KALLAGER PARK SUBDIVISION

This information is taken from public records filed with the Lucas County Recorder’s Office. Port Lawrence Title and Trust Company assumes no liability for the accuracy or completeness of the information contained herein.
DECLARATION OF RESTRICTIONS
KALLAGER PARK SUBDIVISION

THIS DECLARATION is made as of _______ 2001, by Hafner & Shugarman Enterprises, Inc., (“Developer”) under the following circumstances:

A. Developer is the owner of the real property described in Exhibit A attached to this Declaration (the “Property”); and

B. Developer desires to submit the Property to the covenants, conditions, restrictions and easements set forth in this Declaration.

NOW, THEREFORE, Developer declares that all of the Property shall be held, developed, encumbered, leased, occupied, improved, built upon, used and conveyed subject to the Declaration.

SECTION 1. DEFINITIONS

For purposes of this Declaration, unless the context otherwise requires, the words listed in this Section shall have the following meaning:

1.1 Declaration: This Declaration of Restrictions for Kallager Park Subdivision, as amended from time to time.

1.2 Developer: Hafner & Shugarman Enterprises, Inc., its successors and assigns.

1.3 Improvements: All buildings, outbuildings and garages; overhead, above ground and underground installations, including, but not limited to, utility facilities and systems, lines, pipes, wires, towers, cables, conduits, poles, antennae and satellite dishes; flagpoles; swimming pools and tennis courts; slope alterations; roads, driveways, uncovered parking areas and other paved areas; fences, trellises, walls, retaining walls, exterior stairs, decks, patios and porches; planted trees, hedges, shrubs and other forms of landscaping that are more than 6 feet high when fully grown; and all other structures of every type.

1.4 Lot: Each separately-described lot shown on the final plat for Kallager Park Subdivision.

1.5 Owner: Any party holding fee simple title of record to any Lot, including any party selling the interest by land contract, but excluding any party holding an interest merely as security for the performance of an obligation.
1.6 **Property**: All of the real property described in Exhibit A known as Kallager Park Subdivision together with all easements benefitting the real property and all appurtenances.

1.7 **Restrictions**: The covenants, conditions, restrictions and reservations stated in this Declaration as amended from time to time.

**SECTION 2. PURPOSES**

The Restrictions are declared to be in furtherance of the following purposes:

(a) The compliance with all zoning and similar governmental regulations.

(b) The promotion of health, safety and welfare of all Owners and residents of the Property.

(c) The preservation, beautification and maintenance of the Property and all Improvements.

(d) The preservation and promotion of environmental quality.

(e) The establishment of requirements for the development of the Property relating to land use, architectural features and site planning.

**SECTION 3. PERMITTED IMPROVEMENTS**

3.1 All Lots shall be used exclusively for single-family, private dwelling house purposes. No residence that is more than two stories in height at the front elevation shall be erected, placed, or permitted to remain upon any Lot. No more than one residence shall be erected, placed, or permitted to remain upon any Lot.

3.2 No dwelling or structure or any addition thereto or any alterations thereof shall be erected, reconstructed, placed or suffered to remain upon any lot, unless or until the size, location, type, style of architecture, use, the materials of construction thereof, and the exterior color scheme therefor, the site grading plan of the lot, including the grade elevations of said dwelling, the plot plan showing the proposed location of said dwelling upon any lot and the plans, specifications and details of said dwelling shall have been approved in writing by Developer, and a true copy of said plans, specifications and details shall have been lodged permanently with the Developer, and no dwelling except such as conforms to said plans, specifications and details shall be erected, reconstructed, placed or suffered to remain upon any lot. Developer reserves the sole and exclusive right to establish grades and slopes on all lots in Kallager Park Subdivision and to fix the grade at which any dwelling shall hereafter be erected or placed thereon, so that the same may conform to a general plan.
3.3 The only structures other than a single-family private dwelling house that shall be erected, placed or permitted to remain upon any Lot shall be one private garage having no more that a two-car capacity, and other Improvements that the Developer has approved as being consistent with the general aesthetic features of Kallager Park Subdivision, and temporary structures erected by the Developer, its successors and/or assigns in connection with the development and/or marketing of the Property.

