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## DECLARATION OF SUBDIVISION

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

## KENSINGTON/HUNTINGTON SUBDIVISION

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## DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

**KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), is the owner in fee simple of certain real property located in the City of Troy, Miami County, Ohio, known by official plat description as Kensington Subdivision Section One, pursuant to a record plan filed for record on May 19, 1997, in Plat Book 17, Page 139, 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 Kensington/Huntington Homeowner's Association, Inc., an Ohio non-profit corporation, its successors and assigns.
2. "Developer" shall mean Kensington Land Company, 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. "Easement Areas" shall mean the real property lying within the 100-year flood plain area identified in Exhibit "B" attached hereto which is to be maintained by the Association together with any Signage Area designated in connection with any lot. Easement 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 Troy.
4. "General Expenses" shall include all expenses incurred by the Association to maintain its existence and the maintenance and control of the Easement Areas, including, but not limited to, storm water retention ponds, fountain equipment, trees and landscaping, stream and drainage areas, walking bridges, signs and any other improvements located upon the Easement 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 Troy, 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.
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 EASEMENT AREA

2.1 Easement Areas. The Easement Area shall include storm water retention ponds, fountain equipment, trees and landscaping, stream and drainage areas, one or more walking bridges, signs identifying the subdivision, and other improvements. The Easement 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 Troy.

2.2 Maintenance of Easement Areas. The Association shall be responsible for the maintenance and control of the Easement 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 Easement 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 Easement Areas not covered with water.

(d) The Association shall have the power and duty to keep the Easement Areas free from debris and obstructions, to remove any obstruction which may be placed in the Easement 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 Troy, 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 Easement 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 Easement Areas shall have an easement of use and enjoyment in and to that portion of the Easement Areas located on the Lot. No other Owners may have access to any Easement 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 Easement 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 Troy. The City of Troy shall have the permanent and irrevocable right and authority to inspect and monitor the drainage in the water retention facilities that 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 by the City, 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.

2.6 Regulations of Easement Areas. The Association shall have the right to establish rules regarding the use of any portion of the Easement 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 Easement 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 Easement 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 in the sum of \$100 per year. Provided, however, that such limit of \$100 per Lot per year may be increased upon the approval of a majority of the Lot Owners in the Subdivision.

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 Easement 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 Easement 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 Easement 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 Easement Areas. The Association shall maintain liability insurance for bodily injury, or death occurring on, in, about, or arising from the Easement Areas, including but not limited to the storm water retention ponds on those Easement 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.

## 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. 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 "Easement Areas," so that such additional Easement Areas will become subject to all of the terms and conditions of this Declaration, including those terms governing the maintenance and control of Easement 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 Troy, Ohio as presently enacted or hereafter amended. The Troy 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 Troy regulations and ordinances.

7.2 Residential Purposes. All Lots in the Subdivision shall be used exclusively for single 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 Troy Planning Commission is required by the City of Troy Subdivision Regulations, then no Lot may be subdivided unless authorized by the City of Troy Planning Commission as well as the Association.

7.4 Building Setbacks. Building setbacks shall be observed as provided on such plat as is filed of record with the Recorder of Miami County, Ohio, with respect to each individual Lot in the Subdivision.

7.5 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.

7.6 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.

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

7.8 Signs. All signs, billboards, or advertising structures of any kind are prohibited with the following exceptions:

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.

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

7.10 Landscaping. Plans for initial 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 percent (2%) 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.

7.11 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 Section 7.11(a), 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.

7.12 Fences. Fences shall not be constructed within any utility easement. Otherwise all fence designs and location shall be in keeping with the architectural character of the structure and shall be approved by the

Association. Notwithstanding any provisions herein to the contrary, no chain link fencing or similar fencing and no metal fencing shall be permitted.

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

7.14 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.

7.15 Animals. No animals, livestock or poultry of any kind or description shall be raised, kept, 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.

7.16 Outbuildings and Structures.

(a) Outbuildings and detached structures shall not be permitted.

(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
- (4) The outbuilding or detached structure shall 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.

7.17 Sidewalks. Sidewalks required to be installed by the City of Troy 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. If the Owner refuses or fails to install the sidewalks promptly upon demand by the Developer or by the City of Troy, 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.

7.18 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 7.18 are not intended to replace any applicable Troy ordinance or regulation, and every Owner shall comply with all applicable Troy ordinances and regulations.

7.19 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) The provisions of this section 7.19 are not intended to replace any applicable Troy ordinance or regulation, and every Owner shall comply with all applicable Troy ordinances and regulations.

7.20 Size of Residence. Each single family residential structure erected on any building site shall have not less than 1,200 square feet. The square footage shall exclude garage space and basement, decking, patios and 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.

7.21 Garage. All single family residences shall have a minimum two (2) car attached garage.

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

7.23 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.

7.24 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.

7.25 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.

7.26 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 Troy ordinances.

7.27 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 Troy specifications.

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

7.29 Flag Poles. No free standing flag poles shall be permitted; however, flag poles may be attached to a residential structure provided that Association approval is obtained with respect to the placement and type of pole to be displayed.

7.30 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.

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

7.32 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.

7.33 Trees Prohibited. No trees shall be planted between the curb and sidewalks required to be installed by the City of Troy, and no trees shall be planted within a public right of way or within a public easement.

7.34 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.

#### 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 Troy, Ohio.

BOOK 883 PAGE 253

## 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:

Kensington/Huntington Homeowners Association  
c/o Kensington Land Company  
1485 Commerce Park Drive  
Tipp City, Ohio 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 Troy, Ohio on the 16<sup>th</sup> day of December, 1997.

Signed and acknowledged  
in the presence of:

KENSINGTON LAND COMPANY,  
An Ohio corporation

Jessica A. Minisinger  
Harlan M. Asher

By:

Judith L. Tomb  
Judith L. Tomb, President

STATE OF OHIO )  
COUNTY OF MIAMI )SS:

Before me, a Notary Public in and for said county and state, personally appeared Kensington Land Company, an Ohio corporation, by Judith L. Tomb, its President, who acknowledged that she did sign the foregoing Declaration of Covenants, Conditions, and Restrictions and that the same is her free act and the free act and deed of the Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Troy, Ohio, this 15<sup>th</sup> day of December, 1997.

Jessica A. Minesinger  
Notary Public

JESSICA A. MINESINGER  
Notary Public, State of Ohio  
My Commission Expires July 16, 1998

The Minster State 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:

THE MINSTER STATE BANK

William McClain  
William McClain  
Michael Staudt  
Michael Staudt

By: Daniel F. Heitmeyer  
Daniel F. Heitmeyer  
Commercial Loan Officer

STATE OF OHIO )  
COUNTY OF SHELBY )SS:

Before me, a Notary Public in and for said county and state, personally appeared The Minster State Bank, as Mortgagee, by Daniel F. Heitmeyer, its Commercial Loan Officer, 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 Sidney, Ohio, this 18<sup>th</sup> day of December, 1997.

