherwise be prepared according to standards established from time to time by the Developer.

Section 3. **Basis of Approval.** Approval shall be based, among other things, upon conformity and harmony of the proposed plans and specifications with the design and quality of the Subdivision, other structures in the Subdivision and neighboring property as to external design, appearance and type of construction, materials, colors, setting, height, grade, finished grade elevation, and landscaping and tree removal, conformity of the plans and specifications to the purpose and general intent of this Declaration, and verification that the houses meet the following minimum square feet requirements; the minimum area for each single-family dwelling shall be 2,000 square feet for single-story homes, and 2,200 square feet for two-story homes.

Section 4. **Building Actions.** If Developer disapproves the plans and specifications the Owner may revise and resubmit the plans and specifications until approval is received. The actions of the Developer through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding.

Section 5. **No Liability.** Neither the Developer nor any agent or employee, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, nonfeasance or misfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting therefrom or any other effect on other Lots and Owners in the Subdivision or elsewhere. Every person and entity who submits plans to the Developer agrees, by submission of such plans, that he or it will not bring any action or suit against the Developer to recover any damages or to require the Developer to take, or refrain from taking, any action whatever in regard to such plans or in regard to any building or structure erected in accordance with these restrictions.

Section 6. **No Reliance.** No Lot Owner may rely upon the submission and/or approval of any such plans or the buildings or structures described therein, or upon the Developer, to maintain the quality of, or a design plan for, the Subdivision.

Section 7. **Requirement of Completion; Notice of Completion, Non-completion or Non-compliance.** An Owner shall cause any Improvement to be diligently pursued to completion within eighteen (18) months after the date construction is commenced. Any Improvement which has been partially or totally destroyed by fire or otherwise shall be repaired or removed within six (6) months after the time of such destruction. Upon the completion of any Improvement, the Owner may file with the Developer a notice of completion and compliance which shall give rise to a conclusive presumption in favor of the Owner that the Improvement is completed and in compliance with all provisions of this Article II, unless within thirty (30) days of the filing the Developer gives actual notice of non-compliance or non-completion. Notice of non-compliance or non-completion will be considered to be delivered when it is posted on or about the Improvements in question or delivered by certified mail or in person to the Owner.

### **ARTICLE III** **GENERAL PROVISIONS**

Section 1. **Residential Purposes.** No Lot shall be used except for single-family residential purposes, except that lots 6994 and 7013 may only be used for Common Open Space uses including the existence of an asphalt bike or pedestrian path.

Section 2. **Trade or Commercial Activity Barred.** No trade or commercial activity shall be conducted upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to any Owner of any Lot in the Subdivision.

The foregoing to the contrary notwithstanding, Developer, its successors or assigns, may perform activities within the subdivision of any nature for the completion of the subdivision and the showing of lots in the subdivision. Developer, its successors or assigns may maintain temporary development and sales locations and offices, whether trailers or other structures. If Developer, or its successors or assigns, does not own any lots in the subdivision, other than the lot on which a trailer, garage, model home or other structure is located, sales activities from such location shall discontinue. In any event, the use of such development and sales locations and offices shall be terminated thirty (30) days after the sale of the last lot owned by Developer, its successors or assigns.

Section 3. **Maintenance of Lots and Improvements.** The Lots, including any land which has been altered from its natural state existing at the time of this Declaration, shall be landscaped according to plans approved in writing by the Developer. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. Landscaping approved by the Developer shall be installed no later than one hundred eighty (180) days following occupancy of, or completion of, any building, whichever occurs first. The Lot shall be regularly mowed and no Lot shall be allowed to become overgrown or unsightly. No vegetable or other produce garden may be located so as to be visible from outside the Lot. All Improvements shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the Developer.

Section 4. **Site Placement.** All buildings and other Improvements shall be placed so that the existing topography and landscape shall be disturbed as little as possible, and so that the maximum number of desirable trees and other natural features will be preserved, unless the Developer approves in writing some other placement.

