

DECLARATION OF COVENANTS, CONDITIONS,**EASEMENTS AND RESTRICTIONS FOR****HIDDEN COVE THIRD ADDITION SUBDIVISION**

THIS DECLARATION, is made as of this 13th day of February, 2001, by Matt Holtmeyer Construction, Inc., an Illinois corporation, hereinafter referred to as the "Declarant".

WITNESSETH THAT:

WHEREAS, the Declarant is the owner of all of the lands contained in the area known as "Hidden Cove Third Addition Subdivision" (herein "Hidden Cove Third Addition Subdivision" or "Subdivision"), as shown and described on the plat thereof recorded on February 13, 2001, in Book 15 of Plats, at Page 1450, as Document Number 110280, in the Office of the Recorder of Deeds in and for the County of Adams, State of Illinois (herein the "Plat"); and,

WHEREAS, Hidden Cove Third Addition Subdivision consists, in part, of the following described real estate:

Lots Sixty-two (62), Sixty-three (63), Sixty-four (64), Sixty-five (65), Sixty-six (66), Sixty-seven (67), Sixty-eight (68), Sixty-nine (69), Seventy (70), Seventy-one (71), Seventy-two (72), Seventy-three (73), Seventy-four (74), Seventy-five (75), Seventy-six (76), and Seventy-seven (77) of Hidden Cove Third Addition Subdivision, a subdivision of a part of the Northwest Quarter of Section Twenty-one (21), in Township Two (2) South of the Base Line and in Range Eight (8) West of the Fourth Principal Meridian, Adams County, Illinois, recorded in Book 15 of Plats, at Page 1450, in the Recorder's Office of Adams County, Illinois; and,

WHEREAS, Hidden Cove Third Addition Subdivision is an addition to the development of Declarant known as Hidden Cove Subdivision and additions thereto; and,

WHEREAS, Declarant desires to subject and impose upon the said lots in the Subdivision mutual and beneficial restrictions, covenants, conditions, easements, liens and charges hereinafter referred to as the "Restrictions" for the benefit and the complement of all of the lots in the Subdivision and the future owners thereof.

NOW, THEREFORE, the Declarant hereby declares that the real property located within the Subdivision shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a common plan for improvement of the Subdivision, established by the Declarant for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each lot and parcel situated thereon. All of

these Restrictions shall run with the land and shall be binding upon the Declarant and upon all parties having or acquiring any right, title or interest in and to the real property or any part or parts thereto (such persons being sometimes hereinafter referred to as "Owners").

1. RESIDENTIAL CHARACTER OF THE SUBDIVISION:

A. IN GENERAL: Every numbered lot in Hidden Cove Third Addition Subdivision subject to these covenants is a residential lot and shall be used exclusively for single family residential purposes. No building or structure shall be erected, placed or permitted to remain upon any of said lots other than one (1) single family dwelling and an attached private garage. No outbuildings of any sort shall be located on any lot. An attached private garage must be provided for each lot. "Family", for purposes hereof, shall mean an individual or two (2) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit, or a group of two (2) or more persons all of whom are related by blood, marriage or adoption, except that the group may include one (1) person not so related, living together as a single housekeeping unit.

B. OCCUPANCY OR RESIDENTIAL USE OF PARTIALLY COMPLETED DWELLING HOUSES PROHIBITED: No dwelling house constructed on any of said lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether or not a house shall have been "substantially completed" shall be made by the "Architectural Trustee" hereinafter described, and the decision of that Committee shall be binding on all parties concerned.

2. RESTRICTIONS CONCERNING SIZE AND PLACEMENT OF DWELLING HOUSES AND OTHER STRUCTURES AND THE MAINTENANCE THEREOF:

A. MINIMUM LIVING SPACE AREAS: No dwelling shall be constructed on any lot in the Subdivision exceeding the height hereafter stated having less than the following minimum square footages of living space, exclusive of porches (whether or not enclosed by screens or otherwise), breezeways, terraces, garages, car ports and other structures (if permitted):

(i) **Dwelling:** The dwelling located on any lot shall not exceed two and one-half (2-1/2) stories in height. The ground floor area of the dwelling, exclusive of open porches, breezeways, terraces, garages and other structures (if permitted), if any, shall not be less than two thousand (2,000) square feet for a one (1) story dwelling. If more than one (1) story, there shall be a minimum of one thousand two hundred (1,200) square feet on the ground floor. No minimum shall apply above the first story. However, the dwelling shall have a total of at least two thousand two hundred (2,200) square feet. In determining the amount of square footage contained within a house, there shall not be taken into consideration any area which is wholly or substantially below ground level including, but not limited to, any basement.

