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Cook County Recorder of Deeds
Date: 07/28/2006 11:01 AM Pg: 1 of 22

This instrument was prepared by:

Gregg A. Garofalo
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Chicago, Illinois 60606

**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR
ASHLAND OAKS SUBDIVISION**

THIS DECLARATION (the "Declaration") made this 1st day of **July, 2006**, (the "Effective Date") by MADISON HOMES PARTNERSHIP, LLC, an Illinois limited liability company having an address at 18154 Harwood Avenue, Suite 104, Homewood, Illinois 60430, Cook County, Illinois, being the owner of certain real estate situated in the Village of Homewood, Cook County, Illinois (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain parcels of real estate (the "Property") in the County of Cook, State of Illinois, as set forth in Exhibit "A" attached hereto and made a part hereof;

WHEREAS, Declarant desires to develop a residential development on the Property to be known as Ashland Oaks 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.

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ARTICLE 1

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.

1.2. 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 Homewood, 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 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 "Ashland Oaks Homeowners' Association," an Illinois not-for-profit corporation and a common interest community, which is defined in 735 ILCS 5/9-102(c)(1) as from time to time amended, its successors and assigns.

2.2 "Transition Zone" shall refer to those portions of lots seven (7), eight (8), nine (9), and ten (10), as shown on the subdivision plat, to be protected under the provision of Article 6 herein.

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

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

2.5. "Developer" and or Declarant shall mean and refer to Madison Homes Partnership, LLC, an Illinois limited liability company, or its successors or assigns.

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

2.7. "Structure" shall mean any improvement upon land, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. This includes, but is not limited to, buildings, signs, fences, and impervious surfaces.

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

2.9. "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.

2.10. "Owner" shall mean and refer to 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.

2.11. "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."

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

2.13. "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 Cook County, Illinois.

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

2.15. "Special Assessments" shall have the meaning ascribed to such term in Section 9.10 hereof.

2.16. "Capital Contributions" shall meaning ascribed to such term in Section 9.11 hereof.

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ARTICLE 3

GENERAL RESTRICTIONS

3.1. Single-Family Residential buildings and Use Only.

- a. All Parcels shall be used for one single-family residential purpose only. No other structure shall be erected, altered, placed or permitted to remain, other than one detached single-family dwelling meeting all the requirements of this Declaration, unless prior written approval has been granted by the Architectural Review Committee (as hereinafter defined).
- b. Any business or profession of any nature that shall be conducted on any Parcel or in any Dwelling is subject to the Village of Homewood Zoning Ordinance, except the business of the sale of Parcels and Dwellings constructed by the Developer or its successors or assigns. This restriction shall not, however, be construed in such a manner as to prohibit an Owner from: (i) maintaining his or her personal professional library thereon; (ii) keeping his or her personal business records or accounts thereon; or (ii) 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 twenty-five (25) feet on the front and thirty (30) feet on the rear of the Lot and six (6) feet on each side of the Lot, as established by the Subdivision Plat.

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 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.

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- d. Pier and slab foundations for the Dwelling are not permitted. Tri-level Dwellings or Dwellings with half basements can utilize fifty percent (50%) 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.

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 each 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 such Dwelling, except for awnings or canopies located on the rear of such 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 ARC 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 ARC.

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 Homewood.

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3.11. Lawn and Landscaping. Within one hundred eighty (180) days after the 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, specifications and ordinances of the Village of Homewood. 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 such Owner's sole cost and 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 Homewood.

3.13. Accessory Buildings. No accessory buildings or other structures shall be erected, constructed, installed or maintained on any Parcel, without the specific written approval of the ARC.

3.14. 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 ARC, and only such type of fence, run or other enclosure as shall be acceptable to and approved in writing by the ARC shall so be erected, constructed or maintained.

3.15. Signs. No advertising is allowed. However, "For Sale" or "For Rent" signs are permitted 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 by the Developer and removed by the Developer upon the sale of the final Dwelling or Parcel.

3.16. 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.

