



DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
DARROW LAKE HOMEOWNERS ASSOCIATION

Stow, Ohio

This Declaration of Covenants and Restrictions for Darrow Lake Homeowners Association (hereinafter the "Declaration") made and entered into as of this 22ND day of APRIL, 1998 by and between WHITLATCH & CO., an Ohio corporation (hereinafter the "Declarant"), and DARROW LAKE HOMEOWNERS ASSOCIATION, an Ohio Nonprofit Corporation (hereinafter referred to as the "Association"). Not parties to this Declaration, but referred to herein, are ROCKPORT COLONY CONDOMINIUM ASSOCIATION, an Ohio Nonprofit Corporation (hereinafter referred to as the "Rockport Colony Association"), HERITAGE FIREPLACE EQUIPMENT CO., INC., an Ohio corporation (hereinafter referred to as Heritage), BAYSIDE LAKES HOMEOWNERS ASSOCIATION, an Ohio nonprofit corporation (hereinafter referred to as the "Bayside Lakes Association"). The Rockport Colony Association, Heritage, and Bayside Lakes Association are hereinafter sometimes collectively referred to as the "Permitted Participants."

WITNESSETH:

WHEREAS, Declarant is the owner of the Westport Village/Bridgeport Commons Subdivision, as recorded as Instrument Number 54063300, Summit County Records, located on the south side of Norton Road in the City of Stow, Ohio and as shown in the drawing attached hereto as Exhibit "A", which contains Blocks "A", "B" and "C", upon which Declarant intends to create and develop condominium domains containing up to 195 residential Units, and which includes Block "D", which contains Darrow Lake; and

WHEREAS, Rockport Colony Condominium is an existing condominium domain containing 154 residential units located on the south side of Norton Road and immediately to the west of Declarant's Westport Village/Bridgeport Commons Subdivision in the City of Stow, Ohio, whose Common Areas and Facilities are owned by the condominium Unit Owners of Rockport Colony Condominium, all of whom are members of the Rockport Colony Association, such Common Areas and Facilities partially bordering on Darrow Lake to the east; and

WHEREAS, the Bayside Lakes Estates Subdivision is a single family subdivision containing 118 residential sublots located on the south side of Norton Road and immediately to the east of Declarant's Westport Village/Bridgeport Commons Subdivision in the City of Stow, Ohio, said subdivision is owned by Heritage and partially borders on Darrow Lake to the west, and is subject to a Declaration of Covenants and Restrictions which are granted to, and administered by the Bayside Lakes Association; and

WHEREAS, a Lake Easement Agreement was executed on November 12, 1992, and recorded at Volume O.R. 1143, Page 962 of the Summit County Records, by the then owners of the

APPROVED AS TO FORM

*[Signature]*  
Assistant Prosecuting Attorney  
Summit County, Ohio

TRANSFER NOT NECESSARY  
4-24-98

James B. McCarthy County Auditor

properties now owned by the Declarant and those now administered by the Permitted Participants, for the purpose of regulating the use and maintenance of Darrow Lake and to provide an area ten (10) feet in width along the perimeter of Darrow Lake solely for walking; and

WHEREAS, as a result of said Lake Easement Agreement, the Rockport Colony Association, is currently solely responsible for providing liability insurance coverage for Darrow Lake; is jointly responsible with Declarant for the maintenance, cleaning and complying with all laws, including environmental laws, relating to Darrow Lake and its use; and enjoys the benefit of a ten foot easement around the perimeter of Darrow Lake across the properties of both Declarant and Heritage; and

WHEREAS, as a result of said Lake Easement Agreement, the Declarant is jointly responsible with the Rockport Colony Association for the maintenance, cleaning and complying with all laws, including environmental laws, relating to Darrow Lake and its use; bears no responsibility for the provision of liability insurance for said Lake; enjoys no easement rights over the properties of either Rockport Colony Association or Heritage; and must bear the burden of and an easement provided to the Rockport Colony Association; and

WHEREAS, as a result of said Lake Easement Agreement, Heritage bears no responsibility for maintenance, cleaning, laws, or insurance for Darrow Lake; enjoys no easement rights over the properties of either Rockport Colony Association or Declarant; and must bear the burden of and an easement provided to the Rockport Colony Association; and

WHEREAS, Darrow Lake is an approximately 18 acre lake which is a common asset of the condominium domains to be created and developed by Declarant, of Rockport Colony Condominium, and of Bayside Lakes Subdivision (all of said properties owned by the Declarant or administered by the Permitted Participants are hereinafter referred to as the "Community"), and there is a common need for the Community to preserve and protect Darrow Lake, to provide for its maintenance and cleaning, to establish rules and regulations concerning its use, to make provisions for it to be jointly owned by the members of the condominium associations to be created by the Declarant, to be managed by an Ohio Nonprofit Corporation controlled by Declarant and the Permitted Participants, to provide protection from any and all liabilities associated with its ownership and use, and to assess the cost of said activities against all of the owners of residential units in the Community; and

WHEREAS, Declarant has established the Association, an Ohio Nonprofit Corporation, for the purpose of exercising the functions aforesaid; and

WHEREAS, the Association joins in the Declaration for the purpose of accepting the duties and responsibilities imposed upon it by the covenants and restrictions herein contained.