(ii) **Garage:** A garage shall be provided which contains at least five hundred (500) square feet.

B. SET-BACK REQUIREMENTS:

(i) **In General:** Except as may be otherwise provided in these restrictions or on the Plat, no dwelling house or above grade structure shall be constructed or placed on any numbered lot in the Subdivision (except fences or walls, the placement of which is provided for hereinafter) nearer to any lot line than the minimum building setback lines shown on the recorded Subdivision Plat, the provisions set forth herein, or applicable building or subdivision codes or restrictions, whichever is more.

(ii) **Front Yards:** No building shall be located on any lot nearer to the front lot line or nearer to the side street line than the minimum building setback lines shown on the recorded subdivision plat or twenty-five (25) feet, whichever is more.

(iii) **Side Yards:** The side yard set-back line shall not be less than ten (10) feet from the sideline of the lot.

(iv) **Rear Yards:** The minimum rear set-back line shall be a minimum of fifty (50) feet.

C. MAINTAINING NATURAL QUALITY, ETC.: In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Subdivision, and also to provide for health and safety within the Subdivision, the following provisions shall apply:

(i) **Fences and Walls:** All property lines shall be kept free and open one to another and no fences or walls shall be permitted on any lot or lot lines except where, in the opinion of the Architectural Trustee (as hereinafter described), a fence, wall or other enclosure, as a structure or aesthetic feature of a design concept, will contribute to and be in keeping with the character of the area. In such cases, the Architectural Trustee shall determine the size, location, height and composition of the fence, wall or other enclosure.

D. CONSTRUCTION MATERIALS: The finished exterior of every building constructed or placed on any numbered lot in the Subdivision shall be of material other than tar paper, rollbrick siding or any other similar material. The dwelling on any lot shall be of standard construction materials. Pre-fabricated structures, mobile homes and the like may not be located on any lot.

E. DILIGENCE IN CONSTRUCTION: The exterior of every building whose construction or placement on any numbered lot in the Subdivision is begun shall be completed within fifteen (15) months after the beginning of such construction or placement, unless prevented by weather or Act of God or because of the size or nature of the construction project. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

F. PROHIBITION OF USED STRUCTURES: All structures constructed or placed on any numbered lot in the Subdivision shall be constructed with a substantial quantity of new materials and no used structures shall be relocated or placed on any such lot.

G. MAINTENANCE OF LOTS AND IMPROVEMENTS: The owner of each lot in the Subdivision shall at all times maintain said lot and any improvements situated thereon in such a manner so as to prevent said lot or improvements from becoming unsightly; and, specifically, such owner shall:

- (i) Mow said lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds thereon.
- (ii) Remove all debris or rubbish from said lot.
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of said lot.
- (iv) Cut down and remove dead or diseased trees from said lot.
- (v) If located where debris or foreign material could enter from the lot to Harbor Lake located in the Subdivision, prevent such debris or foreign material from entering said lake.
- (vi) Not prevent, interfere with, curtail or adversely affect natural water drainage for Harbor Lake.
- (vii) Keep the exterior of all improvements constructed on said lot in such a state of repair or maintenance as to avoid their becoming unsightly.
- (viii) Keep and maintain driveways, entranceways and parking areas for a lot dust free from and after not later than one (1) year following the initial occupancy of a dwelling.

H. DIRT: No dirt shall be removed from the Subdivision without the approval of the Architectural Trustee. Should any lot owner have dirt to be removed from the lot, it shall be located at such owner's expense to another location within the Subdivision approved or designated by the Architectural Trustee.