Michael A. Staudt  
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



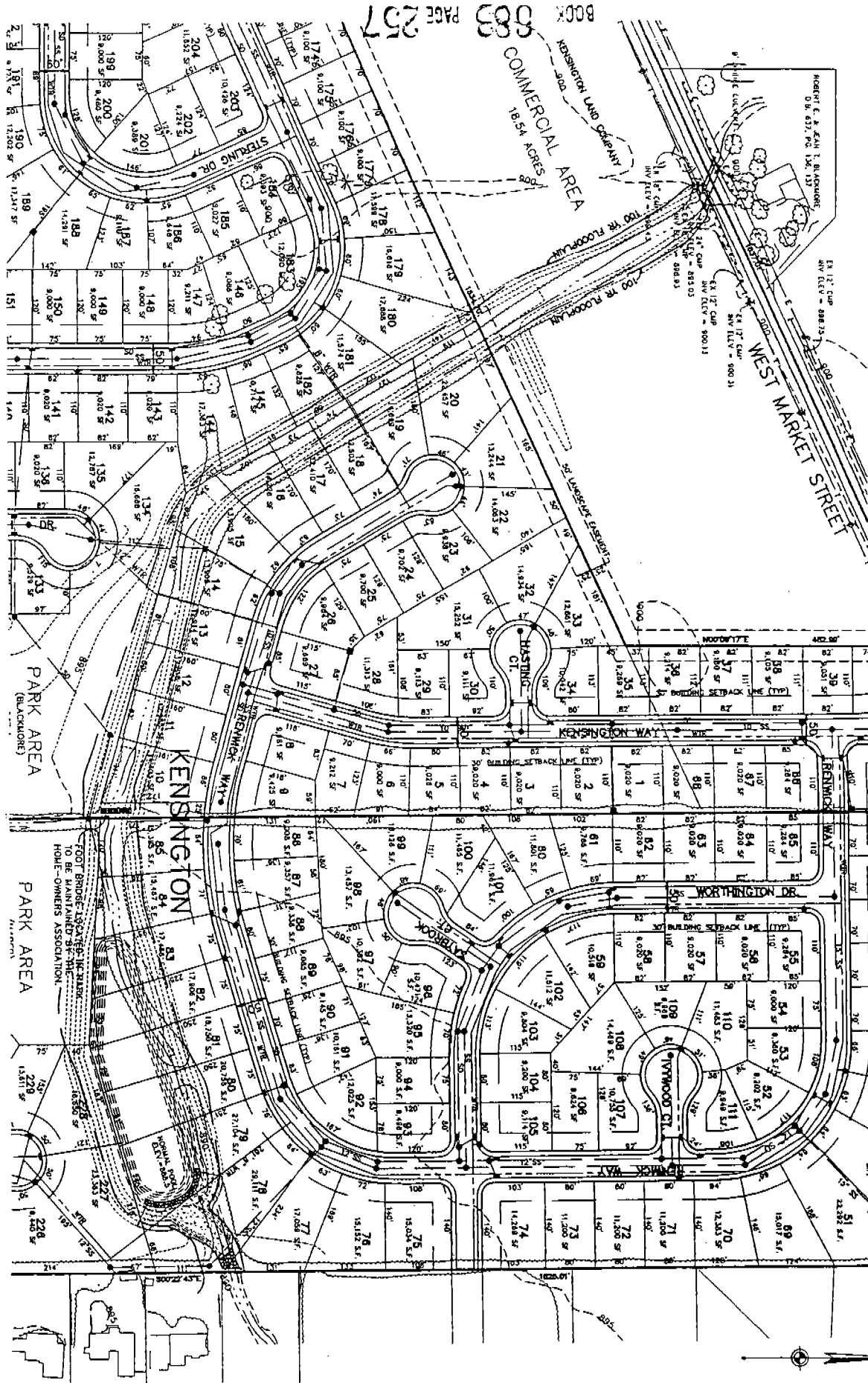
MICHAEL A. STAUDT, Attorney at Law  
Notary Public, State of Ohio  
Commission Does Not Expire  
Pursuant to Sec. 147.03 O.R.C.

EXHIBIT A

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Numbers 8447 through and including 8480 in Kensington Subdivision, Section I, as shown by the Plat recorded in Volume 17, Page 139, of the Plat Records of Miami County, Ohio.





800' 5883' 18.54 ACRES  
KENSINGTON LHO COMPANY  
COMMERCIAL AREA  
Page 257

1 OF 1

SHEET NO.

PRELIMINARY PUD PLAN  
FOR  
**KENSINGTON/HUNTINGTON SUBDIVISION**  
CITY OF TROY, OHIO  
**FLOOD PLAIN EXHIBIT DRAWING**



WOOLPERT LLP  
409 East Monument Ave.  
Dayton, Ohio  
45402-1261  
937.461.5660  
FAX: 937.461.0743

PROJECT No:  
10-21763-14  
DATE MAY 8, 1997  
SCALE  
DEB. XXX  
DR. XXX  
CKD. XXX

EXHIBIT B



# The State of Ohio

Bob Taft

EXHIBIT C

Secretary of State

998604

## Certificate

It is hereby certified that the Secretary of State of Ohio has custody of the Records of Incorporation and Miscellaneous

Filings; that said records show the filing and recording of: ARF MIS

of:

KENSINGTON/HUNTINGTON HOMEOWNERS'S ASSOCIATION, INC.

United States of America  
State of Ohio  
Office of the Secretary of State

Recorded on Roll 6083 at Frame 1514 of  
the Records of Incorporation and Miscellaneous Filings.

Witness my hand and the seal of the Secretary of State at

Columbus, Ohio, this 5TH day of DEC ,

A.D. 19 97 .



*Bob Taft*  
Bob Taft  
Secretary of State

06083-1514

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12/5/97  
650  
97/2053280

ARTICLES OF INCORPORATION

OF

KENSINGTON/HUNTINGTON HOMEOWNERS'S ASSOCIATION, INC.

The undersigned, desiring to form a non-profit corporation under the non-profit corporation laws of the State of Ohio, Chapter 1702 of the Revised Code of Ohio, does hereby certify as follows:

ARTICLE I

NAME

The name of this non-profit corporation shall be the "Kensington/Huntington Homeowner's Association, Inc."

ARTICLE II

LOCATION

The place in this state where the principal office of the corporation is to be located is the City of Troy, Miami County, Ohio.

ARTICLE III

DURATION

The period of duration of the Association is perpetual.

ARTICLE IV

DEFINITIONS

The terms used in these Articles of Incorporation shall have the same meaning as defined in the Declaration of Covenants, Conditions, and Restrictions that will be recorded to establish a residential real estate development to be known as Kensington Subdivision Section One, together with any additional plat sections subsequently added to that real estate development so as to be made subject to the Declaration, hereinafter collectively referred to as the Kensington/Huntington Subdivision.

ARTICLE V

PURPOSE AND POWERS

This non-profit corporation, sometimes referred to as the Association, does not contemplate pecuniary gain or profit to its members, and the general purpose for which it is formed is to act as the owners' association for the real estate development referred to above, i.e. the Kensington/Huntington Subdivision. That real estate development will be created by filing for record with the Miami County Recorder a Declaration of Covenants, Conditions, and Restrictions (the "Declaration") applicable to that development.

There is a possibility that Kensington/Huntington Subdivision will be expanded in the future by adding more land. The Declaration describes the land which may be so added to the development and defines it as the Additional Property. If and when part or all of that property is subdivided and added to the development of the Kensington/Huntington Subdivision, it will be through the process of additional plats being filed, with the plat covenants making the additional Lots subject to the provisions of the Declaration.

The subsidiary purposes for which this Association is formed include providing an entity (this Association) to maintain the Easement Areas, as that term is defined in the Declaration and administering all provisions of the Declaration. For these purposes the Association shall have power:

(a) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, in these Articles and in the Regulations of this Association, as those documents may be amended from time to time;

(b) To fix, levy, collect, and enforce payment of all assessments and charges levied pursuant to the terms of the Declaration;

(c) To pay all expenses incurred by the Association for or incidental to the exercise of the powers of this Association or to accomplish its purposes;

(d) To acquire by any method and to own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of this Association;

(e) To borrow money and (with the assent of two-thirds of the members, such assent to be given by oral vote, written proxy, or other form of written consent at, for, or in connection with a meeting of members called to discuss and/or decide such matter) to pledge, assign, or encumber any or all of its personal property, including accounts receivable in the form of unpaid assessments and also including assessment liens, all as security for money borrowed or debts incurred;

(f) To obtain, pay for, and maintain insurance for the protection of land subject to the Declaration and of owners and occupants of any portion of the property subject to the Declaration, to the extent permitted or required by the Declaration, including but not limited to general or public liability insurance,

fire and extended coverage insurance on improvements, vandalism, and windstorm insurance, financial surety bonds, and officers' and trustees' insurance;

(g) To do any and all other things necessary, expedient, incidental, appropriate, or convenient to the carrying-out of the foregoing purposes, or which will promote the common benefit and enjoyment of the occupants of the Lots included within the Kensington/Huntington Subdivision, to the extent not prohibited from doing so by the terms and conditions of the Declaration; and

(h) To have and exercise any and all powers, rights, and privileges which a corporation organized under the non-profit corporation laws of the State of Ohio may now or hereafter have or exercise under the state statutes, to the extent not inconsistent with the purposes of this Association or the terms and conditions of the Declaration.

#### ARTICLE VI

##### MEMBERSHIP; VOTING RIGHTS

Members shall be entitled to one vote for each Lot owned which shall be exercised in accordance with the terms and conditions set forth in the Declaration and Regulations of the Association.

#### ARTICLE VII

##### TRUSTEES

The number of trustees constituting the initial trustees of the Association is three (3) and the names and addresses of the persons who are to serve as the initial trustees are:

Name	<u>Address</u>
John M. Tomb	1485 Commerce Park Drive Tipp City, OH 45371
Judith L. Tomb	1485 Commerce Park Drive Tipp City, OH 45371
Jessica Minesinger	1485 Commerce Park Drive Tipp City, OH 45371

Any trustee holding office through appointment in these Articles (or through subsequent appointment by the Developer) may resign prior to expiration of his/her term, and may also be removed by the Developer with or without cause. Any vacancy caused by resignation, removal, or death of such appointed trustee may be filled by the Developer appointing a successor trustee for the balance of the unexpired term.

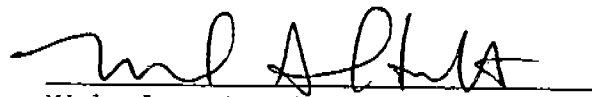
## ARTICLE VIII

06033-1517

DISSOLUTION

On dissolution, the assets of the Association shall be distributed to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event the acceptance of such distribution is refused, such assets shall be granted, conveyed, and assigned to any nonprofit corporation, association, trust, or other organization organized and operated for such similar purposes.