NOW THEREFORE, Declarant and the Association declare that the real property described in Article II, Section 1 (The Community), shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens contained in this Declaration and further specifies that this Declaration shall constitute covenants to run with the land and shall be binding upon Declarant and its successors and assigns, together with their grantees, and their successors, heirs, executors, administrators, or assigns.

**ARTICLE I**  
**DEFINITIONS**

Section 1. The following words when used in this Declaration shall have the following meanings (unless the context shall prohibit):

(a) "Association" shall mean and refer to the Darrow Lake Homeowners Association.

(b) "Declaration" shall mean and refer to this Declaration of Covenants and Restrictions for Darrow Lake Homeowners Association and any supplements or amendments thereto.

(c) "Community" shall mean and refer to the property subject to this Declaration and described in Article II, Section 1 hereof.

(d) "Community Association" shall mean all Condominium or Homeowners Associations comprised of or created by the Declarant or the Permitted Participants that govern any Lot or Living Unit within the Community, including all successors and assigns. These shall include the Rockport Colony Condominium Association, the Westport Village Condominium Association, the Bridgeport Commons Condominium Association, any Condominium or Homeowners Association to be created with respect to Block "C" of the Westport Village / Bridgeport Commons Subdivision, and the Bayside Lakes Homeowners Association. The Darrow Lake Homeowners Association shall not be within the definition of a Community Association.

(e) "Common Properties" shall mean any property managed by the Association and any structure or improvement thereon. This would include Block "D" of the Westport Village / Bridgeport Commons Subdivision and all easements over areas of the Community which run to the benefit of the Association.

(f) "Living Unit" shall mean any building, or any portion of a building located within the Community designed and intended for use and occupancy as a single family dwelling, and shall include any Proposed Living Unit as defined herein.

(g) "Lot" shall mean and refer to any subdivision of land shown upon any recorded Subdivision map of all or any portion of the Community described in Article II, Section 1 hereof, and shall include any Proposed Lot as defined herein.

(h) "Member" shall mean and refer to all persons or entities who are members of the Association as provided in Article III, Section 1 hereunder.

(i) "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot and/or Living Unit situated within the Community, but, shall not mean or refer to any mortgagee unless and until such mortgagee has acquired Fee Simple title pursuant to foreclosure or any proceeding in lieu of foreclosure.



(j) "Proposed Lot and/or Living Unit" shall mean and refer to a Lot and/or Living Unit proposed within the Community on preliminary plans submitted to the City of Stow, but not yet constructed, or units under construction where no preliminary plan has been submitted. The number of Proposed Lots and/or Living Units shall be as stated in Article III, Section 2, herein.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION**

**Section 1. The Community.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration (hereinafter referred to as "Community") is located in the City of Stow, Ohio and is described as being Blocks "A", "B", "C", and "D" of the Westport Village / Bridgeport Commons Subdivision as recorded as Instrument No. 54063300, Summit County Records, as shown on the drawing attached hereto as Exhibit "A", and includes all Units therein, the Common Areas and Facilities administered by the Westport Village Condominium Association, the Bridgeport Commons Condominium Association, and any Condominium or Homeowners Association to be created with respect to Block "C" of the Westport Village / Bridgeport Commons Subdivision, and Block "D" of the Westport Village / Bridgeport Commons Subdivision, the Darrow Lake Parcel.

The real property of the Permitted Participants is not part of the Community at the time of this Declaration, however said real property may be added to the Community, and thus shall be held, transferred, sold, conveyed and occupied subject to this Declaration, as permitted herein by Article III, Section 1.

**Section 2. Conflicting Laws, Etc.** It is intended by the Declarant, its successors and assigns, that this Declaration shall not in any way supersede, prevail or control over any laws, ordinances, rules and regulations now in effect or hereafter enacted by the City of Stow.