I. ASSOCIATION'S RIGHT TO PERFORM MAINTENANCE: In the event that the owner of any lot in the Subdivision shall fail to maintain said lot or any improvements situated thereon in accordance with the provisions of these restrictions, and any By-Laws of Hidden Cove Association (as is hereinafter described), which from time to time may be in effect, and which may be relevant to these restrictions, said Association shall have the right, by and through its agents or employees or contractors to enter upon said lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such lot and the

improvements situated thereon (if any), conform to the requirements of these restrictions. The cost, therefore, to the Association shall be added to and become a part of the annual charge or a separate charge to which said lot is subject, and may be collected in any manner in which a charge may be collected. Neither the Association nor any of its agents, employees, or contractor shall be liable for any damage which may result from any maintenance work performed hereunder.

J. **LOT 71 POND:** On Lot Seventy-one (71) is located a pond. This pond is for the exclusive use and enjoyment of the owner or owners of said lot and is not for general use. Responsibility for maintaining the pond rests with the owner or owners of said lot. The pond is to be maintained in a manner similar to Harbor Lake as maintained by the Hidden Cove Association. The Association's right to perform maintenance extends to the pond where not maintained.

3. **GENERAL PROHIBITIONS:**

A. **IN GENERAL:** No noxious or offensive activities shall be carried on any lot in the Subdivision, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any owner of another lot in the Subdivision.

B. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot except one (1) professional sign of not more than one (1) square foot, one (1) sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and sales period.

C. **ANIMALS:** No animals, livestock, swine or poultry of any kind shall be kept, raised, bred or maintained on any lot in the Subdivision, except the usual household pets, provided they are not kept, raised, bred or maintained for commercial purposes, and provided further that they are not wild or dangerous or considered ferae naturae by law. Without limiting the scope of wild and dangerous animals, they specifically include snakes, bears and foxes.

D. **DISPOSAL OF GARBAGE, TRASH AND OTHER LIKE HOUSEHOLD REFUSE:** No owner of any lot in the Subdivision shall burn or permit the burning out of doors of garbage, trash or other like household refuse, nor shall any such owner accumulate or permit the accumulation out of doors of such refuse on his lot, except as may be permitted in subparagraph E, below.

E. **CONCEALMENT OF FUEL STORAGE TANKS AND TRASH RECEPTACLES:** Every tank for the storage of fuel that is installed outside any building in the Subdivision shall be either buried below the surface of the ground in accordance with applicable law, or screened to the satisfaction of the Architectural Trustee, by fencing shrubbery or other means. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Subdivision or any affiliated Subdivision at any time, except at the times when refuse collections are being made.

F. RESTRICTIONS ON TEMPORARY STRUCTURES: No temporary house, trailer, garage or other outbuilding shall be placed or erected on any lot, but this shall not prohibit reasonable construction vehicles or trailers during the course of construction.

G. PARKING: Trucks, trailers, boats, motorized recreational vehicles, attachable vans, mobile campers and similar equipment of eight thousand (8,000) pounds or less each may be kept in the subdivision, provided they are kept in the attached garage provided for a dwelling except for temporary periods only not exceeding thirty-six (36) continuous hours. Trucks, trailers, boats, motorized recreational vehicles, attachable vans, mobile campers and similar equipment exceeding eight thousand (8,000) pounds each may not be kept in the Subdivision.

H. DOCKS, PIERS, ETC.: No pier, dock or other structure may be constructed in such a manner that any portion thereof extends more than twenty (20) feet from the normal lake level marks for Harbor Lake, and in no event shall any pier, dock or other structure be erected (even within these limits) without prior written permission of the Architectural Trustee hereinafter described.

I. BOATING RESTRICTIONS: Power boating activities on the Lake will be limited to outboard type boats powered by electric motors only. Horsepower of boats powered by electric motors to be limited to five (5) H.P. Rowboats, canoes, and small sailboats (of the "day sailor" class) are also permitted. No boat shall be equipped with facilities which will discharge any waste materials into the Lake.

J. DITCHES AND SWALES SHALL NOT BE OBSTRUCTED: It shall be the duty of every owner of every lot in the Subdivision on which any part of an open storm drainage ditch, stream or swale is situated to keep such portion thereof as may be situated upon such owner's lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably required to accomplish the purposes of this sub-section.

K. INSTALLATION OF UTILITY SERVICES:

(i) All utility lines and apparatus provided to or in the Subdivision, including, but not necessarily limited to, water, sewer and gas pipes, telephone, cablevision, community antenna services, and power lines and conduits, shall be buried below ground, except utility pedestals and transformers required to be above ground.