Executed at Troy, Ohio, on December 4, 1997.

  
Michael A. Staudt, Incorporator



Prescribed by  
Bob Taft, Secretary of State  
30 East Broad Street, 14th Floor  
Columbus, Ohio 43266-0418  
Form AGO (August 1992)

06083-1518

## ORIGINAL APPOINTMENT OF STATUTORY AGENT

The undersigned, being at least a majority of the incorporators of \_\_\_\_\_  
KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION, INC., hereby appoint  
(name of corporation)  
Michael A. Staudt to be statutory agent upon whom any  
(name of agent)  
process, notice or demand required or permitted by statute to be served upon the corporation may  
be served. The complete address of the agent is:  
Courtview Center - Suite 300, 100 South Main Avenue  
(street address)  
Sidney, Ohio 45365  
(city) (zip code)

NOTE: P.O. Box addresses are not acceptable.

Michael A. Staudt (Incorporator)

(Incorporator)

(Incorporator)

### ACCEPTANCE OF APPOINTMENT

The undersigned, Michael A. Staudt, named herein as the statutory agent for  
KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION, INC., hereby acknowledges and accepts the  
(name of corporation)  
appointment of statutory agent for said corporation.

Michael A. Staudt Statutory Agent

### INSTRUCTIONS

- 1) Profit and non-profit articles of incorporation must be accompanied by an original appointment of agent. R.C. 1701.07(B), 1702.06(B).
- 2) The statutory agent for a corporation may be (a) a natural person who is a resident of Ohio, or (b) an Ohio corporation or a foreign profit corporation licensed in Ohio which has a business address in this state and is explicitly authorized by its articles of incorporation to act as a statutory agent. R.C. 1701.07(A), 1702.06(A).
- 3) An original appointment of agent form must be signed by at least a majority of the incorporators of the corporation. R.C. 1701.07(B), 1702.06(B). These signatures must be the same as the signatures on the articles of incorporation.

\* As of October 8, 1992, R.C. 1701.07(B) will be amended to require acknowledgement and acceptance by the appointed statutory agent.

**EXHIBIT "D"**

**CODE OF REGULATIONS  
OF  
KENSINGTON/HUNTINGTON  
HOMEOWNER'S ASSOCIATION, INC.**

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**



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## CODE OF REGULATIONS

## KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION, INC.,

## A NON-PROFIT CORPORATION

The Kensington/Huntington Homeowner's Association, Inc. has been formed as an Ohio non-profit corporation by the filing of its Articles of Incorporation with the Secretary of State of Ohio. Its general purpose is to act as the Lot owners' association of and for the residential real estate development projects to be known as The Kensington Subdivision and The Huntington Subdivision (hereinafter collectively referred to as the "Subdivision"). More specific purposes of this corporation (and the powers it holds) are set forth in those Articles of Incorporation.

That real estate development will be created by filing for record with the Miami County Recorder a Declaration of Covenants, Conditions, and Restrictions applicable to that development (the "Declaration"), and then recording a record plan (sometimes known as a "plat") of 15.026 acres to be known as Kensington Subdivision, Section One. That plat will create Lots and make them subject to the Declaration. If and when additional acreage is subdivided and added so as to bring additional Lots into the Subdivision, it will be through the process of additional plats being filed, with the plat covenants making the additional Lots subject to the provisions of the Declaration.

For the purposes of the statutes which control non-profit corporations of Ohio (particularly, but not limited to, Section 1702.10, 1702.11 and 1702.30) the following Regulations shall be deemed to constitute the regulations of this corporation.

## ARTICLE I. NAME AND LOCATION

Section 1.1 The Association. The name of this non-profit corporation, **Kensington/Huntington Homeowner's Association, Inc.**, will not be repeated throughout these Regulations, but instead the corporation will be referred to simply as the "Association". The principal office of the Association shall be located in Miami County, Ohio, or at such other location as the Trustees subsequently decide upon, and meetings of Members and Trustees may be held at such places within Miami County, Ohio as may be designated from time to time by the Board of Trustees.

## ARTICLE II. DEFINITIONS

Section 2.1 Covenants, Conditions, and Restrictions. For all purposes throughout these Regulations, the definitions contained in the Declaration shall apply.

## ARTICLE III. MEETINGS OF MEMBERS

Section 3.1 Annual Meetings. The first annual meeting of Members shall be held within 180 days after the closing of the sale of all Lots in the Subdivision or at such time as the Developer voluntarily relinquishes its control of the Association by calling a special meeting of Members for the purpose of relinquishing such rights, whichever shall first occur. Subsequent annual meetings of Members shall be held on or before March 31 of each year on such date and time and at such place as designated by the Board of Trustees.

Section 3.2 Special Meetings. After the first annual meeting of Members, special meetings of Members may be called at any time by the President or by the Board of Trustees, or on written request of Members who are entitled to vote one-fourth (1/4) of all votes.

Section 3.3 Notice of Meetings. Written notice of each meeting of Members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least ten (10) but not more than thirty (30) days before such meeting to each Member

entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association. Such notice shall specify the day, hour, and place of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.4 Quorum. The presence at the meeting, in person or by proxy, of Members entitled to cast a majority of the votes of the membership shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Declaration, the Articles of Incorporation, or these Regulations. If a quorum is not present at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 3.5 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Proxies shall be revocable, and the proxy of any Owner shall automatically terminate upon conveyance by him of his Lot.

#### ARTICLE IV. BOARD OF TRUSTEES - TERM OF OFFICE; FIRST ELECTION; REMOVAL

Section 4.1 Number. The affairs of the Association shall, until the first annual meeting, be managed by a Board of three (3) Trustees, being the persons named in the Articles of Incorporation, who need not be Members of the Association. Thereafter, the affairs of the Association shall be managed by a Board of five (5) Trustees, who need not be Members of the Association.

Section 4.2 Term of Office. At the first annual meeting, the Members shall elect one (1) Trustee for a term of one (1) year, two (2) Trustees for a term of two (2) years, and two (2) Trustees for a term of three (3) years; at each annual meeting thereafter, Trustees shall be elected for a term of three (3) years.

Section 4.3 Removal. After the first annual meeting of Members, any Trustee may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of the death, resignation, or removal of a Trustee, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 4.4 Compensation. No Trustee shall receive compensation for any service he may render to the Association. However, any Trustee may be reimbursed for his or her actual expenses incurred in the performance of his duties.

#### ARTICLE V. BOARD OF TRUSTEES; NOMINATION AND ELECTION

Section 5.1 Rights of Developer. Notwithstanding the provisions of any other section of this Code of Regulations or the Declaration, 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 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.

Section 5.2 Nomination. After the first annual meeting of Members, nomination for election to the Board of Trustees shall be by nominating committee. However, nominating may also be made from the floor at any annual meeting of Members. The nominating committee shall consist of a chairman who shall be a member of the Board of Trustees, and two or more Members of the Association. The committee shall be appointed by the Board of Trustees prior to each annual meeting to serve from the close of such meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The nominating committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but in no event shall it nominate less than the number of vacancies to be filled.

Section 5.3 Election. Election to the Board of Trustees shall be by secret ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. Persons receiving the largest number of votes shall be elected.

Cumulative voting is permitted, provided that any Member who intends to cumulate his votes must give written notice of such intention to the secretary of the Association on or before the day preceding the election at which such Member intends to cumulate his votes.

#### ARTICLE VI. BOARD OF TRUSTEES -- MEETINGS

Section 6.1 Regular Meetings. Regular meetings of the Board shall be held without notice at such regular times and at such place and hour as may be fixed from time to time by resolution of the Board. In the event the regular date for a meeting falls on a legal holiday, such meeting shall be held at the same time on the next following day which is not a legal holiday.

Section 6.2 Special Meetings. Special meetings of the Board of Trustees shall be held when called by the President of the Association, or by any two (2) Trustees, after not less than three (3) days notice to each Trustee.

Section 6.3 Quorum. A majority of the Trustees shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of Trustees present at a duly held meeting in which a quorum is present shall constitute the act or decision of the Board.

#### ARTICLE VII. POWERS AND DUTIES OF THE BOARD OF TRUSTEES

Section 7.1 Powers. All of the power and authority of the Association shall be exercised by its Board of Trustees and not by the Members of the Association, except in those limited situations in which the laws of Ohio, the Declaration, or the Articles of Incorporation require that some specific action be authorized or taken by a vote of the Members. The authority and power of the Board of Trustees shall include, but shall not be limited to, the power to:

- (a) Adopt and publish reasonable regulations governing the use of Easement Areas, to provide for enforcement of the Declaration documents and those rules and regulations, and to establish and apply penalties for violations thereof;
- (b) Suspend the voting rights and/or the right to be elected or serve as an officer or Trustee of this Association during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended for a period not to exceed sixty (60) days for each infraction of any provisions of the Declaration, including published rules and regulations;
- (c) Administer the covenants, conditions, and restrictions established by the Declaration, and to exercise for the Association all powers, duties, and authority vested in or delegated to this Association.
- (d) Employ any manager, independent contractor, attorney, accountant, and such other employees and/or agents as the Board of Trustees may deem necessary or appropriate;
- (e) Cause all officers or employees having fiscal responsibilities to be bonded if the board deems it advisable to do so.