Section 5. **Exterior Materials and Colors.** Finish building materials shall be applied to all sides of the exteriors of buildings. Colors and building materials shall be harmonious and compatible with colors of the natural surrounding and adjacent buildings and Improvements. The Developer shall have the sole right to approve or disapprove materials and colors subject to the following:

- (a) Homes will utilize natural and man made finishes such as: natural or synthetic stone, stucco, brick, wood, aluminum and vinyl.
- (b) A minimum of 50% of the front face of the structure will be natural materials, such as natural or synthetic stone, stucco, brick or wood. Provided that if wood is used as

the main siding element on the front face, it shall only be permitted if wood is used on the remaining three sides as the main siding element.

- (c) Aluminum will be used only for trim details such as soffits, gutters, etc.
- (d) Aluminum will not be used as a siding product.
- (e) Under no circumstance shall any home exterior finish product contain high gloss or high chroma colors.
- (f) The following product specifications shall apply to vinyl siding used throughout the project:
  - (i) Both substrata and fused finished clad complies with ASTM D1435 weatherability test criteria.
  - (ii) Building code certification by BOCA.
  - (iii) Maximum gloss level of 35 units.
  - (iv) All formulated compounds will be color specific, blended and include treated T102.
  - (v) Material shall be a gauge of .040 or greater.
  - (vi) By way of example the following are approved sidings: Presidential II, Lake Forest Premier, Royal Crest, Classic, Main Street and Restoration Collection.
  - (vii) Architectural certification is required as to the quality or grade of vinyl being used and as to the percentage of natural material included on the front face of the structure, that it does meet the 50% minimum and as to the vinyl that it does meet the standards set forth in items (i) through (vi) specified above.

Section 6. **Garage.** No dwelling may be constructed on any Lot unless an attached, enclosed garage for not less than two automobiles is also constructed thereon.

Section 7. **Service Screening, Storage Areas.** All garbage, trash and other waste shall be placed in containers which shall be concealed and contained within buildings, or shall be concealed by means of a screening wall of material similar to and compatible with that of the building on the Lot, or shall be concealed by sufficient landscaping to provide a permanent screen at all times of the year. These elements shall be integrated with the building plan, designed so as not to attract attention, and shall be located in as reasonably inconspicuous a manner as possible. Unless specifically approved by the Developer, no materials, supplies or equipment shall be stored on the Lot except inside a closed building, or behind a visual barrier screening such areas so that they are not visible from neighboring streets or properties.

Section 8. **Drives, Curbs and Walks:** Drives, curbs, parking areas and walks shall be constructed or altered only in accordance with plans and specifications submitted to and approved in writing by the Developer.

Section 9. **Storage Tanks.** No storage tanks of any type, above or below ground, shall be permitted.

Section 10. **Building Exterior.** All windows, porches, balconies and the exterior of buildings shall at all times be maintained in a neat and orderly manner. Draperies and other window treatments shall be harmonious with the outside of each building.

Section 11. **Removal of Trees.** In order that the natural beauty of the Subdivision may be preserved, no living tree having a caliper measurement or diameter of six (6) inches or more, measured at breast height, that being four and one-half feet above ground level at the base of the tree, shall be destroyed or removed from a Lot, unless specifically approved by the Developer. In the event of a violation of this paragraph, Developer may, at its option, cause any tree so removed or destroyed to be replaced with another tree and the Owner of the Lot on which the tree was located shall reimburse Developer for all expenses incurred by it; provided, however, that with respect to the replacement of a tree, there shall be no obligation of reimbursement in any amount in excess of the expenses which would be incurred if the destroyed or removed tree were replaced with a tree similar in type and size.

Section 12. **Pools and Hot Tubs.** No above ground pool which requires a filtration system or is more than six (6) feet in diameter or 18 inches deep shall be placed or maintained on any Lot. No other swimming pool, hot tub or spa may be placed or maintained on any Lot without the prior written approval of the Developer.

Section 13. **Playground Equipment/Tennis Courts.** No playground equipment or tennis or similar court shall be placed or maintained on any Lot without the prior written approval of the Developer.