(ii) Sanitation systems serving properties, whether sewer or septic systems, shall conform to all federal, state and local laws or ordinances.

L. OIL AND MINING OPERATIONS: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in

any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

M. **TREES:** In order to preserve the natural quality of the Subdivision, natural stands of trees shall not be removed or materially modified without the approval of the Architectural Trustee. Routine maintenance and upkeep of such areas that do not damage trees is not prohibited.

N. **DISHES, ANTENNA, ETC.:** No antenna, satellite disc or dish, or similar television, radio or other wave reception apparatus or wires shall be installed, attached or located on the exterior of any dwelling, building or structure or on a lot outside of any dwelling, building or structure without prior written permission of the Architectural Trustee hereinafter described. In no event shall any antenna exceed the height of the dwelling or any disc or dish exceed a diameter of twenty-one (21) inches. Any such equipment shall be screened so as to reduce its visibility from the street.

4. **ARCHITECTURAL CONTROL:**

A. **POWERS:**

(i) **Generally:** No building, building structure or improvement of any type or kind may be constructed or placed on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Trustee as to quality of workmanship and materials, harmony of external design with existing structures, compliance with these covenants, and as to location with respect to topography and finish grade elevation. It is intended that the Architectural Trustee when considering approval of plans and specifications may consider reasonable factors beyond those set forth in these covenants appropriate to the overall development of the subdivision.

(ii) **Power to Grant Variances:** The Architectural Trustee may allow reasonable variances or adjustments of these Restrictions where literal application thereof would result in unnecessary hardship, provided, however, that any such variance or adjustment is granted in conformity with the general intent and purposes of these Restrictions and also, that the granting of a variance or adjustment will not be materially detrimental or injurious to other lots in the Subdivision.

B. **ARCHITECTURAL TRUSTEE:** The Architectural Trustee is Matthew W. Holtmeyer. The Architectural Trustee may designate a representative to act for him. In the event of the death, resignation or inability to act of Matthew W. Holtmeyer, Barbara A. Holtmeyer shall then be the Architectural Trustee with full authority to act. In the event of the death, resignation or inability to act of both Matthew W. Holtmeyer and Barbara A. Holtmeyer, a successor trustee may be designated by a majority of the then owners of the lots determined as provided in paragraph 12, below. The designation of the trustee shall be recorded in the Recorder's Office of Adams County, Illinois. The successor trustee need not be the same as any affiliated subdivision.

C. **PROCEDURES:** The approval or disapproval as required in the covenants shall be in writing. In the event the Architectural Trustee, or the Trustee's designated representative, fails to approve or disapprove any plans or specifications within thirty (30) days after such plans and specifications have been submitted to the Trustee, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

D. **ASSOCIATION:** At such time as a dwelling is constructed on each lot within the Subdivision, the continuing function of the Architectural Trustee shall transfer to the Board of Directors of the Hidden Cove Association.

E. **LIABILITY OF TRUSTEE, ETC.:** Neither the Architectural Trustee nor any agent thereof, nor the Association, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

F. **SPECIAL PROVISIONS CONCERNING PIERS:** When the Architectural Trustee shall permit the construction or placing of a structure wholly or partly within Harbor Lake, such permits shall constitute a mere license from the Declarant or Declarant's successors in title to the Lake which may be terminated or restricted at any time.

G. **SPECIAL PROVISIONS CONCERNING ANTENNA, DISH, ETC.:** When the Architectural Trustee shall permit the construction or placement of an antenna, satellite disc or dish, or similar device, such permit shall constitute a mere license from the Declarant or Declarant's successors in title which may be terminated or restricted at any time.

H. **CONSTRUCTION BY DEVELOPER:** No dwelling, building or structure shall be erected, placed or permitted to remain on any lot except a dwelling, building or structure constructed by Developer or a corporation or firm in which Matthew W. Holtmeyer has at least a one-half (1/2) interest. The sale or other transfer of any lot is specifically made subject to this restriction. This restriction shall terminate upon the death of Matthew W. Holtmeyer. Neither Developer nor Matthew W. Holtmeyer is under any obligation to but may in their sole discretion waive this provision as to any lot.