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

3.18. No Out Buildings, Campers, Trailers, Etc. No temporary house, campers, habitable motor vehicles, trailers, tents, stands, recreational vehicles, shacks, 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.

3.19. 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,

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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 designation of any truck-mounted campers, motor homes, trailers, house trailers, buses, boats, boat trailers, campers, junk automobiles, dilapidated or disabled vehicles of any kind shall not 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 ARC, so as to fully screen such items 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.

3.20. 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) 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.

3.21. Mailbox. All mailboxes shall be permitted on private property.

3.22. 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.

3.23. 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 owned by such Owner.

3.24. Restriction Against Re-Subdividing Lot. No residential lot shall be re-subdivided into building Lots other than those shown on Subdivision Plat nor shall any building be erected on any residential building Lot other than shown on the Subdivision Plat.

3.25. 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 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.

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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.

3.26. Condition of Property. No implements, machinery, lumber or building materials shall be permitted to remain exposed upon any Parcel so that such materials 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.

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 Homewood) 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

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- 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 and discretion 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 Property, subject hereto, or the Owners thereof, or the adjacent 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 not later than 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 by 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.

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ARTICLE 5

MEMBERSHIP AND BOARD OF DIRECTORS ASHLAND OAKS 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 (1) person is the record Owner of a single Parcel, the vote(s) for such Parcel shall be exercised by such person which such Owner or Owners shall designate (the "Designee"). 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 an unresolved dispute as to the appointment of a particular Designee, the Board may, in its sole discretion, make a determination as to acceptance of the vote of such 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 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, or 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 the 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. The Association shall indemnify and hold harmless the Directors and Officers, their heirs, executors,

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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 or Officers on behalf of the Owners or the Association or arising out of their status as Directors or Officers unless any such contract or such act shall have been made fraudulently. The foregoing indemnification shall include indemnification against any and 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 in the performance of his or her duties as such Director or Officer.

5.6. Turnover. The Developer shall, through the Board appointed by the Developer in accordance with Paragraph 5.3 herein, exercise control over all Association matters, until the first to occur of the following dates: (a) The sale and conveyance of legal title to at least seventy-five (75) percent of all of the Parcels to Owners other than Declarant or an assignee of Declarant as provided in Paragraph 9.7 hereof; or three (3) years after the date of the recording of this Declaration, whatever occurs first; or (b) Developer elects voluntarily to turn control of the Association over to the Members of the Association, and the Members of the Association accept such control. The date upon which the control of the Association passes to the Members is hereinafter referred to as the "Turnover Date".

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. 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 and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager or managing agent shall provide for the right of the Association to terminate same not later than ninety (90) days after the date the initial meeting of the Members of the Association is held as provided by the By-Laws.
- b. If deemed necessary by the Board, establish and maintain a working capital contingency fund in an amount to be determined by the Board.
- c. Levy and collect Assessments in accordance with the provisions of ARTICLE 9.
- d. 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.

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- e. 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.
 - f. 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. 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 (as defined in Paragraph 9.2 below) 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(b) 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.
 - c. Developer shall have the rights set forth in ARTICLE 4 regarding architectural control.
 - d. Notwithstanding anything contained herein or, without limiting the generality of the foregoing in this ARTICLE 5 or in ARTICLE 8 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, *mutates mutandis*, with the term "Developer" being substituted (prior to the Turnover Date) for the term "Board".

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ARTICLE 6

PROTECTIVE COVENANTS FOR TRANSITION ZONE

It is the desire and intention of the Declarant to sell the Property described herein in Exhibit "A" and to impose on portions of Lots Seven (7), Eight (8), Nine (9), and Ten (10), (hereinafter referred to as the "Transition Zone" and depicted in the attached Subdivision Plat) mutual, beneficial restrictions under a general plan or scheme of improvement for the benefit of all the lands in the tract and the future owners of those lands. Accordingly, the Declarant hereby declares that all of the lands of the Transition Zone is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied, and improved subject to the following limitations, restrictions, conditions, and covenants, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement, and sale of the lands and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the lands and every part thereof. All of the limitations, restrictions, conditions, and covenants shall run with the land and shall be binding on all parties having or acquiring any rights, title, or interest in the described lands or any part thereof.