Section 14. **Fencing.** Fencing shall comply with the attached Exhibit "A". No yard fence shall exceed 42" in height above finished grade. Nothing contained herein shall prohibit a lot owner from constructing or installing a privacy or screening fence as may be required by an appropriate governmental authority or agency for privacy or screening around pools, hot tubs, or other similar structures. Any such privacy or screening fence shall be installed so as to meet the minimum requirements of such governmental authority or agency, or as shown on Exhibit "A". No other fencing shall be placed or maintained on any Lot without prior written approval of the Developer.

Section 15. **Mailboxes.** All mailboxes and mailbox posts within the subdivision shall be of the same style and appearance as designated by the developer. The designated mailbox and post shall be the following models as supplied by Cedar Craft Products, Inc. of Blacklick, Ohio, or acceptable equivalents as approved by Grantor; mailbox - CMO-5, and post - CPO-2. Exhibit "B" attached hereto shows the style and appearance of the approved mailbox and mailbox post for the subdivision.

Section 16. **Exterior Lighting.** Only exterior lighting which has the prior written approval of the Developer may be installed on a Lot.

Section 17. **Hobbies:** Hobbies or activities that tend to detract from the aesthetic character of the Lot, and Improvements used in connection with such hobbies or activities, shall not be permitted unless carried out or conducted within a building and not visible from either the street or adjoining property. This section includes, but is not limited to, such activities as automotive and boat repair, and sports activities.

Section 18. **Temporary Residences.** No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be used as a residence on any Lot either temporarily or permanently. The foregoing notwithstanding, no other structures or buildings, other than the primary residence, shall be located on any lot. Nothing contained herein shall prohibit the reasonable use of such vehicles as may be necessary during construction of residences on the Lots.

Section 19. **Mineral Exploration.** The Lot shall not be used in any manner to explore for, use, or commercially exploit any water, oil or other hydrocarbons, minerals of any kind, gravel, earth, soil, or any other substance located in or under the ground. In particular, no wells may be located on the Lot and no water may be removed from any pond, lake, or other body of water located on, adjacent to, or near the Lot.

Section 20. **Machinery and Equipment.** No commercial machinery or equipment of any kind shall be placed, operated or maintained upon the Lot except such machinery or equipment reasonably necessary for use in connection with maintenance or construction of Improvements as approved by the Developer.

Section 21. **Signs.** No signs of any character shall be erected, posted or displayed upon the Property, except: (i) marketing signs installed by the Developer while marketing the Lots and residences for sale; (ii) street and identification signs installed by the Association or the Grantor; and (iii) one temporary real estate sign not to exceed six square feet in area advertising that such Lot is for sale.

Section 22. **Antennas.** Television, radio and ham radio antennas shall be prohibited on the exterior of any Improvement or Lot. Satellite dishes not exceeding twenty four inches (24") in diameter may be placed on the Lot, provided they are approved in writing by the Developer.

Section 23. **Solar Panels.** No solar panels, attached or detached, shall be permitted on any Lot.

Section 24. **Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighboring property. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, no speakers, horns, whistles, bells or other sound devices which can be heard off the Lot, shall be located, used or placed on a Lot, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

Section 25. **Temporary Improvements.** No temporary building or structures shall be permitted on any Lot; provided, however, trailers, temporary buildings, barricades and the like shall be permitted during construction of initial Improvements on a Lot, provided the design, appearance, and location has the prior written approval of the Developer. Such Improvements shall be removed not later than fourteen (14) days after the date of completion of the Improvements for which the temporary structure was used, and shall be permitted to remain for no longer than one (1) year, unless a greater period is approved in writing by the Developer.

Section 26. **Animals.** No animals, birds, insects, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except dogs, cats, or other household pets which are kept for domestic purposes only, and are not kept, bred or maintained for any commercial purpose. No more than two dogs or two cats or two other pets which are permitted outdoors may be kept on any Lot except when animals in excess of such numbers are less than three months old.