5. **EASEMENTS:** The Declarant creates and reserves unto itself, its successors and assigns, certain easements along, across, over, under and upon the real estate that constitutes the Subdivision. The easements so reserved by the Declarant include those set forth on the Subdivision Plat and as follows, together with reasonable ingress and egress over and across lots to and from easement areas:

A. **DRAINAGE AND UTILITY:** Easements for drainage and for the location, construction, establishment, maintenance and operation of all utilities and accessories and for other purposes are reserved as shown on the recorded Subdivision Plat. Within these easements, no permanent building, structure, planting or other improvement shall be placed or permitted to

remain which may damage or interfere with the installation, location, maintenance and replacement of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and adjoining public areas, if any, shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. "Utilities" for purposes thereof shall include, but not be limited to, water, sewer, gas, electric, cablevision, community antenna services and similar services provided to lots and any pipelines, conduits, wires, pedestals, transformers or other items and accessories necessary to conduct or provide such utilities. It also includes the construction, maintenance and operation of sand filter or collection lines, provided that private sand filter lines and related systems shall be kept within the lot served by the system except the collection lines, if any, in the Subdivision.

B. SHORELINE MAINTENANCE: Declarant further reserves for itself, its successors, assigns and licensees for the Harbor Lake and shoreline maintenance and control along that portion of each lot contiguous to the shoreline of the Lake, an easement ten (10) feet wide. Any such lot shall also be subject to a flowage easement to an elevation on the lot equal to the high water elevation of the Lake.

C. STABILIZATION: Each lot shall further be subject to an easement for the maintenance and permanent stabilization control of slopes.

D. HARBOR LAKE DAM: Easements for the installation, location, maintenance and replacement of the dam for the Harbor Lake are reserved as shown on the recorded Subdivision Plat and as located. It is specifically required, however, that the owner of any lot on which the Dam is located shall be responsible for mowing or preventing the unsightly growth of vegetation and noxious weeds thereon. Declarant, or its successors and assigns, may also do so as well in its discretion.

E. LAKE: Easements regarding the Lake are also reserved as provided in Paragraph 9.

F. ACTION: No owner of any lot in the Hidden Cove Third Addition Subdivision shall have any claim or cause of action against Declarant, its successors, assigns or licensees, either in law or in equity, and arising out of the exercise of any easement reserved hereunder, excepting in cases of willful or wanton negligence.

G. TRANSFER: Declarant may at any time convey, transfer, grant, relinquish or assign the easements or rights provided in this paragraph or otherwise under this instrument to the Hidden Cove Association.

6. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER:

A. **MULTIPLE LOTS:** Whenever two (2) or more contiguous lots in the Subdivision shall be owned by the same person, and such person shall desire to use two (2) or more of said lots as a site for a single dwelling house, the person shall apply in writing to the Architectural Trustee for permission to so use said lots. If written permission for such a use shall be granted, the lots constituting the site for such single dwelling house shall be treated as a single lot for the purpose of applying these Restrictions to said lots, so long as the lots remain improved with one single dwelling house.

B. **REDIVIDED OR MODIFIED LOTS:** Lots may be redivided to increase the size of adjoining lots but not to create new lots. If redivided, the appropriate adjoining lot combined with the redivided lot shall thereafter be treated as a single lot with side-yard and other setback lines considered appropriately altered.

7. **OWNERSHIP, USE AND ENJOYMENT OF THE HARBOR LAKE:** The Hidden Cove Third Addition Subdivision has a lake. This is described on the plat of Hidden Cove Third Addition Subdivision as the Harbor Lake. The Lake is and shall remain private, and neither the Declarant's execution or recording of the Plat nor the doing of any other act by the Declarant is, or is intended to be, or shall be constructed as, a dedication to the public or the Lake or other amenities. A license upon such terms and conditions as Declarant, its successors, assigns or licensees shall from time to time grant, for the use and enjoyment of the Lake, or other amenities, is granted to the persons who are from time to time members of the Hidden Cove Association hereinafter described. This license shall extend, however, only to the Lake if access to the Lake exists from the licensee's respective lot. A license to any non-adjoining lot owners shall not exist by virtue of this Declaration. Owners of lots not adjoining a lake shall have no right or access to the Lake.