6.1. Portions of Lots Seven through Ten ("Transition Zone") Subject to Same Restrictions. The Declarant, for itself, its heirs and assigns, further covenants with the Owner(s) of the Association that all sales or leases of the specified Lots identified in the heading of this Paragraph 6.1 shall be made subject to like restrictions as to the use of same.

6.2. Covenant by Declarant to Set Aside for Transitional Purposes. Developer or Declarant further agree to hold and reserve for purposes of protecting the Property's natural resource, preserving its attractiveness and scenic features, and for maintaining and enhancing the natural features of the Property, said lands commonly known as the Transition Zone as shown in the Subdivision Plat and that said Lot Owners shall have the privilege of using said Lots as herein provided.

6.3. Reservation, No Building to Be Erected on Transition Zone. With this express reservation, that no structure is to be erected by the Owner, its heirs or assigns, upon the land comprising the Transition Zone.

6.4. Topography. The general topography of the landscape shall be maintained in its present condition and no excavation or topographic changes shall be made.

6.5. Vegetation. Any cutting of trees or vegetation, including pruning and trimming, is prohibited, except for the removal of exotic species not native to this locale and for the general upkeep and maintenance in the event of natural or unintentional damage, whether by acts of God, or other third party, consistent with the Village of Homewood's tree care ordinance. The Owner shall have the right and responsibility to remove dead trees upon notification and approval of the ARC. Only native species indigenous to this local may be planted where appropriate as new or replacement plantings.

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- 6.6. Oil and Mining Operations, Dumping. Any mining drilling, or other alteration of the surface of the Property is prohibited, including dumping or other unsanitary conditions such as using any Lot of the Ashland Oaks Subdivision as a dumping ground for rubbish.
- 6.7. All limitations stated in the section entitled "General Restrictions," regarding the Property applies equally to the Property that is the subject of this ARTICLE 6.
- 6.8. Covenant Fixing Boundary Line. The Developer will clearly identify the boundary line(s) for the Property which is the subject of this Article by use of no less than 9 concrete markers.
- 6.9. There will be no agricultural use of the Transition Zone.
- 6.10. Natural water courses, lakes, wetlands, or other known bodies of water may not be altered.
- 6.11. Only native species indigenous to the locale may be planted where appropriate as new or replacement plantings.
- 6.12. The Village of Homewood has the right but not the obligation to enforce the covenants contained in ARTICLE 6, along with the other conditions of the Subdivision Plat.

ARTICLE 7

PROPERTY DEDICATED OR CONVEYED TO A GOVERNMENTAL BODY OR PUBLIC BODY

- 7.1. This Declaration, and all of the covenants and agreements contained herein, shall not apply to or affect any part or parts of the Property which are at any time dedicated or conveyed to any governmental body or local public authority. Any governmental body or local public authority owning, at any time, any part or parts of the Property shall not be subject to any of the terms and provisions of this Declaration, and shall not be a Member of the Association, and shall not be subject to Assessments (as set forth in ARTICLE 9 of this Declaration).

ARTICLE 8

RIGHTS OF FIRST MORTGAGEES

- 8.1. First Mortgages are entitled to timely written notice, if requested in writing, of:
- a. Any condemnation or casualty loss that affects either a material portion of the project or the Parcel securing its mortgage.

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- b. Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Parcel on which it holds the mortgage.
- c. A lapse, cancellation, or material modification of any insurance policy maintained by the Association.

The request under this paragraph must be directed to the Association, setting forth the name and address of the First Mortgagee and the address of the Parcel upon which it holds a mortgage.

ARTICLE 9

COVENANT FOR ASSESSMENTS

9.1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Parcel, 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 (the "Assessment"). The 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 an Assessment is made. Each 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 became 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 such developer continues to own said Parcels and until a Certificate of Occupancy has been issued by the Village of Homewood for the Dwelling to be constructed on said Parcels.

