

FWPC

Exhibit "C"

**DECLARATION OF SUBDIVISION**

**ESTABLISHING COVENANTS,  
CONDITIONS, AND RESTRICTIONS  
FOR THE PROJECT KNOWN AS**

**ROSEWOOD CREEK SUBDIVISION**

Prepared by:

**Michael A. Staudt  
FAULKNER, GARMHAUSEN, KEISTER & SHENK  
A Legal Professional Association  
Courtview Center - Suite 300  
100 South Main Avenue  
Sidney, OH 45365  
937/492-1271**

TABLE OF CONTENTS

ARTICLE I. HOMEOWNERS ASSOCIATION.....	2
1.1 Organization .....	2
1.2 Membership.....	2
1.3 Voting Rights .....	2
1.4 Administration of Subdivision.....	2
1.5 Delegation to Managing Agent .....	2
1.6 Rights of Developer.....	2
ARTICLE II. MAINTENANCE OF COMMON AREA .....	2
2.1 Common Areas .....	2
2.2 Maintenance of Common Areas .....	3
2.3 Owner's Easement of Enjoyment.....	3
2.4 Easement for Maintenance .....	3
2.5 Inspection by City of Tipp City .....	3
2.6 Regulations of Common Areas.....	3
2.7 Signage Area Easement.....	4
ARTICLE III. ASSESSMENTS.....	4
3.1 Lien and Personal Obligation of Assessments .....	4
3.2 Purpose of Assessments .....	4
3.3 Amount of Annual Assessment.....	4
3.4 Special Assessments for Maintenance Improvements.....	4
3.5 Advancements by Developer.....	4
3.6 Commencement and Collection of Assessments .....	4
3.7 Effect of Nonpayment of Assessments; Remedies of the Association.....	4
3.8 Subordination of Assessment Lien to Mortgages .....	5
ARTICLE IV. INSURANCE.....	5
4.1 Liability Insurance for Common Areas.....	5
4.2 Additional Insurance.....	5
4.3 Insurance Costs To Be General Expenses .....	5
ARTICLE V. ARCHITECTURAL CONTROL.....	5
5.1 Creation of Architectural Committee.....	5
5.2 Developer Appointments.....	5
5.3 Committee Approval .....	5
5.4 Rules.....	6
5.5 Approval of Committee; How Evidenced .....	6
5.6 Responsibility.....	6
5.7 Construction by Developer.....	6
5.8 Grading of Lots by Developer .....	6
ARTICLE VI. ANNEXATION OF ADDITIONAL PROPERTY.....	6
6.1 Contemplated Annexation by Developer .....	6
6.2 Reservation of Right to Amend Declaration .....	6
6.3 Consent and Approval for Annexation Amendments .....	6
ARTICLE VII. PROTECTIVE COVENANTS AND RESTRICTIONS.....	7
7.1 Applicability of Zoning Regulations and Ordinances .....	7
7.2 Residential Purposes.....	7
7.3 Lot Subdivision and Building Sites .....	7
7.4 Building Setbacks.....	7
7.5 Site Line Easements.....	7
7.6 Lot Maintenance.....	7

7.7	Garbage Containers .....	8
7.8	Fuel Containers.....	8
7.9	Signs.....	8
7.10	Utilities.....	8
7.11	Landscaping .....	8
7.12	Trees Prohibited in Utility Easement .....	8
7.13	Lawn Watering and Irrigation.....	8
7.14	Completion of Construction .....	8
7.15	Fences and Hedges .....	9
7.16	Drainage.....	9
7.17	Storm Water Drainage Restriction .....	9
7.18	Sump Pump Effluent.....	10
7.19	Animals .....	10
7.20	Outbuildings and Structures .....	10
7.21	Sidewalks .....	10
7.22	Vehicles.....	10
7.23	Parking.....	11
7.24	Size of Residence .....	11
7.25	Construction Materials .....	11
7.26	Driveway Entrance Restrictions .....	12
7.27	Shared Driveway Access and Maintenance Easement.....	12
7.28	Garage.....	12
7.29	Solar Panels .....	12
7.30	Antennas and Satellite Dishes.....	12
7.31	Vents.....	12
7.32	Swimming Pools.....	12
7.33	Mailboxes .....	12
7.34	Driveways.....	12
7.35	Clothes Lines .....	12
7.36	Basketball Goals .....	12
7.37	Nuisances.....	12
7.38	Repairs.....	12
7.39	Wells Prohibited .....	12
7.40	Motorized Boats .....	12
7.41	Alteration of Pond Bank Prohibited .....	13
7.42	Tipp City Maintenance.....	13
7.43	Erosion Control .....	13
7.44	Foundations.....	13
ARTICLE VIII. EASEMENTS FOR UTILITIES .....		13
ARTICLE IX. ENFORCEMENT .....		13
ARTICLE X. LOT OWNER ACCEPTANCE .....		14
ARTICLE XI. TERM AND MODIFICATION.....		14
ARTICLE XII. SEVERABILITY.....		14
ARTICLE XIII. ASSOCIATION ADDRESS.....		14
ARTICLE XIV. MISCELLANEOUS PROVISIONS.....		14
14.1	Finality of Association and Developer Decisions .....	14
14.2	Non-Liability.....	14
14.3	Rules and Regulations.....	14
14.4	Rights of Developer .....	15

## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

ROSEWOOD CREEK, LLC, an Ohio limited liability company ("Developer"), is the owner in fee simple of certain real property located in the City of Tipp City, Miami County, Ohio, known by official plat description as Rosewood Creek Subdivision Section One, pursuant to a record plan filed for record on \_\_\_\_\_, in Plat Book \_\_\_\_, Page \_\_\_\_\_, of the Miami County, Ohio Plat Records ("Subdivision"), the legal description of which real property is attached hereto as "Exhibit A."

For the purpose of enhancing and protecting the value, attractiveness, and desirability of the Lots constituting the Subdivision, Developer hereby declares that all of the real property described above together with such additional property as may be added to the Subdivision pursuant to Article VI of the Declaration, and each part thereof shall be held, sold, and conveyed subject to the following easements, covenants, conditions, and restrictions, which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the above-described property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof. This Agreement and the easements, covenants, conditions, and restrictions set forth in this Declaration shall not be binding upon any other land owned by Developer other than the land contained within the Lots in the Subdivision, even though the other land may be contiguous with the land in the Subdivision.