Section 27. **Vehicle Parking and Storage.** No automobile, trailer, boat, camper, recreational vehicle, commercial vehicle, or other motor driven vehicle shall be parked or stored on any Lot unless it is in a garage, except that

- (a) such vehicles, if operable, may be parked outside the garage for an occasional, nonrecurring, temporary period not to exceed twenty-four (24) hours in any ten (10) days; and
- (b) automobiles in good condition may be parked outside the garage on a regular basis if there is insufficient space in the garage and the automobiles are driven regularly by a person residing on the Lot.

Section 28. **Lot Split.** No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, so as to create a new building Lot.

Section 29. **Contiguous Lots.** An Owner may use more than one Lot as a site for a single dwelling unit only if the Owner obtains the prior written permission of the Developer.

Section 30. **Utility and Drainage Easements:** Location of easements for the installation of utilities and for surface drainage are reserved as shown on the recorded plat. No lines, wires or other devices for communication purposes, including telephone, television, data and radio signals, or for transmission of electric current or energy, shall be constructed, placed or maintained anywhere in or upon the Subdivision unless they are placed and maintained underground or concealed in, under or on buildings or other Improvements; provided that above-ground electrical transformers and other equipment may be permitted as necessary to serve the Subdivision with necessary utility services upon the approval of the Developer. All gas, water, sewer, oil and other pipes for gas or liquid transmission shall be placed underground or within or under buildings or other Improvements. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone service incident to the construction of Improvements.

Section 31. **Use of Other Easements.** In addition to the utility easements herein designated, easements are hereby reserved and granted to the Developer, and any utility company or governmental unit engaged in supplying one or more utility services to the Subdivision to install, lay, erect, construct, renew, operate, repair, replace, maintain or remove all and every type of gas, water, sanitary or storm sewer or other utility facilities.

Section 32. **Drainage and Grading.** No drainage ditches, cuts, swales, streams, impoundments, ponds, or lakes; no mounds, knobs, dams or hills, and no other physical improvements or elements of the landscape or terrain which control or determine the location or flow of surface water and drainage patterns may be destroyed, altered or modified without the prior written approval of the Developer. No Improvements to a Lot shall be made in any manner whatsoever that are inconsistent with the master grading plans established by the Developer for the Lots, as the plans now exist or may hereafter be modified from time to time, without the prior written approval of the Developer. All Lot Owners shall obtain certification from a licensed engineer after completing any Improvement that the master grading plans have been observed. Whenever, because of construction of Improvements on a Lot, or for some other reason, silt runs off of the Lot onto any adjacent property, the Owner of the Lot shall be obligated to provide a means of siltation control to prevent such run off. Roof

drains, foundation drains, and other clean water connections to the sanitary sewer system are prohibited.

Section 33. **Entrance Walls, Fencing, Subdivision Identification Signs, Earthmounds and Landscaping.** The walls, fencing, subdivision identification signs, earthmounds, electrical facilities, irrigation systems and landscaping placed on any of the Lots in the Subdivision by Developer shall not be removed or changed except by the Developer who shall have the right to enter the Lots to do so. They shall be maintained in good condition by the Association, or, if not, by the Owners of Lots on which such features are located. Specialty or decorative street signs installed by the developer shall also become the responsibility of the Association to maintain and replace if damaged.

Section 34. **No Build Zone Restriction.** The No Build Zone shown on the Abbey Knoll development plan shall run with the land in perpetuity so that said No Build Zone shall forever be restricted from development with buildings, structures, and uses, and it is the intent and purpose of the No Build Zone to restrict and forbid any activity or use which would, as a natural consequence of such, impede or make more difficult the accomplishment of the purpose of which the No Build Zone was created, as outlined herein. No dumping or burning of refuse shall be permitted in the No Build Zone. No hunting or trapping shall be permitted in the No Build Zone. The natural resources of the No Build Zone shall remain undisturbed and no topsoil, sand, gravel, rock or minerals shall be excavated or removed therefrom, and nothing shall be permitted to occur on the premises which would contribute to the erosion of the land and no trees shall be cut or removed, except for removal of such dead diseased or decayed trees or vegetation which may be required for conservation or scenic purposes, or for reasons of public safety. It is the intent of this No Build Zone to allow for the preparation, construction and maintenance of recreational areas for the use of the Abbey Knoll Homeowner's Association, such as, but not limited to, playing fields, tot lots, etc. No private encroachment shall be permitted, such as, but not limited to, planting of flowers, shrubs, garden material, etc., dumping of trash or debris, or the installation of any type of recreation or other facility or convenience. No roadway nor any facility of any public utility other than existing roadways and public utility facilities or those outlined in the original plan shall be permitted to be constructed or installed in the premise, and no existing roadway or public utility facility shall be enlarged or extended in the No Build Zone. This No Build Zone, however, is not intended to interfere with or detract from the use of said premises by grantor-owner and their successors in interest for all purposes, present and future, not inconsistent with the provisions of the Ohio Revised Code.