Declarant will convey fee simple title, free of financial encumbrances of the Lake and their related easements, dams and spillways or other amenities to the Hidden Cove Association hereinafter described to the extent located within the Hidden Cove Third Addition Subdivision. Such conveyance shall be subject to easements and restrictions of record. Such conveyance shall be deemed to have been accepted by the Hidden Cove Association and those persons who shall from time to time be members thereof, upon the recording of a deed or deeds conveying the same to the Association.

8. THE HIDDEN COVE ASSOCIATION:

A. **IN GENERAL:** There has been created, under the laws of the State of Illinois, a not-for-profit corporation known as the "Hidden Cove Association" which is sometimes herein referred to as the "Association". Every person who acquires and holds title (legal or equitable) to any residential lot in the Subdivision shall be a member of the Association, except that only one (1) of any number of co-owners of a lot shall be a member; all other co-owners will be Associate Members. The foregoing provision requiring that owners of

residential lots within the Subdivision be members of the Association is not intended to apply to those persons who hold an interest in such real estate merely as security for the performance of an obligation to pay money, e.g., mortgagees and land contract vendors. However, if such person should realize upon such persons' security and become the real owner of a residential lot within the Subdivision, the person will then be subject to all the requirements and limitations imposed in these Restrictions on owners of residential lots within the Subdivision and on members of the Association, including but not limited to those provisions with respect to the payment of an annual charge.

B. PURPOSES OF THE HIDDEN COVE ASSOCIATION: The general purposes of the Association are:

- (i) To promote pleasure, social recreation and sports activities for its members, their families and guests and to develop and maintain a recreationally oriented environment in the Hidden Cove Subdivision and additions;
- (ii) To provide a means whereby any lake or other amenities and such other recreational facilities within the Subdivision as may be conveyed to the Association or established by it, may be operated, maintained, repaired and replaced;
- (iii) To provide for the operation, maintenance, repair and replacement of street lights, entrance sign, collection line, and other amenities within or about the Subdivision for the general benefit of residents; and,
- (iv) To provide a means for the promulgation and enforcement of all regulations necessary to the governing of the use and enjoyment of the lakes and to provide a means to provide and pay for street lights and other amenities.

C. MEMBERSHIP: The Hidden Cove Association has various classes of memberships. With respect to Hidden Cove Third Addition Subdivision, they are:

(i) **"General" Membership:** "General" memberships shall be held by all lot owners within the Subdivision who do not qualify for "Harbor Lake" memberships. General members do not have any rights or obligations with respect to the Harbor Lake. General memberships are primarily established to provide for street lighting and other amenities within the Subdivision for the general benefit of residents. Based on the plat of the Subdivision, general memberships relate to Lots Sixty-two (62), Sixty-three (63), Sixty-four (64), Sixty-five (65), Sixty-six (66), Sixty-seven (67), Sixty-eight (68), Sixty-nine (69), Seventy (70), Seventy-one (71), Seventy-two (72), Seventy-three (73), Seventy-four (74), Seventy-five (75), Seventy-six (76), and Seventy-seven (77).

(ii) **"Harbor Lake" Memberships:** "Harbor Lake" memberships shall be held by all lot owners within the Subdivision who adjoin or lots as designated on the plat include a portion of Harbor Lake. Harbor Lake memberships have all of the same rights and obligations as general membership and, additionally, all rights and obligations pertaining to

Harbor Lake established by these Declarations, by the Association, or otherwise. Based on the plat of the Subdivision, Harbor Lake memberships relate to Lots Seventy-six (76) and Seventy-seven (77). "Harbor Lake" memberships may be referred to as simply "Lake" memberships.

In addition to membership classes, each class shall have associate members in accordance with the Articles of Incorporation or Bylaws of Hidden Cove Association.

D. POWER OF ASSOCIATION TO LEVY AND COLLECT CHARGES AND IMPOSE LIENS:

(i) The Association shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law, as well as the power to levy an annual charge or special charges (herein "charge" or "charges") against the members of the Association. As among a membership class, the annual charge shall be uniform. Special charges related to individual lots. The charge shall be used only for services, items or matters benefiting the membership class. It is recognized that general services, such as street lighting, apply to the entire Subdivision and affiliated subdivisions.

Only one adult person having a legal or equitable ownership in each lot shall be a member of the Association, all other members of the household shall be Associate Members as defined by the Hidden Cove Association. Charges are imposed irrespective of whether a residence has been constructed on the lot.