### DEFINITIONS

1. "Association" shall mean and refer to Rosewood Creek Homeowner's Association, Inc., an Ohio non-profit corporation, its successors and assigns.
2. "Developer" shall mean Rosewood Creek, LLC, and its successors and assigns, provided that the rights specifically reserved to Developer under this Declaration shall accrue only to such successors and assigns as are designated in writing by Developer as successors and assigns of such rights.
3. "Common Areas" shall mean the real property referred to in Exhibit B attached hereto which is referred to as the "Green Space" together with all wet ponds, streams, fitness trails, and improvements located within or on such Green Space all of which is to be maintained by the Association together with any Signage Area designated in connection with any lot. Common Areas shall also include all streets, curbs, and gutters constructed in the Subdivision until such time as the dedication of such improvements are accepted by the City of Tipp City.
4. "General Expenses" shall include all expenses incurred by the Association to maintain its existence and the maintenance and control of the Common Areas, including, but not limited to any storm water retention ponds; fountain equipment; trees and landscaping; stream and drainage areas; walking paths; walking bridges; signs; and any other improvements which may be located upon the Common Areas, and shall also include any other costs incurred by the Association in the performance of its duty pursuant to this Declaration. General Expenses shall also include all expenses incurred by the Association to maintain the streets, curbs, and gutters constructed in the Subdivision until such time as the dedication of such improvements are accepted by the City of Tipp City, which expenses shall include, but are not limited to, expenses for the cleaning and snow plowing of streets within the Subdivision.
5. "Lot" shall mean any plot of land shown on any recorded subdivision map of the property. Notwithstanding the foregoing, Lot \_\_\_\_\_ (consisting of approximately 12 acres) shall not be subject to the terms and conditions of this Declaration except for the provisions of Section 7.1 of this Declaration and when such lot is developed it shall be replatted in accordance with the City of Tipp City process.
6. "Member" shall mean every person or entity who holds membership in the Association.
7. "Mortgage" shall mean a conventional mortgage or a deed of trust.

8. "Mortgagee" shall mean a holder of a conventional mortgage or a beneficiary under or holder of a deed of trust.

9. "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the property, and shall include contract sellers, but shall not include those holding title merely as security for performance of an obligation.

10. "Subdivision" shall mean the property, the legal description of which is attached hereto as "Exhibit A" and such additional property as may be subjected to the provisions of this Declaration from time to time.

#### ARTICLE I. HOMEOWNERS ASSOCIATION

1.1 Organization. The Association was formed as an Ohio not-for-profit corporation pursuant to the provisions of Chapter 1702 of the Ohio Revised Code by the filing of its Articles of Incorporation with the Secretary of State of Ohio. The Articles of Incorporation and the Regulations of the Association are attached to and made a part of this Declaration and are marked Exhibits "C" and "D," respectively.

1.2 Membership. Every Owner of a Lot shall be a member of the Association; membership shall be appurtenant to and may not be separated from ownership of a Lot.

1.3 Voting Rights. Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a given Lot, all such persons shall be members and the vote for such Lot shall be exercised as they may determine among themselves. In no event shall more than one vote be cast with respect to any Lot except that Developer shall be entitled to exercise three (3) votes for each Lot owned by Developer.

1.4 Administration of Subdivision. The administration of the Subdivision shall be in accordance with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and such rules and regulations as are duly adopted by the Association from time to time. Each Owner, tenant, or occupant of a Lot shall comply with the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and such rules and regulations.

1.5 Delegation to Managing Agent. The Association may delegate all or any portion of its authority to discharge its responsibility to a managing agent, subject to the following limitations:

(a) Any such delegation shall be by written contract with a term of no longer than one (1) year in duration;

(b) Any such contract shall be terminable by either party without cause upon sixty (60) days written notice without any termination charges or other penalties.

1.6 Rights of Developer. Notwithstanding the provisions of Section 1.3 of this Article, the powers, rights, duties, and functions of the Association shall be exercised by a Board of Trustees selected solely by the Developer until such time as a special meeting of the Members is called by the Trustees which shall be held within one hundred eighty (180) days after the Closing of the sale of all Lots in the Subdivision by the Developer, or until Developer waives such requirement by calling a special meeting of Members for the purpose of relinquishing such rights, whichever shall first occur.

#### ARTICLE II. MAINTENANCE OF COMMON AREA

2.1 Common Areas. The Common Area may include storm water retention ponds; fountain equipment; trees and landscaping; grass areas; stream and drainage areas; walking paths; walking bridges; signs identifying the subdivision; and other improvements. The Common Area shall also include all streets, curbs, and gutters constructed in the Subdivision until such time as the dedication of such improvements are accepted by the City of Tipp City.

2.2 Maintenance of Common Areas. The Association shall be responsible for the maintenance and control of the Common Areas.

The cost to the Association in performing its duties under this section shall be assessed against the Lots in the Subdivision as a General Expense in the manner set forth in Article III of this Declaration.

The Association shall maintain the Common Areas in such manner to allow storm water to accumulate in and/or discharge regularly from the storm water retention and detention facilities. The maintenance responsibilities of the Association shall include, but are not limited to, the following:

(a) The Association shall be responsible for the removal of any debris and sediment in the storm water retention and detention facility.

(b) The Association shall be responsible for keeping any inflow and discharge pipes associated with any such facility free from obstruction.

(c) The Association shall be responsible for routine mowing and maintenance of the grounds within the Common Areas not covered with water.

(d) The Association shall have the power and duty to keep the Common Areas free from debris and obstructions, to remove any obstruction which may be placed in the Common Areas and to take such other corrective action as may be necessary to permit proper drainage, retention, and detention of storm water through the Subdivision.

(e) The Association shall be responsible for the maintenance of the streets, curbs, and gutters constructed in the Subdivision until such time as the dedication of such improvements are accepted by the City of Tipp City, which maintenance shall include, but is not limited to, the cleaning and snow plowing of the streets.

(f) The Association shall be responsible for the maintenance of all improvements within the Common Areas, including, but not limited to, fountain equipment, trees, and landscaping, walking bridges, and signs identifying the Subdivision.