Section 35. **Street Trees.** The owner of each lot shall cause to be planted on his lot one street tree measuring at least one and one-half inches (1-1/2") in diameter. Corner lots shall have two street trees, with one fronting on each street. Said trees shall be planted four feet behind the sidewalk.

Section 36. **Maintenance of Common Improvements.** The Association shall be responsible for maintaining the other Common Improvements, added to the Subdivision, all common landscaped areas and otherwise any irrigation system on the common spaces and areas, fences, entrance walls, signs not maintained by others, and other Common Improvements designated by the Developer or government authorities or assumed by the Association. The Association shall have an easement over each Lot for the purpose of maintaining and repairing the Common Improvements. The Association shall use its best efforts to maintain comprehensive general liability insurance, in an amount of not less than \$1,000,000 per person and \$3,000,000 per occurrence for bodily injury and \$500,000 per occurrence for property damage and such other insurance as shall be reasonably required by Developer.

Section 37. **Governmental Regulations Statement:** Each building site is subject to all present and future applicable laws, ordinances, rules regulations and orders of the United States Government, the State of Ohio, County of Delaware, Township of Orange, and any other political subdivision and any administrative agency of any of the foregoing. Nothing herein shall be constructed as permitting any action or condition prohibited by such applicable laws, ordinances, rules, regulations and orders. In the event of any conflict between any such applicable laws, ordinances, rules, regulations and orders and these Protective Covenants, the most restrictive provisions shall govern and control.



## **ARTICLE IV ASSESSMENTS**

Section 1. **Establishment of Assessment:** For the purpose of providing funds for maintenance and improvement of the Common Improvements and all of the other obligations of the Association set forth in Article III, and other expenses and costs incurred by the Association, the Association shall, on a date selected by the Developer and prior to January 1 of each calendar year thereafter, determine an estimated budget for the following calendar year, or in the case of the first year, if only a part of a calendar year, for the remainder of that calendar year, and establish an equal annual assessment as to each Lot. The total assessment collected for the Lots in the Subdivision must be an amount sufficient to meet the obligations of the Association under this Declaration. These assessments shall be payable in advance in such periodic installments and on such due dates, as the Association from time to time determines, provided, that if any installment of any assessment is not paid within thirty (30) days after it has become due, the Association may, at its option, without notice or demand (i) declare the entire balance of the assessment immediately due and payable; (ii) assess interest on the unpaid balance at the highest rate of interest then permitted by law, or at such lower rate as the Association may from time to time determine, and (iii) assess reasonable, uniform, late fees.

Section 2. **Establishment of Lien:** If any Lot Owner shall fail to pay any installment of the assessment established in Section 1 within thirty (30) days after it is due, the Association shall be entitled to a valid lien for that installment or the unpaid portion of that year's assessment, if that Association so elects, together with interest, late fees and costs, which lien shall be effective from the date that Association certifies the lien to the Delaware County Recorder. The right to file such lien is subordinate to any liens actually filed.