No charge shall ever be levied against the Association itself, or any corporation that may be created to acquire title to and operate services to the Subdivision. Further, no charge shall be assessed against the Declarant as to any undeveloped and unsold lot but Declarant may voluntarily pay annual charges. The annual charge for all memberships shall be Seventy-five Dollars (\$75.00), which shall be used for general services, items or matters, such as street lighting. In addition, Harbor Lake memberships shall have a further annual charge of Seventy-five Dollars (\$75.00), or a total of One Hundred Fifty Dollars (\$150.00) for each such membership (including both the general and lake charge).

The annual charge for all memberships shall be approved by the Board of Directors of the Association in accordance with the By-laws of the Association consistent with these Declarations. The annual charge applicable to all memberships may exceed the minimum established.

The rights of members of the Association as such members shall be as set forth in the By-Laws of the Association.

(ii) Every such charge so made shall be paid by the member of the Association within thirty (30) days after billing each year commencing with the year 2000. The Board of Directors of the Association shall fix the amount of the annual charge per member by

the first day of February of each year or as soon thereafter as is practicable, and written notice of the charge so fixed shall be sent to each member within thirty (30) days after being established.

(iii) If any charge levied or assessed against any lot subject to these restrictions shall not be paid when due, it shall then ipso facto become a lien upon the lot or lots owned by the persons owing such charge or charges, and shall remain a lien against said lot or lots until paid in full, together with interest as is hereinafter provided and other charges or costs which might become due as a result of non-payment, or as is hereinafter provided. Such charges as are provided for in these restrictions shall bear interest at the judgment interest rate then established by the State of Illinois until paid in full. If, in the opinion of the Board of Directors of the Association, such charges have remained due and payable for an unreasonably long period of time, they may, on behalf of the Association, institute such procedures, either in law or in equity, either by way of foreclosure of such lien or otherwise, to collect the amount of said charge in any court of competent jurisdiction. The owner of the lot or lots subject to the charge, shall, in addition to the amount of the charge at the time legal action is instituted, be obligated to pay any expenses or costs, including attorneys' fees, incurred by the Association in collecting the same. Every person who shall become the owner of any lot subject to these Restrictions, whether such ownership be legal or equitable, and any person who may acquire any interest in such lot, whether as an owner or otherwise, is hereby notified and by acquisition of such interest, agrees that any such liens or charges which may be extant upon said lot or lots at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an owner of a lot in the Subdivision is hereby notified that by the act of acquiring such title, such person will be conclusively held to have covenanted to pay the Association all charges that the Association shall make pursuant to these Restrictions.

(iv) The Association shall, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association certifying that the assessments on a specified lot have been paid or that certain assessments against said lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

D. SUSPENSION OF PRIVILEGES OF MEMBERSHIP: Notwithstanding any other provision contained herein, the Board of Directors of the Association shall have the right to suspend the voting rights (if any) and the right to use the facilities of the Association of any member or associate member:

(i) For any period during which any Association charge owed by the member or associate member remains unpaid; and,

(ii) During the period of any continuing violation of the restrictive covenants for the Subdivision, after the existence of the violation shall have been declared by the Board of Directors of the Association; and,

(iii) Because of any violation of the By-Laws or Regulations of the Association.

9. PROVISIONS WITH RESPECT TO LAKE AND LOTS CONTIGUOUS THERETO:

A. IN GENERAL: This paragraph 9 applies to those lots which adjoin the Harbor Lake within the Subdivision. In the case of the Harbor Lake, this includes Lots Seventy-six (76) and Seventy-seven (77).

B. WATER, ETC.: The water, in, and the land under, said Lake is and will be owned by the Association. Said Lake is, or will be generally depicted on the recorded Plat of the Subdivision. The normal pool water elevation of said Harbor Lake is at elevation not exceeding 591.73 feet above mean sea level. The title that will be acquired by the grantee of the said contiguous lots (and by the successors and assigns of such grantee) will and shall extend only to the shorelines of the said Lake. No such grantee, nor any of such grantee's successors or assigns shall have any right with respect to any stream that is a tributary to said Lake, or with respect to said Lake, the land thereunder, the water therein, or its elevation, use of condition, and none of said lots shall have any riparian rights or incidents appurtenant; provided further that title shall not pass by reliction or submergence or changing water elevations. The Declarant, its successors, assigns and licensees, shall have the right, but not the duty, at any time to dredge or otherwise remove any accretion or deposit from any of said lots in order that the shoreline of the Lake to which the lot is contiguous may be moved toward, or to, but not inland beyond, the location of said shoreline as it would exist as of the date hereof if the water elevation in said Lake were at an elevation one vertical foot above the normal pool water elevation indicated in said Subdivision plats, and title shall pass with such dredging or other removal as by erosion.