2.3 Owner's Easement of Enjoyment. Every Owner of a Lot which includes any portion of the Common Areas shall have an easement of use and enjoyment in and to that portion of the Common Areas located on the Lot. No other Owners may have access to any Common Areas located on the Lot of another Owner. The easement for enjoyment shall be subject to any restrictions and limitations in this Declaration.

2.4 Easement for Maintenance. The Association shall have an easement over, under, and through all Lots and Common Areas, for ingress and egress and to allow the Association to perform its maintenance duties and other obligations and exercise its rights as set forth in this Declaration.

2.5 Inspection by City of Tipp City. The City of Tipp City shall have the permanent and irrevocable right and authority to inspect and monitor such Common Areas as are developed under this plan. In the event that the facilities are not properly constructed or maintained, upon the failure of the Developer or the Association to take corrective action after being duly notified in writing, the City shall have the right, but not the obligation to take whatever action is necessary to correct any improper construction, maintenance, or operational functions; provided, however, that the Developer and/or the Association shall first have a reasonable period of time, taking into account the urgency of the matter, to take corrective action. Any cost incurred by the City of Tipp City for such maintenance may be assessed to the Association or, if the Association has ceased to exist, against individual lots in accordance with Article III of this Declaration.

2.6 Regulations of Common Areas. The Association shall have the right to establish rules regarding the use of any portion of the Common Areas, provided such rules are not in conflict with any provision contained in this Declaration, and are reasonably established to protect the safety and welfare of the Owners and their guests, or are established to assure the continued service of the Common Areas for the purpose for which they were designed.

2.7 Signage Area Easement. Every Owner or Lot on which signage is located hereby grants, conveys, and assigns to the Association an easement and right-of-way over the Lot for purposes of access to signage and for performing any landscaping, maintenance, and/or repair to such signage and signage area.

### ARTICLE III. ASSESSMENTS

3.1 Lien and Personal Obligation of Assessments. Developer hereby covenants for each Lot within the Subdivision, and each Owner of a Lot is hereby deemed to covenant by acceptance of the deed for such Lot, whether or not it shall be so expressed in the deed, to pay to the Association (a) annual assessments, and (b) special assessments for maintenance and capital improvements. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees incurred by the Association to collect such assessments shall be a charge on the land and a continuing lien on each Lot against which such an assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person or persons who owned the Lot at the time the assessment fell due.

3.2 Purpose of Assessments. The assessments levied by the Association shall be to pay for the General Expenses incurred: (a) to promote the health, safety, and welfare of the residents in the Subdivision; (b) for the improvement and maintenance of the Common Areas situated within the Subdivision; and (c) for such other purposes as may be determined by the Board of Trustees of the Association.

3.3 Amount of Annual Assessment. The Board of Trustees shall be empowered to levy, assess, and collect from the Owner of each and every Lot in the Subdivision, excepting those Lots owned by the Developer, an annual assessment (which shall initially be in the sum of \$300 per year). The amount of the annual assessment may be decreased or increased by the Board of Trustees in such amounts as the Board of Trustees determines to be necessary or desirable to meet the needs of the Association. Records reflecting the total amount of assessments collected by the Association, together with costs and expenses incurred by the Association, shall be made available for inspection by Members no less frequently than on a quarterly basis during ordinary business hours.

3.4 Special Assessments for Maintenance Improvements. In addition to the annual assessments authorized above, the Board of Trustees may levy special assessments for the purpose of defraying in whole or in part, the cost of any maintenance, construction, repair, or replacement of improvements on the Common Areas, including fixtures and personal property related thereto, or the acquisition of any item of capital asset by the Association. Any such assessment must be approved by a majority of the Members.

3.5 Advancements by Developer. Developer recognizes that until a sufficient number of Lots are conveyed to Owners, the expenses of the Association to maintain the Common Areas may be greater than the amount assessed. Developer, at its option, may advance funds to the Association in such amounts as are appropriate to pay the expenses of the Association. Such advances shall be recognized by the Board of Trustees of the Association as a loan repayable at such time and in such installment amounts, together with reasonable interest, as Developer shall determine; it being Developer's intention to permit the Association to operate and maintain the Common Areas for the benefit of all Members in the early phases of the Subdivision.

3.6 Commencement and Collection of Assessments. Assessments provided for herein shall commence at such time and shall be payable on such terms as established by the Board of Trustees of the Association. Notice of assessments shall be sent to every Owner subject thereto. The Association shall, on demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether the assessments against a specific Lot have been paid, and may cause to be recorded in the public records of Miami County, Ohio, a list of delinquent assessments.

3.7 Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be deemed in default and shall bear interest from the due date at the rate established from time to time by the Board of Trustees of the Association. The Association may bring an action at law

against the Owner personally obligated to pay the same and/or may foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments.

3.8 Subordination of Assessment Lien to Mortgages. The assessment lien provided for herein shall be subordinate to the lien of any first Mortgage. A sale or transfer of any Lot shall not affect the assessment lien.

#### ARTICLE IV. INSURANCE

4.1 Liability Insurance for Common Areas. The Association shall maintain liability insurance for bodily injury, or death occurring on, in, about, or arising from the Common Areas, including but not limited to the storm water retention ponds on those Common Areas. The dollar amount of such insurance protection shall be as determined by the Board of Trustees.

4.2 Additional Insurance. The Board of Trustees may obtain such other insurance as it deems necessary or appropriate in connection with the performance of the duties of the Association, including but not limited to, financial surety bonds and officers' and trustees' insurance.

4.3 Insurance Costs To Be General Expenses. The cost of all such insurance shall be part of the General Expenses of the Association and shall be paid from assessments.

#### ARTICLE V. ARCHITECTURAL CONTROL

5.1 Creation of Architectural Committee. The Board of Trustees shall appoint a committee to be known as the Architectural Committee or upon their failure to so appoint, shall themselves act as such Committee. The Architectural Committee (the "Committee") shall be composed of not less than three (3) and not more than five (5) members who shall serve at the pleasure of the Board. Except as provided in section 5.2, regardless of the number of members of the Committee, at least two-thirds (2/3) of the members of the Committee shall be Owners of Lots in the Subdivision. The members of the Committee shall not be entitled to any compensation for services rendered or performed pursuant to the provisions of this Declaration.