**Section 3. Ownership of Block "D".** Declarant, as owner of Block "D" of the Westport Village/Bridgeport Commons Subdivision, as recorded as Instrument No. 54063300 of Summit County Records, (the Darrow Lake parcel), who claims ownership by an instrument recorded as Instrument No. 54017994, Summit County Records, hereby declares and transfers ownership of said Block "D" as follows:

1. An undivided 30/195 interest in Block "D" of the Westport Village / Bridgeport Commons Subdivision ("Darrow Lake") to the owners of Block "A" of the Westport Village/Bridgeport Commons Subdivision (the Bridgeport Commons Condominium Unit Owners), who shall hold said interest as an interest in Common Areas and Facilities of the Bridgeport Commons Condominium in proportion to their Percentage of Ownership Interest in said Commons Areas and Facilities.
2. An undivided 67/195 interest in Block "D" of the Westport Village / Bridgeport Commons Subdivision ("Darrow Lake") to the owners of Block "B" of the Westport Village/Bridgeport Commons Subdivision (the Westport Village Condominium Unit



Owners), who shall hold said interest as an interest in Common Areas and Facilities of the Westport Village Condominium in proportion to their Percentage of Ownership Interest in said Commons Areas and Facilities.

3. Declarant, as the owner of Block "C" of the Westport Village/Bridgeport Commons Subdivision, retains an undivided 98/195 interest in Block "D" of the Westport Village / Bridgeport Commons Subdivision ("Darrow Lake"), which shall be transferred to Unit Owners as an interest in Common Areas and Facilities of any Condominium to be created by Declarant on Block "C", or which shall be transferred to any Homeowner's Association created by the Declarant which shall own Common Areas within Block "C".
4. If either or both of the Permitted Participants shall join the Association then a proportionate undivided interest shall be transferred to said Permitted Participant(s) either as an interest in Common Areas and Facilities if the Permitted Participant is a Condominium Association, or as an interest in fee simple if the Permitted Participant is a Homeowners Association. In such case, the Permitted Participant shall own an undivided interest in such proportion equal to a fraction the nominator being the total number of Lots or Living Units represented by the Permitted Participant, the denominator being the total number of Lots or Living Units then represented by all Members. All existing interests shall concurrently be reduced by substituting the newly derived denominator for the previous. (For example, if Rockport Colony Condominium were to join, representing 154 Living Unit Owners, the undivided interest in Block "D" transferred to the Common Areas and Facilities of Rockport Colony Condominiums would be 154 /349, and Declarant's interest as owner of Block "C" would be reduced to an undivided 98/349 interest.)

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Section 1.     Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot and/or Living Unit in the Community which is subject by covenants of record to Assessment by the Association shall be a Member of the Association and entitled to one vote, provided that any such person or entity who holds such interest merely as a security for the performance of any obligation shall not be a Member. When more than one (1) person holds such interest or interests in any Lot and/or Living Unit, all such persons shall be Members - but for quorum, voting, consenting, and all other rights of Membership, such person shall collectively be counted as a single Member and entitled to one (1) vote for each such Lot and/or Living Unit, which vote for such Lot and/or Living Unit shall be exercised as such persons deem among themselves. Each such Member shall be jointly and severally liable for the payment of the Assessments hereinafter provided with respect to such Lot and/or Living Unit.

Membership in the Association is open to the Permitted Participants as a right, and said Permitted Participants may not be denied Membership in the Association. It shall be the choice of each Permitted Participant whether to join the Association, and such decision shall be reached by each Permitted Participant in accordance with the terms of each Permitted Participant's Declaration,



By-Laws, Rules, and/or Regulations. There shall be no deadline by which the Permitted Participants shall be required to join the Association. If a Permitted Participant shall join the association, each and every person or entity who is a record Owner of a fee or undivided fee interest in any Lot and/or Living Unit within the community represented by the Community Association that is the joining Permitted Participants shall become subject by covenants of record to Assessment by the Association and shall become a Member of the Association and entitled to one vote on the same terms and conditions as set forth in this Section above for original Members of the Association, and said Members shall be subject to the same duties and enjoy the same rights as original Members. Upon joining the association, a Permitted Participant shall be transferred an undivided interest in Block "D" proportionate to the ratio the total number of existing or proposed Lots or Units in the Permitted Participant bears to the total number of proposed or existing Lots or Living Units then comprising the Association.

**Section 2**     Voting Rights.     Voting Rights shall be based upon existing and/or Proposed Lots and Living Units for the Community as follows:

•Whitlatch & Co. Property (Westport Village/Bridgeport Commons Subdivision)		
Westport Village Condominium. ....	67	Proposed Living Units / Votes
Bridgeport Commons Condominium .....	30	Proposed Living Units / Votes
Block "C".....	98	Proposed Living Units / Votes
TOTAL .....	195	Votes

If either of the Permitted Participants join the Association, the Voting Rights allocated to each shall be based upon the total number of existing and/or Proposed Lots and Living Units as follows, and said number shall be added to the total number of votes expressed above:

•Rockport Colony Condominiums .....	154	Existing Living Units/Votes
•Bayside Lakes Estates .....	118	Proposed Lots / Votes

**Section 3.**     Articles and Code of Regulations of the Association.     The Articles of Incorporation and Code of Regulations of the Association may contain any provisions not in conflict with this Declaration or any Supplemental Declaration, and as are permitted to be set forth in such Articles and Code of Regulations by the nonprofit corporation laws of the State of Ohio as they may be in effect from time to time.