3.4 No structure or other above ground Improvement other than driveways, walkways and sidewalks shall be erected, placed, or permitted to remain on any Lot nearer to the street line or to the boundary lines of such Lot than the minimum building setback lines shown on the recorded plat for the Property.

3.5 No above-ground swimming pool shall be installed on any Lot nor shall any other swimming pool or outdoor spa, hot tub, or the like, be installed in Kallager Park Subdivision until the plans, specifications and plot plan showing the location of such addition or swimming pool, spa, etc. shall have been approved in writing by Developer. Provided, however, that children’s wading pools having a total water surface of less than 75 square feet and a depth of less than 24 inches shall be permitted so long as such wading pool is not visible from the street which runs in front of the residence at which said wading pool is located.

SECTION 4. ARCHITECTURAL CONTROL

4.1 Before any Owner may start or permit the construction or installation of any Improvement on a Lot, the Owner shall first submit to the Developer for approval a complete set of building or installation plans for the proposed Improvement, including plans for grading, surface drainage and drainage swales; screening and/or fencing; complete building design and specification details with elevations and floor plans; landscaping plans; driveway curb cut widths and locations; any underground utility or other installations; and any overhead wiring, cables or other above-ground installations including locations and dimensions of satellite dishes and/or poles. The Developer shall approve, reject or modify the plans in a writing sent to the Owner in question not more than 30 days after the plans are submitted to the Developer. The Developer shall not unreasonably withhold approval of any plans that conform in every way with this Declaration and with the general character of the development on neighboring Lots within the Property. If the Developer fails to approve, disapprove or modify the plans within the above 30-day period, the Developer’s approval shall be deemed to have been given, and no further permission shall be needed before the Improvements described in those plans may be constructed or installed. However, in no event shall any Improvements be constructed or installed that violate any terms of this Declaration even if the Developer has expressly approved the construction or installation in writing unless the Developer has granted a variance in writing for the Improvements pursuant to Section 6.

4.2 No building shall be constructed on any Lot unless its external design and color are in harmony with the other buildings of similar use located within the Property.
4.3 The Developer shall have the right to adopt and amend architectural and design standards to explain, amplify, define and interpret the provisions and purposes of this Declaration.

4.4 No basketball backboard or similar structure shall be erected or attached to any dwelling or garage. All basketball backboards or similar structures shall either be portable (and stored in the garage when not used) or free-standing and erected behind all front and side yard building lines; all such structures wherever erected shall receive the prior written approval of Developer as to location and all other particulars.

SECTION 5. PERMITTED USES

5.1 No business, trade or profession that involves the entry onto the Property of customers, clients, patients or other persons involved in any way with such business, trade or profession shall be conducted on any Lot.

5.2 No noxious or offensive activity shall be carried on upon any Lot.

5.3 Nothing shall be done or placed or permitted to remain on any Lot which is unlawful or hazardous or which may endanger the health or unreasonably disturb the quiet occupancy of any persons residing on any other Lot.

5.4 All trash, garbage or other rubbish shall be deposited only in covered, sanitary containers screened from view.

5.5 No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed to view on any Lot.

5.6 The maintenance or harboring of any animals, other than dogs, cats, or birds maintained within the dwelling so as not to unreasonably disturb neighbors, is expressly prohibited in Kallager Park Subdivision. Under no circumstance will any dog or cat be permitted or allowed to remain outside a dwelling unattended so as to become a nuisance to any Lot Owner in Kallager Park Subdivision. In that connection, and as also stated herein, no doghouses or other pet enclosures, dog-runs, or the like shall be installed or located on any Lot. Furthermore, the Developer or the Kallager Park Homeowners' Association may develop such other rules and regulations with respect to the keeping of any domestic dog or cat (such as limits on size and type) so as to insure that no such domestic pet or animal shall become a nuisance or safety concern for any lot Owner.