5.2 Developer Appointments. Notwithstanding the provisions in section 5.1, Developer reserves the right to appoint all of the initial and successor members of the Committee, none of whom need be an owner of a lot in the Subdivision, with this right to continue until Developer elects (by written instrument recorded in the Office of the Recorder of Miami County, Ohio) to terminate its control of the Committee. After Developer's control of the Committee has been terminated, the Board of Trustees shall thereafter have the authority to appoint the Committee.

5.3 Committee Approval.

(a) No building, fence, wall, structure, parking lot, driveway, drainage improvement, permanent advertising sign, permanent landscaping (including existing trees but excluding the removal of dead trees or foliage), grade of the real property, or other improvement shall be changed, commenced, erected, or maintained upon any Lot in the Subdivision, nor shall any exterior addition, change, alteration or restoration or to the same be made until the construction plans and specifications showing the nature, kind, shape, size, height, materials, colors, and location of the same in adequate detail as required by the Committee shall have been submitted to and approved in writing by the Committee as to harmony of external design, construction, and location in relation to existing or proposed surrounding structures and topography and as to the general suitability of the construction or landscaping with other construction in the Subdivision and as to the relative value and quality of such improvements, landscaping additions, changes, alterations, or restorations. Approval by the Committee shall be arrived at by a simple majority vote of the members.

(b) In the event the Committee shall fail to approve or disapprove any construction plans and specifications or landscape plan within thirty (30) days after the same shall have been submitted to it, then the approval will be deemed to have been given. Any approval obtained, whether by default or otherwise, shall be null and void



unless construction is commenced within one hundred eighty (180) days after the date of approval or date of original sale whichever occurs later.

5.4 Rules. The Architectural Committee may establish rules consistent with the standards set forth on this Declaration to govern the construction of any improvements, landscaping, additions, or changes on Lots in the Subdivision.

5.5 Approval of Committee; How Evidenced. Whenever in this Article approval of the Architectural Committee is required, such approval shall be in writing.

5.6 Responsibility. Neither the Committee, the Association, nor the Developer nor their representative agents shall be responsible for defects in plans or specifications submitted, revised, or approved in accordance with the foregoing provisions, nor for any structural or other defect in any work done according to such plans and specifications.

5.7 Construction by Developer. Nothing in this Article shall be construed to require Developer to obtain approval of the Architectural Committee prior to undertaking the initial construction of any structure or dwelling unit on any of the Lots on the property or on any annexed property.

5.8 Grading of Lots by Developer. The Developer reserves the right and shall have the first option to perform all rough grading and all final grading in connection with any improvements constructed on any Lot in the Subdivision. No grading shall be performed on any Lot other than by the Developer without the express written consent of the Developer. All costs incurred by the Developer or the Developer's agents or contractors in connection with the grading of any Lot shall be paid by the Owner or Owners of such Lot and all such costs shall constitute a lien upon the Owner's Lot which lien shall be enforceable by appropriate proceedings at law or equity.

#### ARTICLE VI. ANNEXATION OF ADDITIONAL PROPERTY

6.1 Contemplated Annexation by Developer. Developer is the Owner in fee simple of the real property described in "Exhibit E" and contemplates construction of additional dwelling units on such real property or on part of such real property. Developer further contemplates submitting the land in "Exhibit E," with any improvements thereon, or a part of the land, to the provisions of this Declaration, so that the same will become in all respects part of the Subdivision. Developer hereby reserves the right at any time and from time to time to take the action so contemplated in submitting the land or any part of the land described in "Exhibit E" hereof to the provisions of this Declaration, but Developer shall have no obligation to do so. Developer further reserves the right at any time, and from time to time, to add real property (in addition to the property described in Exhibit "E") which may hereafter be acquired by Developer to this Declaration so that such additional property will become in all respects part of the Subdivision.

6.2 Reservation of Right to Amend Declaration. Developer hereby reserves the right from time to time to amend this Declaration in such respects as Developer may deem advisable so as to include the real property or any part of the real property described in "Exhibit E" and to include any real property hereafter acquired by the Developer and the improvements constructed thereon as part of the Subdivision. Developer further reserves the right from time to time to amend this Declaration in such respects as Developer may deem advisable so as to add additional property to the definition of "Common Areas," so that such additional Common Areas will become subject to all of the terms and conditions of this Declaration, including those terms governing the maintenance and control of Common Areas by the Association.

6.3 Consent and Approval for Annexation Amendments. Developer on its own behalf as the Owner of all Lots in the Subdivision and on behalf of all subsequent Owners, hereby consents and approves, and each Owner and each Owner's Mortgagee by accepting of a deed conveying such ownership, or a Mortgage encumbering such interest, as the case may be, hereby consents and approves the provisions of this Article VI and each Owner and the respective Mortgagees by the acceptance of a deed conveying such ownership or a Mortgage encumbering such interest, as the case may be, hereby irrevocably appoints Developer their Attorney-in-Fact, coupled with an interest, and authorizes, directs, and empowers such Attorney, at the option of the Attorney in the event that the Developer exercises the rights reserved above to add to the Subdivision additional property to execute, acknowledge, and record for and in the name of

such Owner an amendment of this Declaration for such purpose and for and in the name of such respective Mortgagees a consent to such amendment.

ARTICLE VII. PROTECTIVE COVENANTS AND RESTRICTIONS

7.1 Applicability of Zoning Regulations and Ordinances. Land use of all Lots is governed by the Zoning Regulations and other ordinances for the City of Tipp City, Ohio as presently enacted or hereafter amended. The Tipp City regulations and ordinances may in certain respects be more strict or stringent than these covenants and restrictions, and these covenants and restrictions shall not be deemed to relieve the Owner of its obligation to comply with any applicable Tipp City regulations and ordinances.

7.2 Residential Purposes. All Lots in the Subdivision shall be used exclusively for single family residential purposes; except for those lots in the Subdivision which are designated on the plat as zero lot line lots which may be used for two family residential purposes.

7.3 Lot Subdivision and Building Sites. None of the Lots shall at any time be divided into more than one (1) building site and no building site shall be less in area than the area of the smallest Lot platted in the Subdivision. A single Lot together with contiguous portion or portions of one or more adjacent Lots or, subject to limitation on building site size, contiguous portions of adjacent Lots may be used for one (1) building site, but only upon approval of the Association. If approval of the City of Tipp City Planning Board is required by the City of Tipp City Subdivision Regulations, then no Lot may be subdivided unless authorized by the City of Tipp City Planning Board as well as the Association.