Section 7.2 Duties. It shall be the duty of the Board of Trustees to take all such action as may be necessary or appropriate to operate and manage the Association within the scope of the powers of the Board, including but not limited to the duties to:

- (a) Cause to be kept a record of the acts and decisions of this Association in the form of a non-profit corporation minute book containing minutes of the meetings of Members and of Trustees. Minutes may be summary in nature but shall

record the actions and decisions taken and made by official resolution at such meetings. These records shall be available, for review by Members at reasonable times and upon reasonable advance request;

- (b) Appoint, supervise, and remove all officers, agents, and employees of the Association and to determine the compensation of those officers, agents, and employees;
- (c) Act on assessment matters as required by the Declaration;
- (d) Cause the maintenance work required in the Declaration to be performed with regard to the Easement Acres to the extent the Trustees deem such maintenance to be reasonably necessary and appropriate; and
- (e) Keep a list of the names and addresses of all Members and of all Lot owners including the Lot number and street address of the Lot owned by each owner.

#### ARTICLE VIII. OFFICERS AND THEIR DUTIES

Section 8.1 Enumeration of Offices. The officers of this Association shall be a President and Vice President, who shall at all time be members of the Board of Trustees, and a Secretary, Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 8.2 Election of Officers. The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of Members.

Section 8.3 Term. The officers of the Association shall be elected annually by the Board. Each shall hold office for a term of one (1) year and until a successor is duly qualified unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 8.4 Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 8.5 Resignation and Removal. Any officer may be removed from office by the Board at any time with or without cause. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and the acceptance of such resignation shall not be necessary to make it effective.

Section 8.6 Vacancies. A vacancy in any office may be filled by appointment of the Board. The officer appointed to such vacancy shall serve for the unexpired term of the officer he replaces.

Section 8.7 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

Section 8.8 Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, and other instruments, and shall co-sign all checks and promissory notes.

(b) Vice President. The Vice President shall act in the place of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and

affix it to all papers so requiring; serve notice of meetings of the Board and of Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as may be required by the Board or by law.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts of all funds of the Association, and shall disburse such funds as directed by the resolution of the Board of Trustees; shall sign all checks and promissory notes of the Association; shall keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures, a copy of which documents shall be delivered to each Member, and a report on which shall be given at the regular annual meeting of Members.

#### ARTICLE IX. COMMITTEES

The Association shall appoint an Architectural Committee, as provided in the Declaration, and a Nominating Committee as provided in Article V of these Regulations. In addition, the Board of Trustees may appoint such other committees as it deems appropriate in the performance of its duties.

#### ARTICLE X. ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien on the property against which such assessments are made. Any assessments which are not paid when due are considered delinquent. If an assessment is not paid within thirty (30) days after the due date, the assessment bears interest from the date of delinquency as specified from time to time by the Board of Trustees, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against his property. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of any assessment due. No Owner may waive or otherwise escape liability for assessments by nonuse of the common area or abandonment of his Lot.

#### ARTICLE XI. BOOKS AND RECORDS; INSPECTION

The books, records, and papers of the Association shall be subject to inspection by any Member upon reasonable notice during ordinary business hours. The Declaration, Articles of Incorporation, and Regulations of the Association shall be available for inspection by any Member at the principal office of the Association, where copies shall be made available for sale at a reasonable price.

#### ARTICLE XII. FISCAL YEAR

The fiscal year of the Association shall be the calendar year, except that the first fiscal period shall begin on the date of incorporation and shall end on December 31st of the year of incorporation.

#### ARTICLE XIII. AMENDMENTS

These Regulations may be amended, at a regular or special meeting of Members, by vote of a majority of a quorum of Members present in person or by proxy.

#### ARTICLE XV. CONFLICTS

In the case of any conflict between the Articles of Incorporation and these Regulations, the Articles shall control; in the case of any conflict between the Declaration and these Regulations, the Declaration shall control; in the case of any conflict between the Declaration and the Articles, the Declaration shall control.

IN TESTIMONY WHEREOF, the undersigned have caused these Regulations to be duly adopted on or as of the \_\_\_\_\_ day of December, 1997.

Signed in the presence of:

Lisa K. Campbell  
LISA K. CAMPBELL  
Jennifer L. Meintel  
Jennifer L. Meintel

John M. Tomb  
John M. Tomb, Trustee  
Judith L. Tomb  
Judith L. Tomb, Trustee  
Jessica A. Minesinger  
Jessica Minesinger, Trustee

STATE OF OHIO )  
MIAMI COUNTY )SS:

Before me, a Notary Public in and for said County and State, personally appeared the above named Kensington/Huntington Homeowner's Association, Inc., by John M. Tomb, Judith L. Tomb, and Jessica Minesinger, Trustees, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed, individually and as such Trustees, and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal at Troy, Ohio, this 12<sup>th</sup> day of December, 1997:

Lisa K. Campbell  
Notary Public  
Lisa K. Campbell, Notary Public  
In and for the State of Ohio  
My Commission Expires May 30, 2000

This instrument prepared by:

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

## EXHIBIT E

TRACT I:

Situate in Section 31, Township 5, Range 6 East, City of Troy, County of Miami, State of Ohio, and being all of I.L. 7164 conveyed by deed to James A. Blackmore, et al (all references to deeds, microfiche, plats, surveys, etc. refer to the records of the Miami County Recorder's Office, unless noted otherwise) and being more particularly bounded and described as follows:

Commencing for reference at a P.K. nail (found) at the centerline intersection of Swailes Road and Nashville Road, said intersection also being the southwest corner of the southwest quarter of said Section 31 and the southwest corner of Pamela Subdivision Section One as recorded in Plat Book 10, Page 18;

thence along the centerline of Nashville Road and the west line of said Section 31 also being west line of said Pamela Subdivision Section One and the City of Troy Corporation line, North no degrees five minutes forty-three seconds West (N00°05'43"W) for eight hundred forty-two and 00/100 feet (842.00') to the northwest corner of said Pamela Subdivision Section One, said point also being TRUE POINT OF BEGINNING of the herein described tract of land;

thence continuing along the centerline of Nashville Road and the west line of said Section 31 also the City of Troy Corporation line, North no degrees five minutes forty-three seconds West (N00°05'43"W) for one thousand sixty-one and 16/100 feet (1061.16') (witness a P.K. nail (found) North sixty-six degrees East (N66°E) for no and 44/100 feet (0.44')) to the southwest corner of a tract of land conveyed by deed to Robert E. and Jean T. Blackmore as recorded in Deed Book 411, Page 192 said point being in centerline of State Route 55;

thence along said centerline and said south line and said line's eastward extension, said extension being the south line of a tract of land conveyed by deed to Robert E. and Jean T. Blackmore as recorded in Deed Book 637, Page 137, North sixty-five degrees forty-seven minutes fifty-six seconds East (N65°47'56"E) for one thousand eight hundred sixty-three and 71/100 feet (1863.71') (witness a R.R. spike (found) North no degrees twenty minutes West (N00°20'W) for one and 29/100 feet (1.29')) to the southeast corner of said Blackmore land, said corner also being the southwest corner of a tract of land conveyed by deed to Rudolph and Ruth Berchtold as recorded in Deed Book 234, Page 192;

thence continuing along said centerline and the south line of said Berchtold land, North sixty-four degrees forty-eight minutes twenty seconds East (N64°48'20"E) for two hundred seventy-two and 75/100 feet (272.75') to a pinch pipe (found);

thence departing said centerline and along a west line of said Berchtold land, South one degree four minutes fifty-nine seconds West (S01°04'59"W) for one hundred twelve and 63/100 feet (112.63') to an iron pin (found) at the southwest corner thereof, also being the northwest corner of a tract of land conveyed by deed to Albert Mader and Christopher A. Peeples as recorded in Deed Book 652, Page 404;

thence along the west line of said Mader and Peeples land, South no degrees eighteen minutes thirty-one seconds East (S00°18'31"E) for one thousand eight hundred thirty-two and 26/100 feet (1832.26') to a southwest corner thereof, said point also being in the north line of a tract of land conveyed by deed to Danny G. and Pamela R. Mader as recorded in Deed Book 562, Page 652;



thence along the south line of said Danny G. and Pamela R. Mader land and said line's westward extension, said extension being the north line of a tract of land conveyed by deed to William E. Yates as recorded in Deed Book 596, Page 189 and the north line of said Pamela Subdivision Section One, North eighty-nine degrees fifty-three minutes forty-three seconds West (N89°53'43"W) for one thousand nine hundred fifty-two and 69/100 feet (1952.69') to the point of beginning, containing sixty-seven and 162/1000 (67.162) acres, more or less, subject however to all covenants, conditions, restrictions, reservations, and easements contained in any instrument of record pertaining to the above described tract of land.