#### **ARTICLE IV**

#### **DUTIES OF ASSOCIATION AND**

#### **COVENANTS FOR MAINTENANCE ASSESSMENTS**

**Section 1.**     Duties of the Association.     In addition to any other duties and responsibilities elsewhere herein set forth, the Association, acting through its Board of Trustees, shall: (a) promote the recreation, health, safety, and welfare of the members; (b) improve, operate, maintain and repair that property managed by the Association; (c) administer a ten (10) foot easement area along the perimeter of Darrow Lake provided for in the aforementioned Lake Easement Agreement; (d) collect Assessments (including Special Assessments as provided for

herein) from each Owner of a Lot and/or Living Unit as provided herein; (e) contract for services as required to enable the Association to discharge its duties and responsibilities as provided in this Declaration; (f) expend funds as required to enable the Association to discharge its duties and responsibilities as provided in this Declaration; and (g) perform such other services and take such other actions as are approved by the Association and are not inconsistent with this Declaration.

**Section 2. Creation of the Lien and Personal Obligation of Assessment.** The Declarant, from and after the execution of this Declaration, and each Owner of any Living Unit and/or Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to pay the Association, and the Association shall levy and collect: (a) reasonable General Assessments or charges; and (b) reasonable Special Assessments for capital improvements and other expenditures approved by the Association; such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Association shall levy and collect Assessments in such amounts as shall be sufficient to enable the Association to discharge its duties as provided in this Declaration. The General and Special Assessments, and costs of collection thereof as hereinafter provided, shall be a charge on each and every Lot and/or Living Unit and shall be a continuing lien upon said Lot and/or Living Unit against which each such Assessment is made. Each such Assessment, together with such interest and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment became due.

**Section 3. Purpose of Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of providing the Association with funds sufficient to enable the Association to discharge its duties and responsibilities as provided in this Declaration.

**Section 4. Basis and Maximum of Assessments.** The date of commencement of the General Assessments and the amount thereof shall be determined by the Trustees of the Association pursuant to Section 7 herein. The Assessment period shall be based on the calendar year. The Board of Trustees shall establish a Budget and set the Assessments for each year.

**Section 5. Special Assessments for Capital Improvements, Etc.** In addition to the General Assessments authorized by Section 3 hereof, the Association may levy in any Assessment year, or portion thereof, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any unexpected maintenance or repair of Darrow Lake, provided that any such Special Assessment shall have the assent of two-thirds (2/3) of the Board of Trustees.

The Assessments set out in Section 3 and 6 above are enforceable as provided by law or under Article IV, Section 9 of this Declaration.

**Section 6. Date of Commencement of Assessments.** The Assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Trustees of the Association to be the date of commencement, which date shall not be earlier than January 1, 1998.

The first Assessment shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The Assessments for any year, after the first year,

shall become due and payable on the first day of January of said year.

Assessments shall be paid yearly, semi-annually, quarterly or monthly as determined by the Trustees in a Resolution fixing same.

The due date of any Special Assessment under Section 7 hereof shall be fixed in the resolution authorizing such Assessments. Special Assessments shall be paid yearly, semi-annually, quarterly or monthly as determined by the Trustees in the Resolution fixing same.

All Assessments shall be apportioned by dividing the total sum thereof by the number of Lots or Living Units within the Community.

Section 7. Certain Duties of the Board of Trustees Regarding Assessments. The Board of Trustees of the Association shall fix the date of commencement and the amount of the Assessment against each Lot and/or Living Unit for each Assessment period at least thirty (30) days in advance of such date or period and shall at that time prepare a roster of the Owners of all Lots and/or Living Units within the Community and of all Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the Assessment shall thereupon be sent to every Owner.

The Association shall upon demand at any time furnish to any Owner liable for said Assessment a certificate in writing signed by an officer of the Association, setting forth whether any and/or all Assessments have been paid. Such certificate shall be conclusive evidence of any Assessment therein stated to have been paid.

Section 8. Assessments a Lien; Effect of Non-Payment of Assessment; Personal Obligation of the Owner; the Lien Remedies of the Association. All Assessments shall be a lien against the subject Lots and/or Living Units in the amount attributable thereto as hereinabove set forth from and after the date on which same are levied or assessed by the Trustees. If the Assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such Assessment shall become delinquent, together with interest therefor and costs of collection thereof as hereinafter provided.

If any installment of a General or Special Assessment is not paid within thirty (30) days after the due date, such delinquent Assessment or installment shall bear interest from the due date at the rate of twelve percent (12%) per annum, and the Association may after such thirty (30) day period bring an action at law against the Owner responsible for the payment of such Assessment, and may foreclose the lien, and in the event a judgment is obtained, such judgment shall include interest on the Assessment or installment amount as above provided, together with the costs of the action and reasonable attorney's fees in an amount to be determined by the court.