7.4 Building Setbacks. Building setbacks shall be observed as provided on such plats as are filed of record with the Recorder of Miami County, Ohio, with respect to each individual Lot in the Subdivision. Setbacks will generally be in accordance with the following table provided, however, that the setbacks noted on the recorded plat for any particular lot shall control over the following table in the event of any inconsistency:

<u>Lot Type</u>	<u>Front</u>	<u>Rear</u>	<u>Side</u>	<u>Height</u>
Estate	40'	30'	15'	35'
Executive	30'	25'	10'	35'
Garden	30'	25'	10'	35'
Zero Lot Line	25'	25'	8' *	35'

\* Side yard setbacks for Zero Lot Lines will be zero feet on that side of the lot upon which the principal residential structure is constructed.

7.5 Site Line Easements. Site line easements shall be observed as provided on such plats as are filed of record with the Recorder of Miami County, Ohio, with respect to each individual Lot in the Subdivision. No vehicle may be parked; no trees, shrubs, or other plants may be planted (excluding farm crops); and no obstruction or other visual impediments shall be placed or permitted to remain in any of the site line easement areas set forth in the plat. Improvements which are below the site line (for example below grade detention basins, walkways, lawn and low landscaping) shall be permitted within the site line easements provided that such improvements are installed below the site line in accordance with AASHTO Standards adopted by the State of Ohio, Department of Transportation.

7.6 Lot Maintenance.

(a) All Lots, whether occupied or unoccupied, shall at all times be maintained in a neat and attractive condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on such Lot or the accumulation of rubbish or debris thereon. In order to implement effective control of this provision, there is reserved to the Association for itself and its agents, the right, but not the obligation, after ten (10) days notice to any Lot Owner, to enter upon any residential Lot with such equipment and devices as may be necessary for the purpose of mowing,

removing, cleaning or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Association detracts from the overall beauty or safety of the Subdivision.

(b) Entrance upon such property for such purposes shall not constitute a trespass. The Association may charge the Owner a reasonable cost for such services, which charge shall constitute a lien upon the Lot enforceable by appropriate proceedings at law or equity; provided, however, that the lien shall be subordinate to the lien of any first mortgage or deed of trust encumbering the Lot. The provisions of this section shall not be construed as an obligation on the part of the Association to mow, clear, cut, or prune any Lot, nor to provide garbage or trash removal services.

7.7 Garbage Containers. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery, fencing, or other appropriate means so as not to be visible from any road, or within sight distance of the Lot at any time except during refuse collection.

7.8 Fuel Containers. Containers for storage of home heating oil or propane gas shall not be permitted.

7.9 Signs. All signs, billboards, or advertising structures of any kind are prohibited with the following exceptions (which exceptions shall comply with Tipp City code requirements):

1. Builder and contractor signs during construction periods.
2. One professional sign of not more than four square feet to advertise a Lot for sale during a sales period.
3. Developer's sign or signs advertising the Subdivision.

7.10 Utilities. Except for above ground electric lines around the perimeter of the Subdivision, all utilities shall be installed underground.

7.11 Landscaping. Prior to obtaining a Certificate of Occupancy for any residential structure, the Owner of each Lot shall lay sod within any public right of way within such Lot. The front yard of each lot, being that portion of the lot which extends the entire width of the lot from the front of the residence to the street, shall be fully laid with sod within sixty (60) days after completion of construction. Plans for all other landscaping must be submitted to the Association for approval within ninety (90) days after completion of construction. Although the Association shall have the authority to approve any landscaping plan submitted, it is suggested as a guideline that a minimum of two and one-half percent (2½ %) of the building construction cost be allocated for landscaping each building site. Landscaping includes seeding and planting of trees, shrubs, and ground covers, excluding rough grading work. Landscape work must be completed within six (6) months of occupancy.

7.12 Trees Prohibited in Utility Easement. No trees shall be planted between the street curb and sidewalks, and within the 10' utility easement immediately behind the right-of-way, which areas shall be dedicated for utility easement purposes.

7.13 Lawn Watering and Irrigation. Lawn watering and irrigation shall not be permitted in public right of way areas without the approval of the City of Tipp City.

7.14 Completion of Construction.

(a) Construction of a residence building on any building site shall be completed within two (2) years from the date of the original purchase from Developer, and completion of construction shall be within one (1) year from the date of beginning construction. Developer reserves the right to repurchase any Lot in the Subdivision upon which the construction of the residential building has not been completed within two (2) years from the date of the original purchase from Developer or within one year from the date of beginning of construction, whichever is earlier.

(b) In the event the Developer elects to exercise the repurchase rights set forth in this Section, Developer shall obtain an appraisal of the Lot by a licensed appraiser and shall give written notice to the then Owner of record of the Lot of the appraised value of the Lot and of the Developer's intent to exercise its repurchase right. The repurchase price which the Developer shall pay for such Lot, in the event of such repurchase, shall be equal to the value of the Lot as appraised, less any costs or expenses incurred by the Developer in exercising or enforcing its repurchase right, including but not limited to, appraisal fees and attorney fees. Developer may also deduct from the repurchase price an amount equal to such sums as are necessary to satisfy any and all outstanding mortgages, mechanic's liens, tax liens, assessments or any other lien or encumbrance upon the Lot. The Owner shall transfer the Lot to Developer by warranty deed free and clear of any liens and encumbrances and, in the event that the Owner fails to voluntarily transfer such Lot, the Developer shall be entitled, in addition to any other remedy, to obtain a court order effecting the transfer of the Lot to the Developer and the Owner of such Lot shall be liable to the Developer for all costs, expenses, and attorney fees incurred in connection with such efforts.

7.15 Fences and Hedges. All fence designs and locations shall be in keeping with the architectural character of the structure and no fence shall be erected until after the material, style and placement of such fence has been approved in writing by the Architectural Committee. No fence shall be erected or installed until after the Owner of the Lot upon which the fence will be installed obtains a letter from the Architectural Committee approving such fence and the Owner provides a copy of such letter to Tipp City. The type and height of fencing which is approved by the Architectural Committee will depend upon the location in which the fence will be erected.