This description was prepared from a field survey performed by Woolpert in November of 1995. Bearings are based upon an assumed meridian and are used to represent angular measurement only.

This description prepared by Paul F. MacCallum, Ohio Professional Surveyor #7561.

EXCEPTING THEREFROM the following described real estate:

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Numbers 8447 through and including 8480 in Kensington Subdivision, Section I, as shown by the Plat recorded in Volume 17, Page 139, of the Plat Records of Miami County, Ohio.

#### TRACT II:

Inlot 8441 in the City of Troy. Formerly described as follows:

Situate in the Township of Concord, County of Miami, and the State of Ohio, and being a part of the southwest quarter of Section 31, Town 5, Range 6 and being more particularly described as follows: Beginning at a pk nail set over a railroad spike on the centerline of Swailes Road which marks the southeast corner of the southwest quarter of said Section 31, Town 5, Range 6, thence south 88° west, along the centerline of Swailes Road and the south line of said Section 31, a distance of 260.00 feet to a pk nail set over a railroad spike which marks the true place of beginning of the tract of land herein described; thence continuing south 88° west, along the centerline of Swailes Road and the south line of said Section 31, a distance of 467.45 feet to a railroad spike, witness an iron pin 30 feet distant along the line next described: thence north 2°04' west a distance of 831.16 feet to a point; thence south 88°19' west a distance of 7.01 feet to a point; thence north 2°06'25" west a distance of 1832.94 feet to an iron pin on the north line of the southwest quarter of said Section 31; thence north 88°04' east, along the north line of the southwest quarter of said Section 31, a distance of 731.1 feet to an iron pin which marks the center of said Section 31; thence south 2°10' east, along the east line of the southwest quarter of said Section 31 a distance of 1825.6 feet to an iron pin; thence south 88° west a distance of 260.0 feet to a point, witness a pk nail set in wood post bearing south 9°38' east at a distance of 2.75 feet; thence south 2°10' east a distance of 837.7 feet to the point of beginning, witness an iron pin north 2°10' west at a distance of 30 feet, containing a total of 39.664 acres and being subject to all legal highways, easements and restrictions of record.

The above description was prepared according to a plat of survey done by Steven D. Leffel, Ohio Registered Surveyor No. 6660 and filed in Volume 37, Plat 138 of the Miami County Engineer's Record of Land Surveys.

Misc BOOK 030 PAGE 278

Miami County, Troy, Ohio

Presented For Record

1999-01-19 08:52:18 AM

\_\_\_\_ Book No. \_\_\_\_ Page \_\_\_\_

DOCUMENT # 0258499

No. Pages 4

Rec. Fee 22.00

References 2.00

Total 24.00

**FIRST AMENDMENT TO  
DECLARATION OF SUBDIVISION**

John W. O'Brien  
Miami County Recorder

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

**KENSINGTON/HUNTINGTON 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

**FIRST AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This First Amendment to the Declaration of Kensington/Huntington Subdivision ("First Amendment") is made and entered into this 8<sup>th</sup> day of January, 1998<sup>9</sup> by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**R E C I T A L S**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the Miscellaneous Records of Miami County, Ohio.
- B. Article VI of the Declaration provides for the submission of additional property to the provisions of the Declaration, so that such additional property will become in all respects part of the Subdivision subject to the Declaration.
- C. Section 6.2 of Article VI of the Declaration provides that the Developer reserves the right from time to time to amend the Declaration to include additional property as part of the Subdivision subject to the Declaration. Article XI of the Declaration provides that: "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer continues to own lots within the Subdivision and therefore has not relinquished control of the Association.
- D. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this First Amendment in order to add additional property to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Pursuant to Article VI and Article XI of the Declaration, the Developer hereby submits all of the property which is known as Kensington Subdivision Section Two, Kensington Subdivision Section Three and Kensington Subdivision Section Four, consisting of lots Sections Three & Four 8584 thru 8650 and Section Two 8548 thru 8558 in the City of Troy, Miami County, Ohio, the legal description for which is attached as

"Exhibit A" (hereafter the "Additional Property"). Such Additional Property shall be deemed to be a part of and included within the term "Subdivision" as that term is defined and used in the Declaration. All of the Additional Property described in Exhibit A attached hereto, and each part thereof, shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions contained in the Declaration. All of the terms and conditions of the Declaration shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the Additional Property described in Exhibit A attached hereto or any part thereof, and shall be binding upon such parties' heirs, successors and assigns, and shall inure to the benefit of each owner thereof as though originally subject to the Declaration.

2. Except as provided in this First Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

KENSINGTON LAND COMPANY  
An Ohio corporation

Jessica A. Minesinger  
Marion M. Asher

By: Judith L. Tomb  
JUDITH L. TOMB, President

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named KENSINGTON LAND COMPANY, an Ohio corporation, by JUDITH L. TOMB, its President, and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this 8<sup>th</sup> day of January, 1999.

Jessica A. Minesinger  
Notary Public

"EXHIBIT A"

Situated in the County of Miami, State of Ohio, and  
City of Troy:

Being Lot Number 8548 thru 8558 in Kensington Subdivision,  
Section II, as shown by the Plat recorded in Volume 18,  
Page 31, of the Plat Records of Miami County, Ohio.

Being Lot Number 8584 thru 8650 in Kensington Subdivision,  
Sections III and IV, as shown by the Plat recorded in  
Volume 18, Page 64, and Volume 18, Page 65, of the Plat  
Records of Miami County, Ohio.

Subject to the Declaration establishing covenants,  
conditions, and restrictions for the project known as  
Kensington/Huntington Subdivision, filed for record at  
Volume 683, Page 241 of the Deed Book of Miami County,  
Ohio. (File Number - 0229922).

Subject to legal highways and easements, conditions,  
and restrictions of record.

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN

**0282247**

PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO

**SECOND AMENDMENT TO  
DECLARATION OF SUBDIVISION**

01-19-2000	8:48 AM
REFERENCES	1
RECORDING FEE	20.00
PAGES:	3

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

JAN 23 2000

**KENSINGTON/HUNTINGTON 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

1762 VOL 0030 PAGE 508

**SECOND AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Second Amendment to the Declaration of Kensington/Huntington Subdivision ("Second Amendment") is made and entered into this 29<sup>th</sup> day of ~~October~~ <sup>December</sup>, 1999 by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**R E C I T A L S**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the Miscellaneous Records of Miami County, Ohio.
- B. Article VI of the Declaration provides for the submission of additional property to the provisions of the Declaration, so that such additional property will become in all respects part of the Subdivision subject to the Declaration.
- C. Section 6.2 of Article VI of the Declaration provides that the Developer reserves the right from time to time to amend the Declaration to include additional property as part of the Subdivision subject to the Declaration. Article XI of the Declaration provides that: "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer continues to own lots within the Subdivision and therefore has not relinquished control of the Association.
- D. On or about January 8, 1999, the Developer executed and filed a First Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Sections Two, Three and Four, to the terms and conditions of the Declaration
- E. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this Second Amendment in order to add additional property to be known as Kensington Subdivision Section Five to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Pursuant to Article VI and Article XI of the Declaration, the Developer hereby submits all of the property which is known as Kensington Subdivision Section Five, consisting of lots 8755 thru 8805 in the City of Troy, Miami County, Ohio, the legal description for which is attached

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

as "Exhibit A" (hereafter the "Additional Property"). Such Additional Property shall be deemed to be a part of and included within the term "Subdivision" as that term is defined and used in the Declaration. All of the Additional Property described in Exhibit A attached hereto, and each part thereof, shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions contained in the Declaration. All of the terms and conditions of the Declaration shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the Additional Property described in Exhibit A attached hereto or any part thereof, and shall be binding upon such parties' heirs, successors and assigns, and shall inure to the benefit of each owner thereof as though originally subject to the Declaration.

2. Except as provided in this Second Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Second Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

KENSINGTON LAND COMPANY  
An Ohio corporation

Jessica A. Minesinger  
Debra A. Hennen

By: Judith L. Tomb  
JUDITH L. TOMB, President

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named KENSINGTON LAND COMPANY, an Ohio corporation, by JUDITH L. TOMB, its President, and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this 29<sup>th</sup> day of ~~October~~, 1999.  
December

Jessica A. Minesinger  
Notary Public

JESSICA A. MINESINGER, NOTARY PUBLIC  
For State of Ohio  
My Commission Expires JULY 30, 2003



**"EXHIBIT A"**

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Number 8755 thru 8805 in Kensington Subdivision, Section V, as shown by the Plat recorded in Volume 18, Page 119 – 119A, of the Plat Records of Miami County, Ohio.