Section 3. **Subordination of Lien:** The lien for the assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by a bank, savings and loan association, FNMA, GNMA, insurance company, mortgage company or other institutional lender, or which is guaranteed or insured by the FHA or VA. The sale or transfer of any lot pursuant to foreclosure of such a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments which thereafter become due or from the lien thereof. The Homeowners Association shall, upon written request, report to any such first mortgagee of an Homeowners Association member's lot, any assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due, and shall give such first mortgagee a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the lot; provided, however, that such first mortgagee shall have furnished the Homeowners Association written notice of the existence of its mortgage, which notice shall designate the lot encumbered by a proper legal description and shall state the address to which notices pursuant to this paragraph are to be given. Any such first mortgagee holding a lien on a lot may pay, but shall not be required to pay, any amounts secured by the lien created this Article.

## **ARTICLE V ENFORCEMENT AND MISCELLANEOUS**

Section 1. **Enforcement:** Except as hereinafter provided, Developer, the governmental units in which the Subdivision is located, each Lot Owner, the Association jointly and severally, shall have the right to enforce, by proceedings at law or, in equity, all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration. Notwithstanding the foregoing, in the event of any dispute between Lot Owners or between the Association and any Lot Owner or Owners not including the Developer, as to any matter provided for herein, other than with regard to the obligation for, levy, collection or enforcement, of assessments (including, without limiting the generality of the foregoing, the creation, filing and enforcement of liens), the matter shall be submitted to a single independent arbitrator selected by the Association, who shall decide the dispute in accordance with and pursuant to the arbitrator's laws of Ohio and the arbitrator's decision shall be final and enforceable as provided above.

Section 2. **Special Assessment Lien:** Each Lot Owner shall comply, or cause compliance, with all covenants, requirements, and obligations contained herein, and with all uniform rules and regulations promulgated by the Association. Upon the failure of a Lot Owner to comply with such covenants, requirements, and obligations, the Association or Developer, in addition to any other enforcement rights they may have

hereunder, may take whatever action either deems appropriate to cause compliance, including, but without limitation, entering upon the Lot for repair, maintenance, reconstruction and removal of any Improvements thereon or any other action required to cause compliance with the covenants, requirements and obligations contained herein. All costs incurred by the Association or Developer in causing such compliance, together with the interest at such lawful rate as the Association or Developer may from time to time establish, shall be immediately due and payable from the Lot Owner to the Association or Developer, and the Association or Developer certified the lien shall be effective from the date that the Association or Developer certified the lien to the Delaware County Recorder.

Section 3. **Joint and Several Obligations:** Each and every obligation with respect to a Lot hereunder shall be the joint and several personal obligation of each Owner of a fee simple interest in the Lot at the time the obligation arose or thereafter until paid, and any demand or notice hereunder or pursuant hereto to one of such joint Owners shall be deemed given, taken or received by all such joint Owners.

Section 4. **Severability and Waiver:** Invalidity of any one of these covenants or restriction by judgment or court order shall in no way effect any other provision which shall remain in full force and effect. Failure by a benefited party to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 5. **Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five years from the date this Declaration is recorded (except that the easements described in Section 30 of Article III shall be permanent and perpetual), after which time they shall be automatically extended for successive periods of ten (10) years, unless by agreement of the Owners of two-thirds (2/3) or more of the Lots, these covenants and restrictions are sooner terminated. This Declaration, as it relates to the Subdivision, may be amended by a duly executed and recorded instrument signed by the Owners of no less than two-thirds (2/3) of the lots in the Subdivision. Notwithstanding the foregoing, and in addition thereto, the consent of all Lot Owners present, in person or by proxy, who are entitled to vote at a duly called and noticed meeting of the Association, and the written consent of Developer, shall be required for any amendment hereto which effects a change in (i) the method of dividing the assessments, (ii) the method of voting on Association matters, or (iii) the fundamental purposes for which the Association is organized, including in particular, the maintenance and repair of private streets. A holder or insurer of a first mortgage on any Lot, upon written request shall be entitled to timely written notice of any proposed amendment hereto.

Section 6. **Additions to the Subdivision.** Upon the execution and delivery by Developer of a Deed of Declaration of Covenants, Easements, Restrictions and Assessment Liens, and the filing of the same with the Recorder of Delaware County, submitting real property to the lien for assessments established by Article IV hereof, the real property described herein shall become a part of the Subdivision as defined in Article I hereof. Such additions may be made and perpetuated without the consent of the Owners.