(a) Fences Adjacent to Common Areas or Ponds. Fences which are adjacent to Common Areas or ponds shall be open type fencing not exceeding four feet above ground level.

(b) Fences on Lots Which are Not Adjacent to Common Areas or Ponds. Fences on Lots which are not adjacent to Common Areas or ponds may be open type fencing or privacy fencing but shall not exceed six feet above ground level.

(c) Pool Enclosures. Fences which are erected for the enclosure of a swimming pool may be open type fencing or privacy fencing but shall not exceed six feet in height. Where the Lot upon which the pool is installed is adjacent to a Common Area or pond, the fence shall be erected not less than fifteen feet from the property line which is adjacent to a Common Area and not less than fifteen feet from the high water line (as determined by the Architectural Committee) of any pond. Notwithstanding any other provision of the protective covenants and restrictions contained in this Declaration, Tipp City requirements and regulations on the fencing of swimming pools shall prevail.

(d) Hedges. No hedges shall be permitted which exceed six feet in height. No single span of hedges shall exceed 25 feet in length; however, multiple rows of hedges may be used provided that each span is offset by at least ten feet from an adjacent span of hedges.

(e) Proximity to Street. No fence or hedge shall extend closer to the street than the rear wall of the residential structure; except that, fencing and hedges on corner Lots may extend to one (but not more than one) of the front corners of the residential structure.

(f) General. Notwithstanding any provision herein to the contrary, no chain link fencing shall be permitted. No restrictions shall be placed on the planting of trees for privacy purposes.

7.16 Drainage. Drainage of surface water, storm water and/or foundation drains shall not be connected to sanitary sewers.

7.17 Storm Water Drainage Restriction. Storm water drainage restrictions shall run with the land and bind the Owners, successors and assigns unless and until a modification is agreed to and approved by the Council of the City of Tipp City.

7.18 Sump Pump Effluent. No pump or piping device shall discharge sump pump effluent into a public right-of-way or into sanitary sewers. Sump pump effluent shall be discharged into such curb drains as may be constructed for lots in the Subdivision.

7.19 Animals. No animals, livestock, poultry, or water fowl of any kind or description, whether domesticated or wild, shall be raised, kept, fed, or bred on any Lot in the Subdivision. Dogs (up to but not exceeding two (2) per Lot), cats, or other usual household pets may be kept on any Lot, provided that no such household pet may be kept on any Lot for commercial purposes.

7.20 Outbuildings and Structures.

(a) Outbuildings and detached structures shall not be permitted, except that one detached garage for up to three motor vehicles shall be permitted provided that any such detached garage shall be constructed with a permanent foundation and the shape, size, height, materials, color, and location of the structure shall be compatible with that of the residential structure and shall first be approved by the Association under the procedures provided for in this Declaration.

(b) Storage structures shall be allowed provided the following requirements are met:

- (1) The storage structure shall not contain more than eighty (80) square feet of floor area.
- (2) At least one wall of the storage structure shall be fully attached to the rear of the residential building.
- (3) The storage structure shall be constructed with a permanent foundation and the shape, size, height, materials, color, and location of the structure shall be compatible with that of the residential structure and shall first be approved by the Association under the procedures provided for in this Declaration.

(c) No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

7.21 Sidewalks. Sidewalks required to be installed by the City of Tipp City shall be installed by the Owner at Owner's expense. Developer reserves the right to establish plans and specifications for any such sidewalks, and the Owner shall comply with any such plans and specifications. For corner Lots, truncated dome handicapped ramps shall be installed as a part of the sidewalk by the Owner in accordance with ODOT and Tipp City specifications. The width of the sidewalks shall be determined in accordance with the final plan for the subdivision approved by the City of Tipp City. If the Owner refuses or fails to install the sidewalks promptly upon demand by the Developer or by the City of Tipp City, the Developer shall have the right to install the sidewalks, and Owner shall promptly reimburse Developer for all costs and expenses incurred in connection with the installation of the sidewalks, which costs and expenses shall constitute a lien upon the Lot enforceable by appropriate proceedings at law or equity.

7.22 Vehicles.

(a) No boat, camper, van, recreational vehicle, trailer of any kind (including but not limited to boat trailers, house trailers, and/or equipment trailers), tent, inoperable motor vehicle, or equipment or vehicle of a similar nature to any of the foregoing shall be parked or stored on any road, street, driveway, yard, or Lot in the Subdivision for any period of time except wholly within an enclosed garage. No truck of any size greater than a pickup truck shall be parked on any part of the Subdivision at any time except such limited period as may be necessary to service any part of the Subdivision. No Owner shall repair any motor vehicle, boat, trailer, or other vehicle on any portion of any Lot, or on any street in the Subdivision, except in an enclosed garage, unless and except for emergency repairs, and then only to the extent necessary to enable movement thereof to a proper repair facility.

(b) The provisions of this Section are not intended to replace any applicable Tipp City ordinance or regulation, and every Owner shall comply with all applicable Tipp City ordinances and regulations.

7.23 Parking.

(a) On-street parking on any street in the Subdivision shall be restricted to occasional parking for special occasions only, not to exceed twenty-four (24) hours.

(b) All Lots in the Subdivision shall be subject to such parking restrictions as are set forth in any plat of the Subdivision filed for record in the Office of the Recorder of Miami County, Ohio.

(c) The provisions of this Section are not intended to replace any applicable Tipp City ordinance or regulation, and every Owner shall comply with all applicable Tipp City ordinances and regulations.

7.24 Size of Residence. Each residential structure erected on any building site shall be constructed with not less than the following minimum square feet:

- (a) 2,000 square feet for each structure constructed on a lot identified on the plat as an "Estate Lot";
- (b) 1,500 square feet for each structure constructed on a lot identified on the plat as an "Executive Lot";
- (c) 1,400 square feet for each structure constructed on a lot identified on the plat as a "Garden Lot";
- (d) 1,000 square feet for each residential unit constructed on a lot identified on the plat as a "Zero Lot Line".

This square footage shall exclude garage space and basement, decking, patios and unenclosed porches. The first floor of all structures shall have a ceiling height of not less than eight (8) feet in all enclosed, heated, habitable space.