5.7 No inoperative vehicle or vehicle without valid license may remain parked outdoors on any part of the Property for more than five days. No trailer, recreational vehicle, boat, camper or other similar vehicle shall be used on any part of the Property as either a temporary or a permanent residence.
5.8 No sign of any kind other than signs displayed by Developer in connection with the development and/or sale of any part of the Property shall be erected or permitted to remain in public view on any Lot except residential sales or rental signs advertising the Lot upon which they are located and not exceeding six square feet in size. No more than one of these permitted signs may be erected or permitted to remain on any Lot.

5.9 Any unused land area on any part of the Property shall be maintained and kept free of weeds and other unsightly plants, brush, rubbish and/or debris.

5.10 Any exterior lighting on any Lot shall be shielded so as not to be offensive to any other Lot.

5.11 No Owner, other than Developer, shall take any action to reduce the size of or subdivide any Lot.

5.12 No yard equipment, including power mowers, power shears and similar equipment shall be used by anyone on Sundays or Holidays from May 1 until October 1 each year prior to 9:00 am. All yard equipment shall be stored inside while not in use.

5.13 Developer shall have the exclusive right to determine the location, color, size, design, lettering and standards and brackets of all mail and paper delivery boxes (which shall initially be furnished by Developer and paid for out of funds collected under Section 9), and the location, size, type and species of trees and/or shrubbery planted between the sidewalk and street curb in order that all such areas of Kallager Park Subdivision be uniform in appearance with respect thereto. The Owner of a residential Lot shall maintain the mailbox and/or paper delivery box and all said trees and shrubbery and replace same when necessary with trees, shrubbery or mailbox and/or paper delivery box of similar type, look and quality, as the case may be.

5.14 No fence, hedge, wall or enclosure of any kind, for any purpose, shall be erected, placed or suffered to remain upon said Lots until the written consent of Developer shall have been first obtained therefore, and such shall be subject to the terms and conditions of said consent as to its type, height, width, color, upkeep and any general conditions pertaining thereto that said consent may name.

SECTION 6. VARIANCES

6.1 To avoid unnecessary hardship and/or to overcome practical difficulties in the application of the provisions of the Declarations, the Developer shall have the authority to grant reasonable variances from the provisions of Sections 4 and 5 of this Declaration. No variance shall materially injure or materially adversely affect any other part of the Property or any other Owner or occupant.
6.2 No variance granted pursuant to the authority of this Section 6 shall constitute a waiver of any provision of the Declaration as applied to any other party or any other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law.

6.3 All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

SECTION 7. EASEMENTS RESERVED ACROSS LOTS

7.1 Developer reserves for the benefit of Developer, all Owners and occupants of Lots and all suppliers of public utilities the easements shown on the recorded plat for Kallager Park Subdivision for the installation, use, maintenance, repair and replacement of utilities and drainage systems and facilities. No improvement may be placed on any Property that will materially impede the free and normal use of those easements.

7.2 Developer reserves the right and easement for itself, its successors and assigns, to enter upon the easement areas shown on the plat(s) of Property in order to install, maintain, repair, use and/or replace pipes, wires, antennae, cables, towers, conduits and other lines, systems and/or facilities for the purpose of providing water, sanitary sewer, storm sewer, electrical, gas, telephone, television and other utility or quasi-utility services to any part of the Property.

7.3 The easements and rights granted and/or reserved in this Declaration are easements appurtenant, running with the land which comprises a part of the Property, perpetually in full force and effect.

SECTION 8. HOMEOWNERS ASSOCIATION

8.1 Upon the sale of two-thirds (2/3) or more of the Lots in Kallager Park Plat 1, Developer may cause the incorporation of the Kallager Park Homeowners' Association ("Association") and upon the formation of such Association, every Owner (meaning a full building site) shall become a member therein, and each such Owner, including Developer, its successors and assigns, shall be entitled to one vote on each matter submitted to vote of members for each Lot owned by him or it; provided, however, that where title to a Lot is in more than one person, such co-owners, acting jointly, shall be entitled to but one vote.