The personal obligation of the then Owner to pay such Assessments shall remain their personal obligation; provided, however, upon the Association's filing of a lien of record against the property, the same shall be enforceable against the Owner's successor in title, if not satisfied by the Owner.



Section 9. Subordination of the Lien to Primary Mortgagee. The lien of the Assessments provided for herein shall be subordinate to the lien of a first mortgage, if any, placed upon the Property subject to Assessment provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 10. Exempt Property. The following property shall be exempted from the Assessments and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated to and accepted by the City of Stow and devoted to public use; and (b) all properties of the City of Stow which are exempted from taxation by the laws of the State of Ohio.

## **ARTICLE V GENERAL RESTRICTIONS**

Section 1. Prohibited Uses. Boating, swimming, wading or any use requiring entry into Darrow Lake, and the construction, extension, or placement of any dock, pier, or structure into, onto, or within Darrow Lake is prohibited unless expressly approved by the Board of Trustees. Dumping of refuse or any other form of pollution into the Lake or the surrounding area is also prohibited.

Section 2. Establishment of Rules and Regulations. The Board of Trustees may establish further rules and regulations regarding the use and enjoyment of the Community.

## **ARTICLE VI PROPERTY RIGHTS IN THE COMMON PROPERTIES**

Section 1. Members' Easement of Enjoyment. Subject to the provisions of Section 2 below, every Member, or instead of said Member their tenant or lessee, who is in residence upon said Member's Lot and/or Living Unit shall have for them self and their immediate household and guests, as permitted by the Rules and Regulations, a right and easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit.

Section 2. Extent of Members' Easements. The rights and easements of enjoyment created by this Article VI shall be subject to the following:

(a) The right of the Association to adopt and enforce uniform rules and regulations governing the use of the Common Properties, including the right to levy fines for violations of these rules and regulations;

(b) The right of the Association to take steps as are reasonably necessary to protect the common properties against foreclosure; and

(c) The right of the Association to limit the number of guests of Members in or upon the Common Properties or any buildings or facilities thereon.

**ARTICLE VII**  
**BREACH OF COVENANTS AND RESTRICTIONS**

**Section 1. Breach of Covenants and Restrictions - Condominium Property and Subdivision.** When any breach occurs within a Condominium or other Homeowners Association within the Community, the respective Condominium Association or other Homeowners Association, through its Board of Managers or the Board of Trustees, shall have the primary responsibility for correcting said breach. If, however, the Condominium Association or other Homeowners Association fails to correct said breach or take appropriate timely action toward correction of said breach, the Association, through its Trustees, may pursue correction of said breach by legal and/or equitable action against the Owner of the Lot and/or Living Unit, the Condominium Association, or the other Homeowners Association, or all or any of them.

**Section 2. Breach of Covenants and Restrictions - Remedy.** If the Trustees, after giving reasonable notice to the Owner of a Lot and/or Living Unit, or the Board of Managers of a Condominium or Trustees of a Homeowners Association, and providing for reasonable opportunity for such Owner, or Board of Managers, or Trustees of another Homeowners Association to be heard, determine by the affirmative vote of two-thirds (2/3) of the authorized number of Trustees that a breach of any protective Covenant or Restriction has occurred, then, after giving such Owner, Board of Managers or Trustees of another Homeowners Association notice of such determination by certified mail, the Association, through its duly authorized agents or employees, may act to correct such breach of covenant by any legal and/or equitable means. The cost of such correction of a breach of covenant shall be assessed against the Lot, Living Unit, Condominium or other Homeowners Association upon which such corrective action is instituted, and shall become a lien upon such Lot, Living Unit, Condominium or other Homeowners Association, and the obligation of the Owner, Board of Managers, or Trustee of such other Homeowners Association, and shall become immediately due and payable, all as provided in Article IV hereof.

Any Owner of a Lot, Living Unit, Board of Managers of a Condominium, or Trustees of another Homeowners Association affected by such a determination of the Trustees to correct a breach of any Covenant or Restriction pursuant to this Section may, within ten (10) days after the date of the mailing of the certified mail notice of such determination, appeal such determination to the Members by sending a Notice of Appeal to the President or Secretary of the Association by registered or certified mail at the address of such officer as it appears on the records of the Association at the time of such mailing. No action shall be taken or authorized by the Association pursuant to any such determination until ten (10) days have elapsed from the date the certified mail notice to the Owner, Board of Managers, or Trustees of another Homeowners Association was received.