7.25 Construction Materials. The exterior walls of each residential structure erected on any building site shall be covered with brick, stone, wood, or other approved products (excluding vinyl) in accordance with the following minimum percentages:

<u>Type of Lot</u>	<u>Front of House</u>	<u>Sides of House</u>	<u>Street Side of House on corner Lot</u>	<u>Rear of House</u>
Estate Lot	100%	100%	100%	100%
Executive Lot	75%	30%	75%	0%*
Garden Lot	75%	30%	75%	0%*
Zero Lot Line	75%	30%	75%	0%*

\* Lots 203, 204 and 51 to 61 shall have 75% approved products (excluding vinyl) on the frontages th Rosewood Creek Drive, Hermosa Drive and Rosenthal l

o 6' OFF LINE

The exterior walls of all residential structures which are not covered with high quality vinyl siding or such other materials as are approved by the Ar

o 3' RADIUS

The Architectural Committee shall review the proposed house design permissible construction materials is used as required herein. Written a be provided to the City of Tipp City, prior to the City reviewing the constru or agent, who submits plans to the City without the required written apprcc their plans reviewed, until said approval letter is received by the City.

o SCOTT URBIGUS  
10/14/04 5:00 PM

7.26 Driveway Entrance Restrictions. No driveway entrances shall be constructed from any corner Lot onto Rosewood Creek Drive or Rosenthal Drive except as otherwise provided for in the final plat for the Lots which are adjacent to such streets.

7.27 Shared Driveway Access and Maintenance Easement. All Zero Lot Line Lots shall have shared driveway entrances as noted on the final plat for such Lots. The Lot Owners who will share driveway entrances shall share equally in the cost to construct one 24 foot to 28 foot wide (measured at right of way line) driveway to be used for driveway purposes for both adjoining Lots. Each of the Lot Owners shall share equally in the cost of the perpetual care, maintenance, and replacement of the shared driveways, located within the access easement. Tipp City Code Section 154.061(l) (relating to green space requirements adjacent to property lines) is waived for these shared driveways, pursuant to agreement with the City of Tipp City and by approval of the final plat by both the Tipp City Planning Board and Tipp City Council.

7.28 Garage. All single family residences shall have a minimum two (2) car attached garage. All Zero Lot Line units shall have a minimum one car attached garage for each residential unit.

7.29 Solar Panels. The use of solar panels shall not be permitted.

7.30 Antennas and Satellite Dishes. No exposed or exterior radio or television transmission or receiving antennas, and no satellite dishes which exceed 24 inches in diameter shall be erected, placed, or maintained on any part of the Subdivision.

7.31 Vents. Vents protruding through the roof should be placed on rear roof surfaces when possible and be painted a color to blend with roof coloring.

7.32 Swimming Pools. Swimming pools shall match architectural character of the structure and be approved by the Association. No above ground pools shall be permitted except for portable children's wading pools.

7.33 Mailboxes. The Association may designate a mailbox design which must be used by each Lot Owner. The mailbox erected by the Lot Owner shall meet U.S. Postal Service specifications and applicable Tipp City ordinances.

7.34 Driveways. All driveways shall be concrete or other non-asphaltic hard surface pavement and should extend from the garage door to the rear of the sidewalk and shall be approved by the Association. The driveway approach shall be concrete pavement from the curb to the sidewalk and shall be constructed in accordance with Tipp City specifications.

7.35 Clothes Lines. The use of exterior clothes lines shall not be permitted.

7.36 Basketball Goals. No basketball goals shall be permitted to be attached to any residential structure; however, free standing basketball goals may be permitted provided that Association approval is obtained with respect to the placement and type of basketball goal and supporting structures.

7.37 Nuisances. No noxious or offensive activity which would constitute a nuisance shall be carried on any Lot.

7.38 Repairs. Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a condition comparable to the condition of the residence at the time of its initial construction, normal wear and tear excepted.

7.39 Wells Prohibited. No wells (including but not limited to landscaping wells) or individual water supply system shall be permitted to be drilled or installed on any Lot. Public water and sewer shall be used on every Lot.

7.40 Motorized Boats. Motorized boats shall not be permitted on the ponds located within the Subdivision.

7.41 Alteration of Pond Bank Prohibited. No Lot Owner shall alter the bank of any pond or stream located within the Subdivision without prior written consent of the City of Tipp City and the Board of Trustees of the Association.

7.42 Tipp City Maintenance. The City of Tipp City shall have the right, but not the responsibility, to enter upon any Lot in this Subdivision to inspect and monitor any storm water detention basin areas or drainage facilities constructed in the Subdivision. In the event that the facilities are not properly constructed or maintained, upon the failure of the Developer or the Association to take correction action after being duly notified in writing by the City, the City shall have the right, but not the obligation to take whatever action is necessary to correct any improper construction or to maintain storm water detention basin areas and drainage facilities; provided, however, that the Developer and/or the Association shall first have a reasonable period of time, taking into account the urgency of the matter, to take corrective action. Any cost incurred by the City of Tipp City for such maintenance may be assessed to the Association or, if the Association has ceased to exist, against individual lots in accordance with the Declaration. Storm water drainage restrictions shall run with the land, and shall bind the owners, successors, and assigns unless and until a modification is agreed to and approved by the Council of the City of Tipp City.

7.43 Erosion Control. Each Owner shall, at his sole cost and expense, follow and maintain control of erosion and sedimentation as required by the Tipp City Subdivision Regulations and the OEPA in addition to the specific notes on the final plat for the Owner's Lot, including the installation of sod within public right-of-ways.

7.44 Foundations. Foundations for slab construction shall be 8 inches above the house pad elevation, and basement/crawl construction shall be 18 to 36 inches above the house pad elevation. Houses constructed within this Subdivision shall conform to the house pad elevations as noted on the "Grading Plan" contained within the construction drawings for the Subdivision and which are available for review at the offices of the City of Tipp City, Ohio.

#### ARTICLE VIII. EASEMENTS FOR UTILITIES

8.1 Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the plat of the Subdivision. No structure or other materials or improvements that may damage or interfere with the installation and maintenance of utilities shall be placed or permitted to remain within these easements. The easement area of each Lot shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility are responsible.