9.2. 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 limiting the foregoing, for maintenance, repair, replacement, improvement and additions of and to those areas of the Property which are designated for the exclusive and nonexclusive use and benefit of the Members (such area shall be hereinafter referred to as the "Common Area(s)") 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.

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9.3. Maximum Annual Assessment.

- a. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment will be \$200.00 per Lot.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased each year not more than three (3%) percent above the maximum annual Assessment for the previous year without a vote of the Membership.
- c. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased above three (3%) percent by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- d. The Board of Directors may fix the annual Assessment at an amount not in excess of the maximum.

9.4. Uniform Assessments. Both annual and special Assessments must be fixed at a uniform rate for all Members. Parcels or Lots designated as detention areas shall not be subject to Assessment.

9.5. Non-Payment of Assessments.

- a. Any Assessments, regular or special, which are not paid on the due date, shall be delinquent. Such delinquency shall be a continuing lien and an equitable charge running with the land touching and concerning said Lot so assessed, held by the then Owner or Owners, his heirs, devisees, personal representatives, assigns, successors and grantees.
- b. Should title to any Lot be held by more than one Owner, all Owners shall be jointly and severally liable. The lien shall attach to all rents due from parties in possession on any Lot on which a delinquent Assessment exists, provided that it shall be subordinate to an assignment of rents held by a mortgagee when delivered in connection with a first mortgage loan to purchase any Lot.
- c. Should any Assessment remain unpaid thirty (30) days after it has become delinquent, such Assessment shall bear interest from the date of delinquency at the pre-judgment rate of interest as provided by Illinois law.
- d. The Association may recover any delinquent Assessments by bringing an action at law or in equity against the then Owner personally obligated to pay the same or foreclose the lien against the Lot. Such recovery shall include interest, costs and reasonable attorneys' fees incurred in connection with any such action.

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- e. The venue for all actions at law provided for in this ARTICLE 9 shall be in Cook County, Illinois. The persons in possession of any Lot shall be authorized to accept summons on behalf of the Owner or Owners of such Lot.
- f. No Owner may waive or otherwise escape liability for the Assessments provided for herein by the non-use of the Lot.

9.6. Notice of Sale and Assessment Letter. Each Owner of a Parcel (excluding Declarant and Developer) who desires to sell a Parcel shall give to the Board (or to the Developer prior to the Turnover Date) a written notice of intent to sell, which notice shall serve as a request for the issuance of a letter ("Assessment Letter") with respect to the status of Assessments or charges levied pursuant to this Declaration. Not more than fourteen (14) days after receipt of such written notice, the Board (or the Developer, as the case may be) shall provide such Owner with an Assessment Letter showing: (i) any unpaid Assessments or charges levied pursuant to this Declaration; and (ii) the date through which payments have been made by Owner with respect to such Assessments or charges. Unless and until payment is made of all assessments or charges reflected on the Assessment Letter, any subsequent Owner shall take title subject to the lien created under the provisions of this ARTICLE 9; further, the Association shall have all rights and remedies of collection and enforcement of the lien created hereunder, including, but not limited to, the rights set forth in Paragraph 9.5 above. The Board may establish a reasonable fee for the preparation of the Assessment Letter; in such case, the aforesaid notice of each Owner of a Parcel shall be accompanied with payment of such fee.

9.7. Separate Accounts. The Board shall maintain such separate accounts as may be necessary to segregate funds relating to Membership and Assessments relating thereto.

9.8. No Waiver of Liability. No Owner may waive or otherwise escape liability for Assessments provided for herein by non-use of the Common Area or abandonment of his or her Parcel. Any claim by an Owner against the Association shall be separate action and shall not be used as a defense or counterclaim to an action by the Association to collect Assessments.