If a Notice of Appeal has not been received by the President or Secretary of the Association (or other officer of the Association in the absence of the President or Secretary) within such ten (10) day period, then the Association may take, or authorize the taking of action pursuant to such determination; but, if within such period a Notice of Appeal has been received, or if after such period but before the taking of such action a Notice of Appeal is received which has been mailed within such ten (10) day period, then no action shall be taken pursuant to such determination until such

determination has been confirmed at a meeting of the Members by the affirmative vote of Members entitled to exercise a majority of the voting power of the Association, provided that written notice shall be given to all Members at least thirty (30) days in advance of the date of such meeting, stating that such determination and Notice of Appeal will be considered and voted upon at such meeting.

In the event that a majority of the voting power of the Members of the Association does not attend the meeting, the affirmative vote of two-thirds (2/3) of those Members in attendance shall constitute a quorum and shall govern.

Section 3. Additional Remedies for Breach of Covenants and Restrictions. Each Owner of a Lot and/or Living Unit, each Condominium, or other Homeowners Association shall comply with the provisions of this Declaration, and the decisions and resolutions of the Association, as they may be lawfully adopted and/or amended from time to time. Failure to comply with such provision, decision or resolution shall be grounds for an action for damages or for injunctive relief, or both, brought by the Association, by an Owner of a Lot and/or Living Unit, the Board of Managers of a Condominium, or the Board of Trustees of another Homeowners Association.

## **ARTICLE VIII** **INSURANCE**

Section 1. Authorization. The Community Associations representing the Members of the Association, whether created by the Declarant or the Permitted Participants, shall each obtain insurance for all insurable improvements on the Common Properties. Insurance coverage for the Common Properties shall be included as coverage of an "incidental use" in all insurance policies carried by the Community Associations on their respective properties owned within the Community. These insurance policies shall recognize the varying, undivided, percentage of ownership interest in Block "D" by the Community Associations. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief and shall be in an aggregate amount sufficient to cover the full replacement cost of any repair or reconstruction of the Common Properties in the event of damage or destruction from any such hazard. Alternatively, the Community Associations may purchase "all-risk" coverage in like amounts.

The Community Associations shall also, in a like manner, obtain public liability insurance applicable to the Common Properties covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and directors' and officers' liability insurance for the Trustees. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000). Premiums for all insurance shall be an expense of the individual Community Associations and shall not be an Association Expense. Certificates of Insurance showing the Association as an Additional Insured shall be delivered to the Association by the Community Associations and shall be kept current at all times. All such insurance coverage obtained by the Community Associations that covers the Common Properties and improvements thereon shall be written in the name of the respective Community Associations, and shall be for the benefit of the Owner of any Lot and Living Unit.

Section 2. Insurance Provisions.

(a) Exclusive authority to adjust losses covering the Common Properties under policies obtained by the Community Associations shall be vested in the Trustees of the Association; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(b) In no event shall the insurance coverage obtained and maintained by the Community Associations hereunder be brought into contribution with insurance purchased by an Owner of a Lot and/or Living Unit, their occupants, or their mortgagees; and the insurance carried by the Community Associations shall be primary.

(c) All casualty insurance policies shall have an inflation guard endorsement and an agreed replacement amount endorsement if these are reasonably available, and all insurance policies shall be reviewed annually by the Trustees and one (1) or more qualified advisors selected by the Trustees.

(d) The Trustees of the constituent Community Associations shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Association, its Trustees and its manager; any Condominium and its Board of Managers, or any other Homeowners Association and its Board of Trustees and their managers; the Owners and their respective tenants, servants, agents, and guests; and

(ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cash; and

(iii) That no policy may be canceled, invalidated, or suspended on account of the actions of any one (1) or more Owners; and

(iv) That no policy may be canceled, invalidated, or suspended on account of any act or failure to act on the part of any Trustee, officer, or employee of the Association or any Condominium or other Homeowners Association, or their duly authorized managers, without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, any Condominium, other Homeowners Association, Board of Managers, Board of Trustees, managers, any Owner or mortgagee; and

(v) That any "other insurance" clause in any policy exclude individual Owners' policies and the policies of any Condominium or other Homeowners Association from consideration; and

(vi) That no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association.

**ARTICLE IX**  
**BOARD OF TRUSTEES**

**Section 1. Membership.** The Board of Trustees shall be made up of nine (9) representatives from the Community as follows: three (3) members of the Westport Village Condominium Association, three (3) members of the Bridgeport Colony Condominium Association, and three (3) members of the Condominium Association to be formed in conjunction with the development of Declarant's Block "C". (Until such time as a Condominium Association is formed in conjunction with the development of Declarant's Block "C", representatives of the Declarant shall serve in these Trustee positions). The officers of the Association shall be a President, Vice President, Secretary and Treasurer. The President, Vice President, Secretary and Treasurer shall be elected by the Board of Trustees from among the Trustees. If any Permitted Participant shall join the Association, each Permitted Participant shall appoint three (3) members of the Permitted Participant's Community Association to the Board of Trustees, and, accordingly, the total number of Trustees shall be increased by three (3) for each Permitted Participant to join the Association.