The foregoing to the contrary notwithstanding, so long as the Developer owns property in the Subdivision, the Developer shall have the right to waive, terminate, and/or modify any of these restrictions as, in the sole opinion of the Developer, are necessary in order to achieve and preserve an architecturally harmonious, artistic and desirable subdivision. Any amendment of or addition to these Restrictions under this section of the Restrictions shall be effective as of the time of the recording of a written document evidencing such amendment or addition in the office of the Delaware County Recorder.

Section 7. **Transfer to Association.** The foregoing to the contrary notwithstanding, at any time Developer no longer wishes to retain the rights granted to it in the Declaration, it may transfer those rights to the Association, and by such transfer this Declaration will be deemed to be amended, so that every reference to "Developer" herein shall be changed to "Association". The Association must accept such transfer if tendered by the Developer. Transfer to occur when 90% of the lots have received township zoning permits at the latest.

Section 8. **Constructive Notice and Acceptance.** Every person who now or hereafter owns or acquires any right, title or estate in any portion of the Subdivision is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein whether or not a reference to this Declaration is contained in the instrument by which such person acquired an interest in a portion of the Subdivision.

**ARTICLE VI**  
**ACCEPTANCE**

Section 1. **Acceptance.** By accepting a deed to any of the above described real estate or Lots, an Owner accepts the same subject to the foregoing covenants and agrees for him or herself, his or her heirs, successors and assigns to be bound by each of the covenants.

IN WITNESS WHEREOF, the Developer has caused this instrument to be executed on its behalf on or as of the 5<sup>th</sup> day of December 2005.

Signed and acknowledged  
in the presence of:

Corey D. Theuerkauf  
(Print Name)

**ROCKFORD HOMES, INC.,**  
an Ohio Corporation

By: Donald R. Wick  
Donald R. Wick,  
Executive Vice President

LINDSAY C. DYSINGER  
(Print Name)

**STATE OF OHIO**  
**County of Delaware ss:**

Before me, the subscriber, a Notary Public in and for said County and State, personally appeared Donald R. Wick, the Executive Vice President of Rockford Homes, Inc., an Ohio Corporation, who acknowledged the signing of the foregoing instrument to be his free act and deed on behalf of said corporation for the uses and purposes set forth therein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 5 day of December, 2005.

Kimberly J. Curtiss  
Notary Public

Notary Public  
My Commission Expires Dec 6, 2007



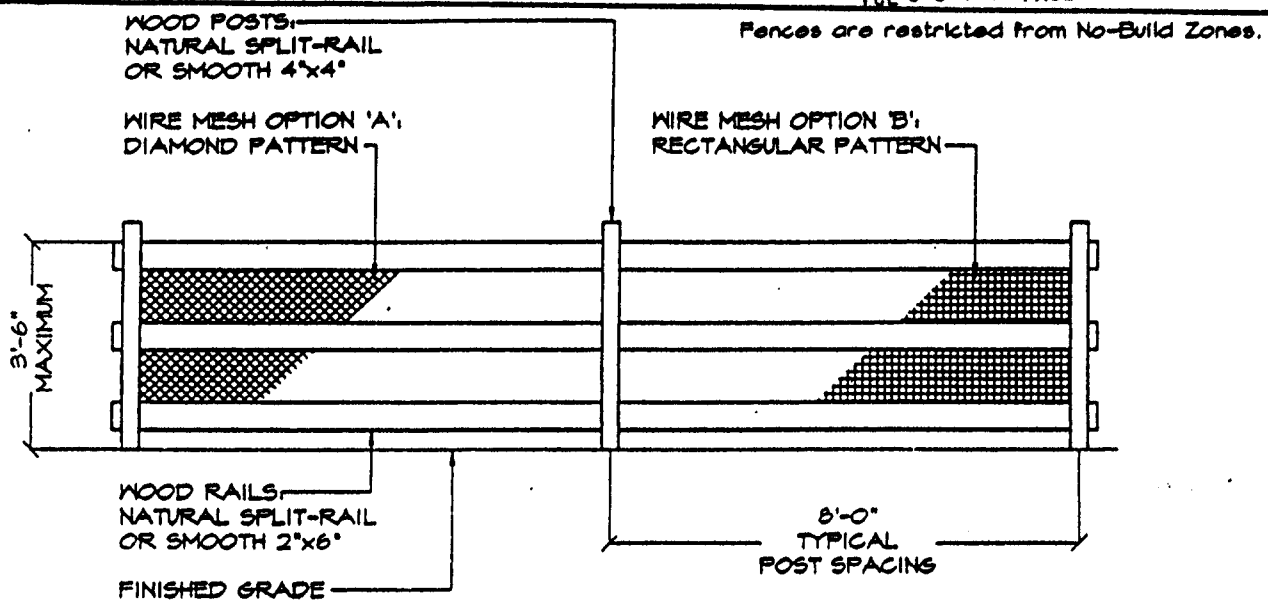
KIMBERLY J. CURTISS  
Notary Public, State of Ohio  
My Commission Expires 12-06-07