#### ARTICLE IX ENFORCEMENT

9.1 In the event of an actual or threatened violation or breach of any of these restrictions, or any amendments or supplement to them, by any Lot Owner or by any person or entity using or occupying any Lot, then Developer, the Association, or any Lot Owner or Owners shall have the right to compel compliance with the terms and conditions of this Declaration, by any proceeding at law or in equity in and by any other course of action or use of any other legal remedies which may be appropriate. No delay or failure on the part of an aggrieved party to invoke any available remedy shall be held to be a waiver of any right or remedy available to the party upon the recurrence or continuation of the violation. Nothing herein shall be construed to require the Developer, the Association, or any Lot Owner or Owners to take any action contemplated in this Article to enforce the restrictions.

9.2 All costs, expenses, and attorney fees incurred by the Developer or the Association in connection with their efforts to compel compliance with the terms and conditions of this Declaration shall be paid by the Owner or Owners against whom such compliance is sought and all such costs, expenses, and attorney fees shall constitute a lien upon the Owner's Lot which lien shall be enforceable by appropriate proceedings at law or equity.



ARTICLE X. LOT OWNER ACCEPTANCE

10.1 The Owner or grantee of any Lot which is subject to these restrictions, by acceptance of the deed or other instrument conveying title to the Lot, or by the execution of a contract of the purchase of the Lot, whether from Developer or from a subsequent Owner of the Lot, shall accept, and shall be deemed to have accepted, the deed or other contract upon and subject to the restrictions contained in this Declaration, all of them being covenants running with the land.

ARTICLE XI. TERM AND MODIFICATION

11.1 This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association. Thereafter, a majority vote of the Lot Owners may amend this Declaration. Unless so amended this Declaration shall run for an initial period of thirty (30) years with successive automatic renewal periods of ten (10) years each.

ARTICLE XII. SEVERABILITY

12.1 Each restriction is hereby declared to be independent from the remainder of the restrictions. Invalidation of any one of the restrictions shall in no way affect any of the other restrictions.

12.2 The provisions of these restrictions are in addition to, and supplemental of, any ordinances, laws and regulations of the City of Tipp City, Ohio.

ARTICLE XIII. ASSOCIATION ADDRESS

13.1 All matters or plans required to be submitted to the Association for approval or review shall be addressed and delivered to:

Rosewood Creek Homeowners Association  
c/o Rosewood Creek, LLC  
3050 Tipp-Cowlesville Road  
Tipp City, OH 45371

or to such other address as the Association shall subsequently designate by written instrument recorded in the office of the Recorder of Miami County, Ohio.

ARTICLE XIV. MISCELLANEOUS PROVISIONS

14.1 Finality of Association and Developer Decisions. In all matters involving the interpretation and construction of the terms and provisions of this Declaration, the decisions of the Association and/or the Developer shall be final and in no event be deemed arbitrary or capricious.

14.2 Non-Liability. Neither the Developer nor the Association, nor any of their members, agents, employees, contractors, successors or assigns, shall be liable to any Owner or any other party for loss, claims, or demands asserted on account of their administration of the Association or these restrictions or the performance of their duties hereunder or any failure or defect in such administration and performance.

14.3 Rules and Regulations. The Association may adopt and enforce reasonable rules and regulations pertaining to the construction on, and use of the Lots in the Subdivision, which shall be binding on the Owners of Lots in the Subdivision in the same manner as this Declaration.

14.4 Rights of Developer. Nothing in this Declaration shall be understood or construed to prevent Developer or the employees, contractors, or subcontractors of Developer from:

(a) Doing on any part or parts of the Subdivision property owned or controlled by Developer, or its representative, whatever it determines may be reasonably necessary or advisable in connection with the completion of the work of developing the Lots within the Subdivision, of establishing the Subdivision as a residential community, or of disposing of the Lots;

(b) Constructing and maintaining on any part or parts of the Subdivision property owned or controlled by Developer, or its representative, such structures as may be reasonably necessary for the completion of such work, the establishment of the Subdivision as a residential community, and the disposition of Lots by sale, lease, or otherwise;

(c) Maintaining such sign or signs on any of the Lots owned or controlled by any of them as may be necessary in connection with the sale of Subdivision Lots.

Executed at Tipp City, Ohio on the 1<sup>st</sup> day of March, 2004.

Signed and acknowledged  
in the presence of:

ROSEWOOD CREEK, LLC,  
An Ohio limited liability company

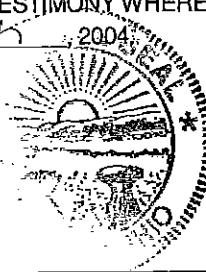
Bradley C. Vath BRADLEY C. VATH  
Thomas Atkinson THOMAS ATKINSON

By: George C. Timmer  
Its: MEMBER

STATE OF OHIO )  
COUNTY OF MIAMI )SS:

Before me, a Notary Public in and for said county and state, personally appeared Rosewood Creek, LLC, an Ohio limited liability company, by George C. Timmer, its member, who acknowledged that he did sign the foregoing Declaration of Covenants, Conditions, and Restrictions and that the same is his free act and the free act and deed of the company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Tipp City, Ohio, this 1<sup>st</sup> day of March, 2004.



MISTY COX, Notary Public  
In and for the State of Ohio  
My Commission Expires 5-31-04

Misty Cox  
Notary Public

The \_\_\_\_\_ Bank, as Mortgagee of real property situated in the Subdivision, hereby consents to and joins in the submission of the real property in the Subdivision to this Declaration.

Signed and acknowledged  
in the presence of:

\_\_\_\_\_ BANK

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF OHIO            )  
COUNTY OF MIAMI        )SS:

Before me, a Notary Public in and for said county and state, personally appeared \_\_\_\_\_ Bank, as Mortgagee, by \_\_\_\_\_, its \_\_\_\_\_, who acknowledged that he did sign the foregoing and that the same is his free act and the free act and deed of the Bank.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at \_\_\_\_\_, Ohio, this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Notary Public

This instrument prepared by:

FAULKNER, GARMHAUSEN, KEISTER & SHENK  
A Legal Professional Association  
Courtview Center - Suite 300  
100 South Main Avenue  
Sidney, Ohio 45365  
(937) 492-1271

G:\Rosewood Creek LLC\Final Declaration of Subdivision  
MAS: cf 1-27-04

EXHIBIT "A"

LEGAL DESCRIPTION