8.2 The Association, by a vote of majority of its members may adopt such reasonable rules, regulations and by-laws as it may deem advisable for the maintenance, conservation and beautification of the Lots situated in Kallager Park Subdivision and for the health, comfort, safety and general welfare of residents of said Lots, and all of such Lots shall at all times be maintained subject to such rules and regulations.
8.3 The Association, by a vote of a majority of its members, may establish and levy on each Lot Owner in a reasonable and equitable manner, such sums as are determined by the Association to be reasonably necessary to raise such funds as are required to maintain the Association, cover the cost of its operations and maintain and insure any of its Property. Any such assessments, or portion thereof, which remain unpaid sixty (60) days after receipt of the notice thereof by the Lot Owner, shall become a lien on said Lot for the benefit of the Association.

8.4 Developer may, by an instrument in writing in the nature of an assignment, vest the Association, when formed, with all or any portion of the rights, privileges and powers granted or reserved to Developer hereunder which said assignment shall be recorded in the office of the Recorder of Deeds, Lucas County, Ohio.

8.5 After the expiration of twenty (20) years after the recording of these Restrictions, all right, powers, and privileges of Developer herein not previously assigned by the Developer pursuant to Section 8.4 above, shall automatically vest in the Association.

8.6 Each Lot Owner shall have the right to use Kallager Park for recreational and open space purposes only, consistent with the provisions hereof and any rules and regulations adopted by the Association. The Park shall be maintained by the Association and additional rules and regulations governing the use of the Park may be promulgated from time to time by the Developer, its successors and assigns, and/or the Association, and such rules and regulations shall be strictly observed by all Lot Owners.

SECTION 9. MAINTENANCE CHARGES

9.1 Each and every Lot in Kallager Park shall be subject to an annual working capital and maintenance charge in the amount established by the Association and/or the Developer. It is hereby understood and stipulated that until such time as the Developer assigns its rights to the Association, as herein permitted, the Developer shall have exclusive control of the Association. The initial annual charge for the Association shall be Two Hundred ($200.00) dollars. Under no circumstances shall the Developer be under any obligation to pay any annual assessment or charges to the Association on Lots remaining unsold by it. At the time the Developer conveys any Lot, the new Owner(s) shall be responsible for payment of a pro-rata share of that year's assessments. The pro-rata amount shall be based upon the remaining calendar months, or any part thereof, left in said calendar year. Future charges shall be levied on the first day of January of every calendar year. The Association shall have a lien perpetually upon the Lots to secure the payment of all annual maintenance charges. In default of the payment of such maintenance charges within sixty (60) days of its due date, a "Notice of Lien" in substantially the following form may be filed and recorded in the lien records at the Office of the Recorder of Lucas County, Ohio:
“NOTICE OF LIEN”

Notice is hereby given that Kallager Park Homeowners’ Association, Inc. claims lien for unpaid annual assessments for the year(s)_____ in the amount of $_________ against the following described premises:

(Legal Description)

The Kallager Park Homeowners’ Association, Inc.

By: __________________________________________

President

STATE OF OHIO

) SS:

COUNTY OF LUCAS

The foregoing instrument was acknowledged before me this_______ day of_______, 2001, by _____________________.

Notary Public

In the event any of said annual assessments is not paid when due, the Developer may, when and as often as such delinquencies occur, proceed by law to collect the amount then due by foreclosure of the above described lien, or otherwise, and in such event, shall also be entitled to recover and have and enforce against each residential Lot a lien for its costs and expenses in that behalf, including attorney fees. No Owner may waive or otherwise escape liability for the annual assessments provided for herein by non-use of the common areas or any facilities located thereon or by abandonment of his residential Lot. Sale or transfer of any residential Lot shall not effect the assessment lien; provided, however, that the sale or transfer of any residential Lot pursuant to foreclosure of a first mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Said charges and assessment shall be levied against all Lots in Kallager Park Subdivision and shall be applied only toward payment of the costs of collection, Improvements, the expenses of maintenance of Kallager Park Subdivision, as herein enumerated, or the Association, which shall include reasonable management fees, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of Owners of the Lots in Kallager Park Subdivision.
SECTION 10. AMENDMENTS TO DECLARATION

10.1 The Declaration or any provision contained herein may be amended for any purpose only by recording the desired amendments executed by not less than 75% of all of the Owners and, if Developer still owns one or more Lots, executed also by Developer.