200500049803  
Filed for Record in  
DELAWARE COUNTY, OHIO  
ANDREW D BRENNER  
12-07-2005 At 09:01 am.  
DECLARATION 116.00  
OR Book 671 Page 1679 - 1691

200500049803  
FIRST AMERICAN TITLE  
341 S THIRD ST #200  
COLUMBUS, OH 43215

This instrument was prepared by:  
Rockford Homes, Inc.  
999 Polaris Parkway, Suite 200  
Columbus, Ohio 43240

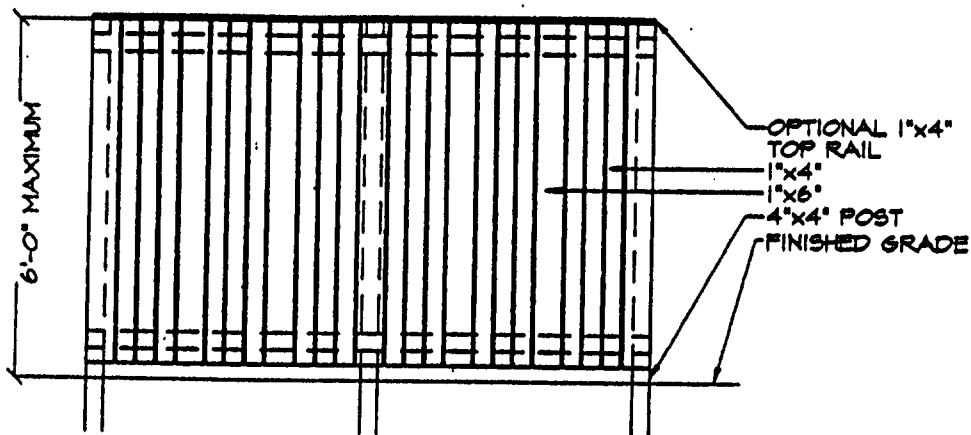
Provisions contained in any deed or other instrument for the conveyance of a dwelling which restrict the sale, rental or use of the property because of race or color are invalid under federal law and are unenforceable



#### SPLIT-RAIL YARD FENCE

Where permitted, these fences are to be placed around yard areas. The fence, post, and rail colors should be natural or earthtone. Wire is permitted to be applied on the interior side of the fence only, and shall be black in color, either by applied vinyl or painted. Light colors or aluminum finishes are not accepted for any portion of fences.

Split-Rail Yard Fence: To be permitted in rear yards only, not to extend closer to the front lot line than the rear line of the house on that lot. The fence post and rail colors should be natural or earth tones. Wire is permitted to be applied on the interior side of the fence only and shall be black in color, either by applied vinyl or painted. Light colors or aluminum finishes are not accepted for any portion of fences.



#### PRIVACY FENCE

Privacy Fence: To be permitted around decks, hot tubs, or patios. They may not be used as lawn or yard fences. Fence finishes should be natural or earth tone in color. Height shall be 6'-0" minimum and 6'-0" maximum.

EXHIBIT "B"