**Section 2. Duties.** In addition to administering the Association and attending to the maintenance of the Common Properties and any other easements, property rights and any other rights or duties hereby or subsequently granted or assumed by the Association, the Trustees may adopt By-Laws governing the actions of the Trustees, officers, and the Members of the Association. Additionally, The Trustees of the Association shall fix the amount of Assessment against each Lot and/or Living Unit as provided in Article IV herein.

**ARTICLE X**  
**DURATION, WAIVER AND MODIFICATION**

**Section 1. Duration and Provision for Periodic Modification.** This Declaration and any amendments hereto shall run with the land and shall inure to the benefit of and be enforceable by and against the Association, the Declarant and any Owner, and their respective legal representatives, heirs, devisees, successors and assigns.

**Section 2. Other Modifications.** This Declaration may be modified effective on the ninetieth (90th) day following a meeting of the Members held for such purposes, by the affirmative vote of Members entitled to exercise seventy-five percent (75%) of the voting power of the Association, provided that written notice shall be given to every Member at least sixty (60) days in advance of the date of such meeting, stating that such modification will be considered at such meeting. Promptly following the meeting at which such modification or cancellation is enacted, the President and Secretary of the Association shall execute and record an instrument reciting such modification or cancellation and mail a copy to each Member.

**ARTICLE XI**  
**GENERAL PROVISIONS**

**Section 1. Duration.** The covenants and restrictions of this Declaration and any Supplemental Declaration shall run with the land and shall inure to the benefit of and be enforced



by and against the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a period of twenty-five (25) years from the date of recording of this Declaration, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots and Living Units has been recorded, agreeing to terminate said covenants and restrictions.

Section 2. Notices. Any notices required to be given in writing to any Member or Owner under the provisions of this Declaration shall be deemed to have been given when mailed, postpaid, to the tax mailing address of any Owner.

Section 3. Enforcement. Enforcement of the Covenants and Restrictions of this Declaration, any Supplemental Declaration or any amendment hereto, shall be by proceeding at law or in equity against any entity, person or Owner violating or attempting to violate any provision of this Declaration, either to restrain violation or to recover damages, or both, and against any Lot to enforce any lien created by the covenants and restrictions of this Declaration. Failure by the Declarant, Participants, Association, any Owner, or the City of Stow to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Amendment of Certain Restrictions and Covenants. Any provision of this Declaration may be amended or repealed only by the affirmative vote of Members holding not less than sixty-six and two-thirds percent (66 2/3%) of the voting power of the Association.

Section 6. In the event the Association fails to collect Assessments and otherwise function to perform its duties under these covenants and restrictions, the City of Stow shall have the right, but not the duty, to collect such Assessments which should have been done by the Association and as are necessary to perform the above duties and utilize such revenues to perform those functions not performed by the Association. For the purpose of collection and utilization, the City of Stow shall have the rights of the Declarant, Participants or Association, but shall not be obligated in any way unless it undertakes to collect Assessments.

IN WITNESS WHEREOF, the said undersigned have hereunto set their names on the date first set forth.

SIGNED AND ACKNOWLEDGED  
IN THE PRESENCE OF:

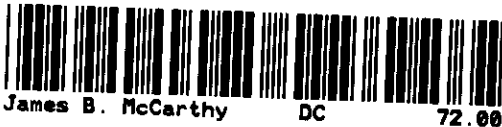
Denise McCole  
PRINT: Denise M. Cole

Joan Erskine  
PRINT: JOAN ERSKINE

WHITLATCH & CO.

BY:

Donald L. Martin  
DONALD L. MARTIN,  
Secretary & General Counsel



DARROW LAKE HOMEOWNERS  
ASSOCIATION

Denise M Cole  
PRINT: Denise M. Cole

BY: Mark J. Stockman  
MARK J. STOCKMAN, Trustee

PRINT:

BY: Lynn Harlan  
LYNN HARLAN, Trustee

STATE OF OHIO                    )  
  )    SS.  
COUNTY OF SUMMIT            )

Before me, a Notary Public in and for said county and state, personally appeared the above-named WHITLATCH & CO., by DONALD L. MARTIN, its Secretary, who acknowledged before me that he did sign the foregoing instrument and that the same is his free act and deed, personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at Twinsburg Ohio, this 22<sup>nd</sup> day of April, 1998.