9.9. Subordination of the Lien to Mortgages. The lien of the Assessments provided herein shall be subordinate to the lien of any mortgage placed at any time on a Parcel by a *bona fide* mortgagee. Each holder of a mortgage on a Parcel which obtains title or comes into possession of that Parcel pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or by deed (or assignment) in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take title to the Parcel free of any claims for unpaid Assessments or charges which become payable prior to such acquisition of title, possession, or the filing of a suit to foreclose the mortgage.

9.10. Special Assessments. The Association is authorized to levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted, for the following purposes:

- a. defraying in full or in part the cost of any construction, reconstruction, repair or replacement of any improvements which are the responsibility of the Association, including without limitation the necessary fixtures, personal

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property or landscaping located on or related to improvements which are the responsibility of the Association, and all landscaping or other improvements thereon; and

- b. defraying in full or in part the cost of, and providing of funds to the Association, for carrying on any of its duties set forth in this Declaration or in its Articles of Incorporation or By Laws or the Illinois Not-For-Profit Corporation Act.

Any Special Assessments shall have the assent of a majority of the votes of the Members that are subject to such Special Assessment voting in person or by proxy at a meeting duly called for such purpose, at which a quorum is present, written notice of which shall be sent to all such Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting. Unless the Special Assessment specifies that it shall be applicable to a specified number of years, it shall be applicable only to the year enacted. In the event a Special Assessment is to be levied on less than all of the Lots located within the Property, such Special Assessment may, by the action described herein, be levied against only those Lots which benefit by such Special Assessment, in proportion to their benefit, and not against the other Lots in the Property.

9.11 Capital Contributions The Association is authorized to levy Capital Contributions against all Lots as provided herein. At the time of the initial sale of each Lot from Declarant, or its successors or assigns, to any Owner, such Owner shall pay to the Association a Capital Contribution, which shall be a sum equal to two (2) annual payments of the Maximum Annual Assessment then in effect. The Capital Contributions shall be used by the Association to cover operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws. The Capital Contributions for any Lot shall be levied only upon the sale by Declarant to an Owner and shall not be levied on any subsequent sales of the Lot.

ARTICLE 10

GENERAL PROVISIONS

10.1. Persons Entitled to Enforce Restrictions and Remedies for Violations. The provisions contained in this Declaration are binding and shall hereinafter run with the land and shall inure to the benefit of and be enforceable by the Developer, the Association, and the Owner of any Parcel subject to this Declaration, and each of their respective legal heirs, representatives, successors and assigns. If any Owner or persons in possession of any of said lots of Ashland Oaks Subdivision shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other Owner to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. The failure by any Owner to enforce any restriction, condition, covenant or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to any breach occurring prior or subsequent thereto.

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10.2. Expiration Date or Term. These restrictions and covenants are hereby declared to be covenants running with the land and shall be fully binding upon all persons acquiring a Parcel or Dwelling whether by descent, devise, purchase or otherwise, and any person by the acceptance of title to any Lot of the Ashland Oaks Subdivision shall thereby agree and covenant to abide by and fully perform the foregoing restrictions and covenants. These covenants are to run with the land and shall be binding for a period of twenty (20) years from the Effective Date; at the end of such period, said restrictions and covenants shall automatically be extended for a successive period of ten (10) years.

10.3. Construction and Severability. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for development for the Property. Whenever possible, each provision of this Declaration shall be interpreted in such manner to be effective and valid under applicable law, but, if any provision of this Declaration shall be unenforceable or shall be prohibited by, or be invalid under, applicable law, such provision shall be ineffective only to the extent of such unenforceability, prohibition, or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Declaration.

10.4. Assignments. Notwithstanding anything herein to the contrary, the Declarant/Developer, in its sole discretion, hereby reserves the right to transfer or assign, any and all of Declarant/Developer's respective privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of Cook County, Illinois. Upon such assignment, the assignee shall have the rights and privileges afforded the Declarant/Developer herein, and the Declarant/Developer shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of the Declarant/Developer shall have or incur any liability for the obligations or acts of any predecessor in interest.