Subject to the Declaration establishing covenants, conditions, and restrictions for the project known as Kensington/Huntington Subdivision, filed for record at Volume 683, Page 241 of the Deed book of Miami County, Ohio.  
(File Number – 0229922).

Subject to legal highways and easements, conditions, and restrictions of record.

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN  
0314961  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
07-30-2001 3:27:47 PM

REFERENCES 1  
RECORDING FEE 20.00  
PAGES: 3

**THIRD AMENDMENT TO  
DECLARATION OF SUBDIVISION**

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

**KENSINGTON/HUNTINGTON 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

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**THIRD AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Third Amendment to the Declaration of Kensington/Huntington Subdivision ("Third Amendment") is made and entered into this 25<sup>th</sup> day of July, 2001 by ~~November, 1999~~ by KENSINGTON LAND COMPANY, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**R E C I T A L S**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the Miscellaneous Records of Miami County, Ohio.
- B. Article XI of the Declaration provides that the Declaration may be amended by the sole act of Developer up to the time Developer relinquishes control of the Association. The Developer has not relinquished control of the Association.
- C. The Developer desires to amend the Declaration in order to exclude property conveyed by the Developer to the City of Troy from the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. The definition of the term "Lot" set forth as item 5 in the "Definitions" section of the Declaration shall be amended to read as follows:
  5. "Lot" shall mean any plot of land shown on any recorded map or plat of the Subdivision, excluding any plot of land conveyed by the Developer to the City of Troy, Ohio.

2. Except as provided in this Third Amendment, all other terms and conditions of the Declaration, as amended, shall remain in full force and effect.

IN WITNESS WHEREOF, this Third Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

**KENSINGTON LAND COMPANY**

An Ohio corporation

Barbara M. Osher

By: Jessica A. Minsinger

Debra A. Newman

Its: Vice President

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named KENSINGTON LAND COMPANY, an Ohio corporation, by Jessica Minsinger, its V. P., and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this 25th day of July, 2001

Notary Public



Debra A. Newman  
DEBRA A. NEWMAN  
Notary Public - Ohio

3-27-05  
My Comm. Expires 3-27-05

This instrument prepared by: FAULKNER, GARMHAUSEN  
Professional Association, Courtview Center, Suite 300  
Sidney, OH 45365 (937) 492-1271. South Main Avenue,

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN

**0299765**

PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO

12-07-2000	1:51 PM
REFERENCES	0
RECORDING FEE	22.00
PAGES:	4

**FOURTH AMENDMENT TO  
DECLARATION OF SUBDIVISION**

---

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

**KENSINGTON/HUNTINGTON 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

VOL 0711 PAGE 640

## FOURTH AMENDMENT TO DECLARATION

OF

## KENSINGTON/HUNTINGTON SUBDIVISION

This Fourth Amendment to the Declaration of Kensington/Huntington Subdivision ("Fourth Amendment") is made and entered into this 9<sup>th</sup> day of November, 2000 by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

### RECITALS

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the Miscellaneous Records of Miami County, Ohio.
- B. Article VI of the Declaration provides for the submission of additional property to the provisions of the Declaration, so that such additional property will become in all respects part of the Subdivision subject to the Declaration.
- C. Section 6.2 of Article VI of the Declaration provides that the Developer reserves the right from time to time to amend the Declaration to include additional property as part of the Subdivision subject to the Declaration. Article XI of the Declaration provides that: "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer continues to own lots within the Subdivision and therefore has not relinquished control of the Association.
- D. On or about January 8, 1999, the Developer executed and filed a First Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Sections Two, Three and Four, to the terms and conditions of the Declaration.
- E. On or about December 29, 1999, the Developer executed and filed a Second Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Section Five, to the terms and conditions of the Declaration.
- F. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this Fourth Amendment in order to add additional property to be known as Kensington Subdivision Section Six A to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Pursuant to Article VI and Article XI of the Declaration, the Developer hereby submits all of the property which is known as Kensington Subdivision Section Six A, consisting of lots 8886 through and including 8910 in the City of Troy, Miami County, Ohio, the legal description for which is attached as "Exhibit A" (hereafter the "Additional Property"). Such Additional Property shall be deemed to be a part of and included within the term "Subdivision" as that term is defined and used in the Declaration. All of the Additional Property described in Exhibit A attached hereto, and each part thereof, shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions contained in the Declaration. All of the terms and conditions of the Declaration shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the Additional Property described in Exhibit A attached hereto or any part thereof, and shall be binding upon such parties' heirs, successors and assigns, and shall inure to the benefit of each owner thereof as though originally subject to the Declaration.

2. Except as provided in this Fourth Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Fourth Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

**KENSINGTON LAND COMPANY**  
An Ohio corporation

Jessica A. Minesinger  
Barbara M. Asher

By: Judith L. Tomb, Pres  
JUDITH L. TOMB, President

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named **KENSINGTON LAND COMPANY**, an Ohio corporation, by **JUDITH L. TOMB**, its President, and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this 9<sup>th</sup> day of November, 2000.

Jessica A. Minesinger  
Notary Public

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## **EXHIBIT A**

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Numbers 8886 through and including 8919, in Kensington Subdivision, Section 6A, as shown by the Plat recorded in Volume 19, Page 21, of the Plat Records of Miami County, Ohio

G:\Carol-legals\KLC-Sect 6-Lgl Exh A  
MAS.clf 11/1/00

VOL 0711 PAGE 643



MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN  
0313366  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
07-11-2001 11:42:29 AM

REFERENCES 0  
RECORDING FEE 26.00  
PAGES: 5

**FIFTH AMENDMENT TO  
DECLARATION OF SUBDIVISION**

---

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

**KENSINGTON/HUNTINGTON SUBDIVISION**

---

Prepared by:

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

**TRANSFER NOT NECESSARY**

*July 11*, 20 *01*  
CHRIS A. PEEPLES, AUDITOR  
MIAMI COUNTY, OHIO

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**FIFTH AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Fifth Amendment to the Declaration of Kensington/Huntington Subdivision ("Fifth Amendment") is made and entered into this 11<sup>th</sup> day of July, 2001, by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**RECITALS**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the ~~Miscellaneous~~ <sup>Deed</sup> Records of Miami County, Ohio.
- B. Article VI of the Declaration provides for the submission of additional property to the provisions of the Declaration, so that such additional property will become in all respects part of the Subdivision subject to the Declaration.
- C. Section 6.2 of Article VI of the Declaration provides that the Developer reserves the right from time to time to amend the Declaration to include additional property as part of the Subdivision subject to the Declaration. Article XI of the Declaration provides that: "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer continues to own lots within the Subdivision and therefore has not relinquished control of the Association.
- D. On or about January 8, 1999, the Developer executed and filed a First Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Sections Two, Three and Four, to the terms and conditions of the Declaration.

- E. On or about December 29, 1999, the Developer executed and filed a Second Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Section Five, to the terms and conditions of the Declaration.
- F. On or about December 7, 2000, the Developer executed and filed a Fourth Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Section Six A, to the terms and conditions of the Declaration.
- G. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this Fifth Amendment in order to add additional property to be known as Kensington Subdivision, Section Seven and Kensington Subdivision, The Meadows at Kensington, to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Pursuant to Article VI and Article XI of the Declaration, the Developer hereby submits all of the property which is known as Kensington Subdivision, Section Seven, consisting of lots 8951 through and including 9000 in the City of Troy, Miami County, Ohio, and all of the property which is known as Kensington Subdivision, The Meadows At Kensington, consisting of lots 9001 through and including 9008 in the City of Troy, Miami County, Ohio, the legal description for which is attached as Exhibit A (hereafter the "Additional Property"). Such Additional Property shall be deemed to be a part of and included within the term "Subdivision" as that term is defined and used in the Declaration. All of the Additional Property described in Exhibit A attached hereto, and each part thereof, shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions contained in the Declaration. All of the terms and conditions of the Declaration shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the Additional Property described in Exhibit A attached hereto or any part thereof, and shall be binding upon such parties' heirs, successors and assigns, and shall inure to the benefit of each owner thereof as though originally subject to the Declaration.

2. Except as provided in this Fifth Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, this Fifth Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

Maureen Asher  
Debra Newman


**KENSINGTON LAND COMPANY**  
An Ohio corporation

By: Judith L. Tomb  
**JUDITH L. TOMB, President**

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named **KENSINGTON LAND COMPANY**, an Ohio corporation, by **JUDITH L. TOMB**, its G:\Kensington Land\5th Amd to Subdivision- add 6A&6B.doc and deed of said corporation.

11th IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this day of July, 2001.