Denise M Cole  
Notary Public

STATE OF OHIO                    )  
  )    SS.  
COUNTY OF SUMMIT)

**DENISE M. COLE**  
Notary Public - State of Ohio  
Recorded in Summit County  
My Commission Expires May 12, 2002

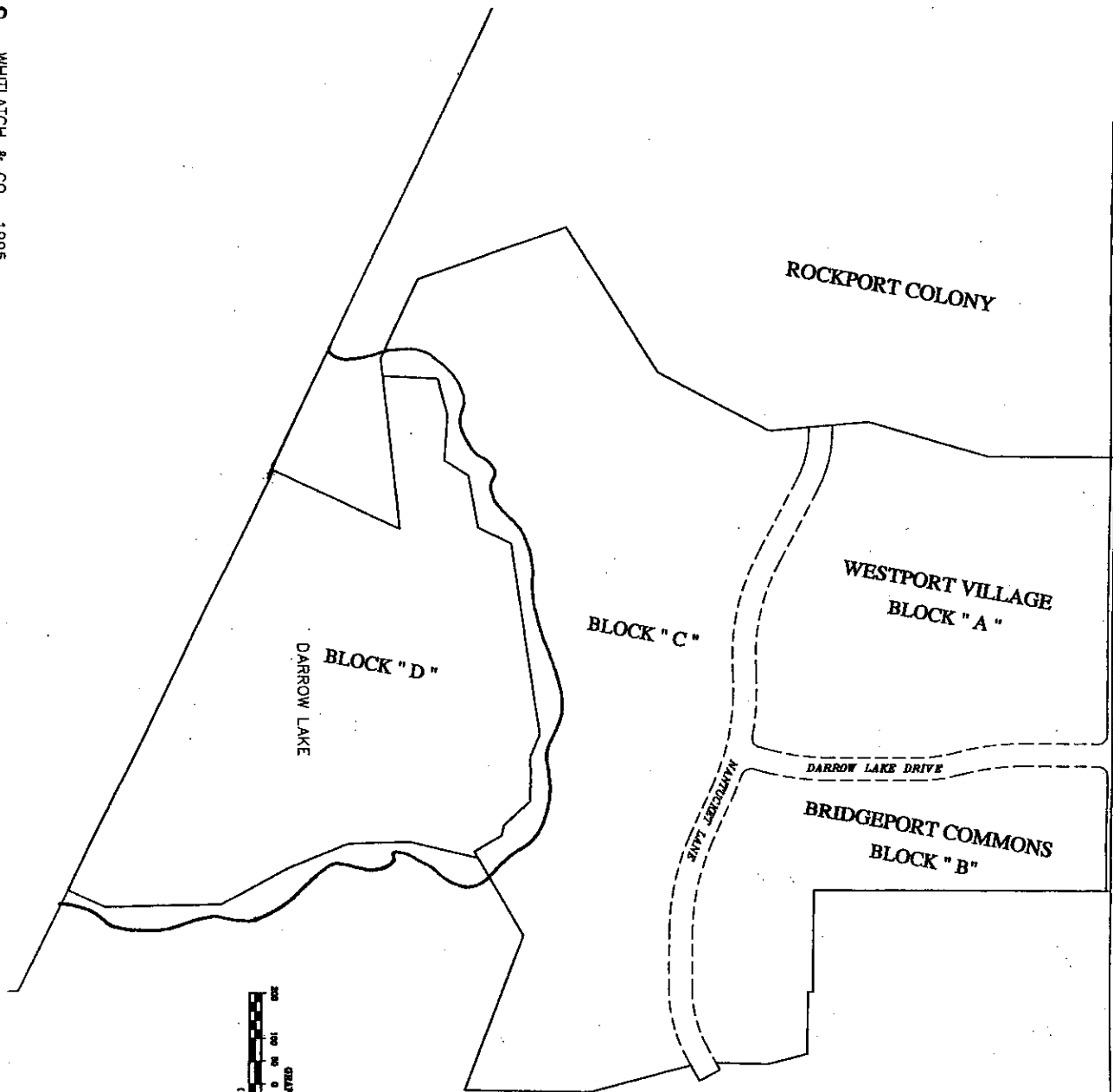
Before me, a Notary Public in and for said county and state, personally appeared the above-named DARROW LAKE HOMEOWNERS ASSOCIATION, by MARK J. STOCKMAN and LYNN HARLAN, Trustees, who acknowledged before me that they did sign the foregoing instrument and that the same is their free act and deed, personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at Twinsburg Ohio, this 22<sup>nd</sup> day of April, 1998.

Denise M Cole  
Notary Public

THIS INSTRUMENT WAS PREPARED BY:  
Mark J. Stockman  
Attorney-at-Law  
10800 Ravenna Road  
Twinsburg, Ohio 44087  
(330) 425-3500

**DENISE M. COLE**  
Notary Public - State of Ohio  
Recorded in Summit County  
My Commission Expires May 12, 2002



WHITLATCH & CO.  
WESTPORT VILLAGE / BRIDGEPORT COMMONS  
SUBDIVISION

BLOCK "A"	10.7951 ACRES
BLOCK "B"	7.0216 ACRES
BLOCK "C"	19.7342 ACRES
BLOCK "D"	14.9726 ACRES
ROADWAYS	2.8168 ACRES
TOTAL ACREAGE	55.3403 ACRES



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EXHIBIT "A"