C. RESERVATION OF EASEMENT IN DECLARANT FOR OPERATION OF LAKE: The Declarant reserves unto itself, its successors, assigns and licensees, such an easement upon, across and through each of said lots contiguous to said Lake as is necessary in connection with operating and maintaining said Lake and appurtenances. Without limiting the generality of the immediately preceding sentence, it is declared that neither the Declarant nor any successor or assign of the Declarant shall be liable for damages caused by ice, erosion, washing or other action of the water or for any damage caused through the exercise of said easement or that set forth in subparagraph 9(D).

D. RESERVATION OF RIGHT IN DECLARANT TO CHANGE WATER ELEVATION IN LAKE: The Declarant reserves unto itself, and its successors, assigns and licensees, the right to raise and lower the elevation of said Lake, but neither the Declarant, nor any successor or assign of the Declarant shall have an easement to raise the high water elevation of said Lake to an elevation above that indicated on said Subdivision plats or as stated in the Declaration.

E. GEOTHERMAL USE: Owners of lots adjoining Harbor Lake may, with the approval of the Architectural Trustee, place geothermal loops in the Harbor Lake floor. The

location of such loops shall be subject to such requirements as may be imposed by the Architectural Trustee and Hidden Cove Association. Owners place loops in Harbor Lake are responsible for ensuring that such loops do not interfere with the use of the Lake.

10. **REMEDIES:**

A. **RIGHT TO PROCEED:** The Association or any party to whose benefit these Restrictions inure, including the Declarant, its successors and assigns, and lot owners, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, and shall have the right to obtain a prohibitive or mandatory injunction to enforce the observance of these Restrictions in addition to and cumulatively with any other remedy provided for herein, as well as the right to recover damages for the breach of these Restrictions. However, neither the Declarant nor the Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. **FAILURE TO PROCEED:** No delay or failure on the part of an aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

11. **EFFECT OF OWNER'S ACCEPTANCE OF DEED, ETC.:** The Owner of any lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Declarant or a subsequent owner of such lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. Further, that by acceptance of such deed or execution of such contract, such persons do acknowledge the rights and powers of the Declarant and of the Association with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, they do covenant and agree and consent to and with the Declarant, the Association and to and with the grantees and subsequent owners of each of the lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

12. **TITLES, ETC.:** The titles preceding the various paragraphs and subparagraphs of the Restrictions are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Whenever and wherever applicable, the singular form of any work shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

13. **DURATION:** These Restrictions shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these Restrictions are recorded, after which time said Restrictions shall be automatically extended for successive periods of five (5) years unless at least two-thirds (2/3) of the then owners of the lots subject hereto sign and record an instrument revoking, altering or otherwise changing said Restrictions in whole or in part. At any time, at least four-fifths (4/5) of the then

owners of the lots may sign and record an instrument revoking, altering or otherwise changing said covenants in whole or in part.

In determining the "then owners of the lots," each individual lot shall have a single right. If there are multiple owners of a lot, a majority in interest shall exercise the right of the lot. If there are two (2) owners having an equal interest, they shall exercise the right jointly, or if they fail to agree, then the first acquiring ownership or the first named in the deed or instrument conveying such lot shall exercise the right.

The consolidation or redividing of lots even if consistent with these covenants, conditions, easements or restrictions, shall not affect the lots entitled to vote.

14. **EXCEPTION:** These covenants do not apply in any respect to Lots Seventy-eight (78), Seventy-nine (79), Eighty (80) or Eighty-one (81) and such Lots shall not be considered for purposes of revoking, altering or otherwise changing these Restrictions. At any time, the owner or owners of said Lots may adopt these covenants in whole or in part and will thereupon be subject to such covenants adopted as if initially made subject to these covenants, subject to such exceptions as set forth in the adoption.

15. **SEVERABILITY:** Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.