Debra A. Newman  
Notary Public  
 **DEBRA A. NEWMAN**  
Notary Public - Ohio  
My Comm. Expires 3-27-05

G:\Kensington Land\5th Amd to Subdivision- add 6A&6B.doc  
DAB bm 7/02/01

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**Exhibit A**

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Numbers 8951 through and including 9000, in Kensington Subdivision, Section 7, as shown by the Plat recorded in Volume 19, Page 38 of the Plat Records of Miami County, Ohio.

Being Lot Numbers 9001 through and including 9008, in Kensington Subdivision, The Meadows At Kensington, as shown by the Plat recorded in Volume 19, Page 39 of the Plat Records of Miami County, Ohio.

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN  
0336258  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
05-08-2002 3:42:19 PM

REFERENCES 0  
RECORDING FEE 26.00  
PAGES: 5

**SIXTH AMENDMENT TO  
DECLARATION OF SUBDIVISION**

---

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

**KENSINGTON/HUNTINGTON SUBDIVISION**

---

Prepared by:

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

**SIXTH AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Sixth Amendment to the Declaration of Kensington/Huntington Subdivision ("Sixth Amendment") is made and entered into this 25<sup>th</sup> day of April, 2002, by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**RECITALS**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume 683, Page 241 of the Miscellaneous Records of Miami County, Ohio.
- B. Article VI of the Declaration provides for the submission of additional property to the provisions of the Declaration, so that such additional property will become in all respects part of the Subdivision subject to the Declaration.
- C. Section 6.2 of Article VI of the Declaration provides that the Developer reserves the right from time to time to amend the Declaration to include additional property as part of the Subdivision subject to the Declaration. Article XI of the Declaration provides that: "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer continues to own lots within the Subdivision and therefore has not relinquished control of the Association.
- D. On or about January 8, 1999, the Developer executed and filed a First Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Sections Two, Three and Four, to the terms and conditions of the Declaration.

- E. On or about December 29, 1999, the Developer executed and filed a Second Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Section Five, to the terms and conditions of the Declaration.
- F. On or about December 7, 2000, the Developer executed and filed a Fourth Amendment to the Declaration in which the Developer added all of the property which is known as Kensington Subdivision, Section Six A, to the terms and conditions of the Declaration.
- G. On or about July 11, 2001, the Developer executed and filed a Fifth Amendment to the Declaration in which the Developer added additional property to be known as Kensington Subdivision, Section Seven and Kensington Subdivision, The Meadows at Kensington, to the terms and conditions of the Declaration.
- H. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this Sixth Amendment in order to add additional property to be known as Kensington Subdivision, Section Six B, to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Pursuant to Article VI and Article XI of the Declaration, the Developer hereby submits all of the property which is known as Kensington Subdivision, Section Six B, consisting of lots 9221 through and including 9245 in the City of Troy, Miami County, Ohio, the legal description for which is attached as Exhibit A (hereafter the "Additional Property"). Such Additional Property shall be deemed to be a part of and included within the term "Subdivision" as that term is defined and used in the Declaration. All of the Additional Property described in Exhibit A attached hereto, and each part thereof, shall be held, sold and conveyed subject to the easements, covenants, conditions and restrictions contained in the Declaration. All of the terms and conditions of the Declaration shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in the Additional Property described in Exhibit A attached hereto or any part thereof, and shall be binding upon such parties' heirs, successors and assigns, and shall inure to the benefit of each owner thereof as though originally subject to the Declaration.

2. Except as provided in this Sixth Amendment, all other terms and conditions of the Declaration shall remain in full force and effect.



IN WITNESS WHEREOF, this Sixth Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

Signed and acknowledged  
in the presence of:

**KENSINGTON LAND COMPANY**  
An Ohio corporation

Jessica A. Minesinger  
Barbara Asher

By: Judith L. Tomb  
**JUDITH L. TOMB, President**

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named **KENSINGTON LAND COMPANY**, an Ohio corporation, by **JUDITH L. TOMB**, its President, and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

25<sup>th</sup> IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this day of April, 2002.

Jessica A. Minesinger  
Notary Public

**JESSICA A. MINESINGER, NOTARY PUBLIC**  
For State of Ohio  
My Commission Expires JULY 30, 2003

**Exhibit A**

Situated in the County of Miami, State of Ohio, and City of Troy:

Being Lot Numbers 9221 through and including 9245, in Kensington Subdivision, Section 6B, as shown by the Plat recorded in Volume 19, Page 111 of the Plat Records of Miami County, Ohio.

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TRANSFER NOT NECESSARY

May 8 20 02  
CHRIS A. PEEPLES, AUDITOR  
MIAMI COUNTY, OHIO

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN  
0391367  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
01/09/2004 08:28:45AM

REFERENCES 1  
RECORDING FEE 40.00  
PAGES: 3

SEVENTH AMENDMENT TO  
DECLARATION OF SUBDIVISION

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

KENSINGTON/HUNTINGTON SUBDIVISION

---

VOL 0745 PAGE 540

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  
[mstaudt@feks-law.com](mailto:mstaudt@feks-law.com)

Kensington Land Co. *emu*  
1204 Archer Dr.  
Troy, OH 45373

**SEVENTH AMENDMENT TO DECLARATION  
OF  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Seventh Amendment to the Declaration of Kensington/Huntington Subdivision ("Seventh Amendment") is made and entered into this 6<sup>th</sup> of January, 2004 by **KENSINGTON LAND COMPANY**, an Ohio corporation ("Developer"), for the purpose of amending the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions.

**RECITALS**

- A. On December 18, 1997, certain real property located in the City of Troy, Miami County, Ohio was submitted to the provisions of the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions (the "Declaration"), which Declaration was filed for record on December 19, 1997 at Volume ;683, Page 241 of the Deed Records of Miami County, Ohio.
- B. Article XI of the Declaration provides that "This Declaration may be amended only by the sole act of Developer up to the time Developer relinquishes control of the Association." The Developer has not yet relinquished control of the Association.
- C. The Developer now desires to amend the Declaration pursuant to the terms and conditions of this Seventh Amendment in order to establish quorum provisions for meetings of Members of the Association.

NOW, THEREFORE, the Declaration is hereby amended as follows:

1. Section 1.3, entitled "Voting Rights", of Article I of the Declaration shall be amended so as to add the following to the end of such section:

Notwithstanding any other provision of this Declaration or the Code of Regulations of the Association, those Members present at any annual or special meeting, in person or by proxy, shall constitute a quorum for authorization of any action taken at such meeting.

2. Except as provide in this Seventh Amendment, all other terms and conditions of the Declaration, as previously amended, shall remain in full force and effect.

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IN WITNESS WHEREOF, this Seventh Amendment to the Kensington/Huntington Subdivision Declaration of Covenants, Conditions, and Restrictions has been executed by Kensington Land Company as the Developer of the Subdivision.

KENSINGTON LAND COMPANY  
An Ohio Corporation

By: Judith L. Tomb  
JUDITH L. TOMB, President

STATE OF OHIO  
COUNTY OF MIAMI / ss:

Before me, a Notary Public in and for said County and State, personally appeared the above named Kensington Land Company, an Ohio corporation, by Judith L. Tomb, its President, and acknowledged the signing thereof to be her voluntary act and deed, and the voluntary act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Notarial seal this 6<sup>th</sup> day of January, 2004.

Michael A. Staudt  
Notary Public

G:\Kensington-Huntington\7th Amdmt to Dec  
MAS: clf



MICHAEL A. STAUDT, Attorney at Law  
Notary Public, State of Ohio  
Commission Does Not Expire  
Pursuant to Sec. 147.03 O.R.C.

VOL 0745 PAGE 542

MIAMI COUNTY RECORDER  
JOHN W. O'BRIEN  
0432795  
PRESENTED FOR RECORD  
MIAMI COUNTY, TROY, OHIO  
09/15/2005 01:51:48PM

REFERENCES 1  
RECORDING FEE 80.00  
PAGES: 8

EIGHTH AMENDMENT

TO THE

DECLARATION OF SUBDIVISION

WHICH ESTABLISHED

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR THE PROJECT KNOWN AS

KENSINGTON/HUNTINGTON SUBDIVISION

VOL 0765 PAGE 082

Prepared by: *BAF*

ALAN M. KAPPERS of the law firm of  
DUNGAN & LeFEVRE CO., L.P.A.

210 West Main Street, Troy, Ohio 45373

937-339-0511 937-335-5802 (FAX)

[akappers@dungan-lefevre.com](mailto:akappers@dungan-lefevre.com)

TRANSFER NOT NECESSARY

September 14, 2005

CHRIS A. PEEPLES, AUDITOR

MIAMI COUNTY, OHIO

**EIGHTH AMENDMENT  
TO THE DECLARATION OF SUBDIVISION  
FOR  
KENSINGTON/HUNTINGTON SUBDIVISION**

This Eighth Amendment is made and entered into for the purpose of amending the Declaration of Subdivision for Kensington/Huntington Subdivision.