10.5. Notices. Each Owner of a Parcel shall file the correct mailing address of such Owner with the Association and shall notify the Association promptly in writing of any subsequent change of address; provided, however, that if any Owner shall fail to so notify the Association, the mailing address for such Owner shall be the street address of the Parcel owned by such Owner. The Association shall maintain a file of such addresses. A written or printed notice, deposited in the United States mail, postage pre-paid, and addressed to any Owner at the last known address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner and shall be deemed delivered on the third (3) day after deposit in the United States mail.

10.6. Amendment. This Declaration may be amended by an instrument signed by Owners comprising not less than sixty-seven percent (67%) of the total votes collectively held by all Members with the written consent of mortgagees holding at least fifty-one percent (51%) of the outstanding mortgages on the Property. Any amendment that affects the rights and obligations of the Village of Homewood as set forth in this Declaration must be consented to in writing by the Village of Homewood. Any such amendment that has the effect of (i) terminating this Declaration or (ii) terminating the legal status of the Association shall require the written

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consent of mortgagees holding at least sixty-seven percent (67%) of the outstanding mortgages on the Property and any phases annexed thereto. Notwithstanding the foregoing, in the event Declarant desires to amend this Declaration: (x) to correct a technical or typographical error or to clarify any provisions herein which are otherwise vague, (y) for the sole purpose of causing this Declaration to comply with rules, regulation or guidelines as may be required by either the Federal Housing Authority (FHA) or the Veterans Administration (VA) to enable the sales of Lots from the Property to qualify for the insurance by either such agency of end mortgage loans made to Owners of such Lots, or as may be required to conform to the published manuals or guidelines of any governmental, quasi-governmental or private agency engaged in the business of the purchase of mortgage loans, including, but not limited to Federal Home Loan Mortgage Corporation (FHLMC) and Federal National Mortgage Association (FNMA) for the purchase of mortgage loans made on Lots, or (z) for the sole purpose of causing this Declaration to comply with the requirements of any statutes, ordinances, laws or regulations applicable thereto, it may do so by an instrument signed by Declarant without the consent of Owners or any mortgagees, but shall give notice of any such amendments to all Owners and all mortgagees of Lots who have requested the same in writing. The failure to give such notice shall not affect the validity or effectiveness of such amendment. Notwithstanding anything to the contrary within this Declaration, Article 3 and Article 6, and any related definition contained in Article 2, may not be amended without the consent of the Village of Homewood.

This Declaration is executed by Madison Homes Partnership, LLC, an Illinois limited liability company which hereby warrants that it possesses full power and authority to execute this instrument.

IN WITNESS WHEREOF, Madison Homes Partnership, LLC, an Illinois limited liability company has caused its name to be signed to these presents by its President, Ashland Oaks as of the day and year first written above.

MADISON HOMES PARTNERSHIP, LLC,
an Illinois limited liability company

By: _____

James L. Garofalo, Manager

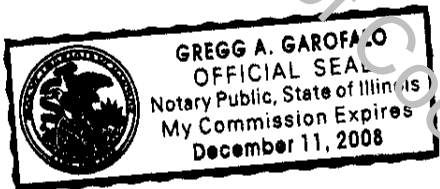
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ACKNOWLEDGEMENT

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

I, Gregg A. Garofalo, a Notary Public in and for said County in the State aforesaid, do hereby certify that James L. Garofalo, a Manager of MADISON HOMES PARTNERSHIP, LLC, an Illinois limited liability company, of said corporation personally known to me to be the same person whose name is subscribed to the foregoing instrument as the President, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal, this 1 day of July, 2006.



Gregg A. Garofalo

Notary Public

My Commission Expires:

12/11/08

CLERK OF COOK COUNTY Clerk's Office

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EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, AND 10 IN GERALD TIENSTRA ESTATE SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 7, IN W.K. GORE'S SUBDIVISION OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 32, TOWNSHIP 36 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AFFECTING PINS: 29-32-100-037-0000
29-32-100-039-0000
29-32-100-025-0000
29-32-100-036-0000

Property of Cook County Clerk's Office