(A) PREVIOUS RECORDING INFORMATION

The Subdivision documents have been recorded in the Deed and Plat Records of Miami County, Ohio as follows:

	<u>Filed</u>	<u>Recording Information</u>
Declaration of Subdivision	12/19/1997	Deed Book 683, Page 241
First Amendment to Declaration of Subdivision	1/19/1999	Misc. Book 30, Page 278
Second Amendment to Declaration of Subdivision	1/19/2000	Misc. Book 30, Page 508
Third Amendment to Declaration of Subdivision	7/30/2001	Misc. Book 31, Page 154
Fourth Amendment to Declaration of Subdivision	12/7/2000	Deed Book 711, Page 640
Fifth Amendment to Declaration of Subdivision	7/11/2001	Misc. Book 31, Page 141
Sixth Amendment to Declaration of Subdivision	5/8/2002	Deed Book 726, Page 794
Seventh Amendment to Declaration of Subdivision	1/9/2004	Deed Book 745, Page 540

910765 MCE083

(B) PURPOSE OF THIS AMENDMENT

The purpose of this Eighth Amendment is to more narrowly define permissible outbuildings and other structures within the subdivision, including clothes lines and flagpoles.

(C) COMPLIANCE WITH REQUIREMENTS OF DECLARATION  
AS TO AMENDMENTS TO THE DECLARATION

This Eighth Amendment complies with the terms, conditions and restrictions of Article XI in that not less than a majority of the Lot Owners have voted to amend this Declaration of Subdivision. Attached hereto as Exhibit 1 and incorporated herein by reference is the Affidavit of the Secretary of the Homeowner's Association certifying the vote thereon.

(D) LANGUAGE OF THE AMENDMENT

Sections 7.16, 7.28, and 7.29 are hereby revoked in their entirety and the following is substituted therefore:

Section 7.16 Outbuildings and Structures.

1. A single storage structure either freestanding (detached) or attached is permitted per residence property. Regardless of type the structure must:

- be constructed on top of a permanent poured concrete or concrete block foundation;
- be restrained and anchored to the foundation in such a manner as to minimize the possibility of the structure and/or any components thereof becoming projectiles in high winds. Those structures that have wood exteriors shall be painted or stained to match or compliment the residential structure. Such finish shall be well maintained;
- have roofing of like material and finish to that of the residence;
- NO metal structures shall be permitted.

(i) Freestanding (detached) Structures

- the maximum area shall be 80 ft<sup>2</sup>;
- the maximum height shall be 10 ft;
- shall be constructed of wood, vinyl, vinyl sided or material similar to that of the residence.



(ii) Attached Structure defined as having at least one wall of the storage structure being fully attached to the rear of the residential building.

- the maximum area shall be 100 ft<sup>2</sup>;
- the maximum height shall be 12 ft;
- shall meet the applicable building codes for the City of Troy and Miami County, Ohio;
- shall be finished with exterior material similar to that of the residence;
- shall be designed and placed so as not to encroach upon the setback and covenants defined for the property.

2. All storage structures regardless of type shall be kept in good repair.

3. Thirty (30) days prior placement and/or construction of the storage structure, the homeowner shall provide to all "parties of interest" and the Homeowner's Association Architectural Review Committee high quality drawings, photographs or other visual design graphics of the proposed structure. This information will also include proposed colors of the finished structure.

- A "party of interest" is defined as an abutting property owner and abutters of abutters. If the proposed placement allows property owners other than these to view more than 33% of the structure from either front or rear windows of their residence, they shall also be provided the same documentation;
- It is the responsibility of the homeowner to document that delivery of the above referenced notices has been made.

Those parties provided with such information shall have twenty-one (21) days from receipt to request a review by the Architectural Review Committee to insure that the covenants have been met. If no request(s) is made and the structure meets the covenants and building codes, the structure shall be considered approved for construction/placement.

#### Section 7.28 Clothes Lines.

The use of permanent exterior clothes lines shall not be permitted. However the use of retractable clothes lines shall be permitted provided:

- That the retractable portion be attached to a rear wall of the residence;

WBL0765 PAGE 085

- The line retracted and the anchor pole stored out of site when not in use;
- All components are well maintained (i.e. no rust on the pole or retractable housing).

#### Section 7.29 Flag Poles.

The installation of a single freestanding or attached flagpole is permitted provided the following conditions are met:

- a) Regardless of type of flagpole it must:
  - be well maintained (i.e. no rust);
  - used primarily to display the National (USA) or state flag;
  - when displaying the National flag, such display will meet US Code Title 4, Chapter 1, Sections 1-10 and Title 36 Chapter 10, Sections 173-178;
  - the displaying of special event/occasion flags (ex. College, etc.) shall be limited to 24 hours;
  - NEVER used to fly offensive or divisive flags or banners (i.e. Nazi, Confederate, etc.)
- b) Freestanding:
  - The installed height shall not exceed 22 feet;
  - a flag no larger than 4' x 6' shall be flown from the pole;
  - the use of fiberglass or aluminum poles are encouraged for freestanding poles, due to their appearance and lower maintenance requirements;
  - lines must be secured snugly to reduce the probability of "clanging" due to high winds.
- c) Attached
  - shall not exceed 6.5 feet in length;
  - a flag no larger than 4' x 6' feet shall be flown from the pole.

#### (E) EFFECTIVE DATE OF AMENDMENT

This Amendment to the Declarations of Subdivision of Huntington/Kensington Subdivision shall be effective as of May 19, 2005.

(F) NO OTHER CHANGES

No changes or revisions are made in the Declaration of Subdivision with the exception of those set forth above; and with the exception of those changes that Declaration is hereby ratified, confirmed and approved.

STATE OF OHIO, COUNTY OF MIAMI, SS:

Being first duly cautioned and sworn according to law, the undersigned deposes and states as follows:

The undersigned, Kensington/Huntington Homeowner's Association, does hereby consent to, and adopt as its own, the Eighth Amendment to the Declaration of Subdivision which established a plan for Subdivision ownership for the project known as Kensington/Huntington Subdivision; said Eighth Amendment was consented to by not less than seventy-five percent of the members of Kensington/Huntington Association; and said Amendment was duly adopted by the members.

IN WITNESS WHEREOF, the undersigned **KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION**, an Ohio Corporation not-for-profit, by **STEVE MASCARELLA**, President, and **STEPHANIE MINNICH**, Secretary, have executed this instrument this 13<sup>th</sup> day of September, 2005.

**KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION**

By:   
**STEVE MASCARELLA, President**

By:   
**STEPHANIE MINNICH, Secretary**


STATE OF OHIO, COUNTY OF MIAMI, SS:

BE IT REMEMBERED, that on this 24<sup>th</sup> day of August, 2005, before me, the subscriber, a Notary Public in and for the State of Ohio, personally came the above-named **KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION**, an Ohio corporation, not-for-profit by **STEVE MASCARELLA**, its President, who acknowledged that he did sign the foregoing instrument and that the same is the free act and deed of said corporation, and the free act and deed of him personally and as such officer.

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FURTHER, the above certificate was sworn to before me and subscribed in my presence on the day and year last aforesaid.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last aforesaid.

  
NOTARY PUBLIC

STATE OF OHIO, COUNTY OF MIAMI, SS:

BE IT REMEMBERED, that on this 13<sup>th</sup> day of September, 2005, before me, the subscriber, a Notary Public in and for the State of Ohio, personally came the above-named **KENSINGTON/HUNTINGTON HOMEOWNER'S ASSOCIATION**, an Ohio corporation, not-for-profit by **STEPHANIE MINNICH**, its Secretary, who acknowledged that she did sign the foregoing instrument and that the same is the free act and deed of said corporation, and the free act and deed of her personally and as such officer.

FURTHER, the above certificate was sworn to before me and subscribed in my presence on the day and year last aforesaid.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last aforesaid.

  
NOTARY PUBLIC



ALAN M. KAPPERS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration  
date. Section 147.03 O. R. C.

EXHIBIT 1

TO THE

EIGHTH AMENDMENT

TO THE

DECLARATION OF SUBDIVISION

FOR

KENSINGTON/HUNTINGTON SUBDIVISION

STATE OF OHIO, COUNTY OF MIAMI, SS:

The undersigned, being first duly cautioned and sworn according to law, deposes and states as follows:

1. That, the undersigned, **STEPHANIE MINNICH** is the Secretary of Kensington/Huntington Homeowner's Association;

2. That the required majority of the voting power of the members of the Association and lot owners within the Subdivision have indicated in writing their approval of this Eighth Amendment to the Declaration of Subdivision as stated herein;

Further, Affiant sayeth not.

  
STEPHANIE MINNICH

Sworn to before me and subscribed in my presence by **STEPHANIE MINNICH**, this 13<sup>th</sup> day of September, 2005.

  
NOTARY PUBLIC



ALAN M. KAPPERS, Attorney at Law  
Notary Public, State of Ohio  
My Commission has no expiration  
date. Section 147.03 O. R. C.