10.2 No amendment of this Declaration shall (a) require any change in any pre-existing structure or other Improvement which is in compliance with the provisions of Sections 3 and 4 immediately prior to the effective date of the amendment; or (b) require any change in a use complying with the provisions of Section 5 as of the date immediately preceding the effective date of the amendment, without the written consent of each party so affected or required to make any such change.

SECTION 11. DURATION; TERMINATION

11.1 These covenants and restrictions shall run with the land and shall be binding upon Developer and all persons claiming under or through Developer for a period of twenty (20) years from and after the date hereof, at which time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless earlier terminated as provided for herein. These covenants and restrictions may be terminated at the end of the initial twenty (20) year period, or may be terminated thereafter with the written approval of the Owners of not less than three-fourths (3/4) of the Lots in Kallager Park Subdivision upon the filing of an instrument as aforesaid with the Recorder of Deeds of Lucas County, Ohio.

SECTION 12. MISCELLANEOUS

12.1 No restrictions imposed hereby shall be abrogated or waived by any failure to enforce the provisions hereof, no matter how many breaches may occur.

12.2 The invalidity of any restriction hereby imposed or of any provision shall not impair or affect in any manner, the validity, enforce ability or effect of the remaining restrictions and provisions of this Declaration.

12.3 Violation of any of the rules and regulations adopted by the Association acquiring the rights and benefits of Developer as provided for in Section 8 herein shall be deemed in violation of the Declaration and may be abated and removed or enjoined as herein provided.

IN WITNESS WHEREOF, the undersigned has hereunto set his hand to this instrument as of the date first written above.
Signed and acknowledged in the presence of:  
Samuel Onowitz
Print Name: Samuel Onowitz

Michael Curry
Print Name: Michele Curry

STATE OF OHIO  
COUNTY OF LUCAS

The foregoing instrument was acknowledged before me this 22 day of March 2001,  
by Jeffrey M. Shugarman, as Vice President of Hafner & Shugarman Enterprises, Inc., an Ohio  
corporation, on behalf of the corporation.

Notary Public

This instrument was prepared by:  
Samuel Onowitz, Esq.  
HIRSCH & OSNOWITZ  
2727 N. Holland-Sylvania Road, Ste. K.  
Toledo, OH 43615  
(419) 331-1021
Exhibit "A"

Parcel 1: The East one-half (½) of the Northwest one-quarter (1/4) of the Southeast one-quarter (1/4) of Section Ten (10), Town Two (2), in the United States Reserve of twelve (12) miles square at the foot of the Rapids of the Miami of Lake Erie, containing twenty (20) acres more or less, in Springfield Township, Lucas County, Ohio. Subject to legal highways.

Parcel 2: The West ten (10) acres of the Northwest one-quarter (1/4) of the Southeast one-quarter (1/4) of Section Ten (10), Town Two (2) in the United States Reserve of twelve (12) miles square at the foot of the Rapids of the Miami of Lake Erie in Springfield Township, Lucas County, Ohio. Subject to legal highways.
CONSENT TO ADOPTION OF DECLARATION OF RESTRICTIONS

The undersigned, Sky Bank - MidAm Region f/k/a MidAm Bank, hereby consents to the adoption of the foregoing Declaration of Restrictions for Kallager Park Subdivision, a Subdivision in Springfield Township, Lucas County, Ohio, this 26th day of March, 2001.

Signed and acknowledged in the presence of:

Lori A. Shanno

print Name: Lori A. Shanno

Sky Bank - MidAm Region

By: Karen A. Johnson

Assistant Vice President

Lila E. Hecker

print Name: Lila E. Hecker

STATE OF OHIO )
) SS:
COUNTY OF LUCAS )

The foregoing instrument was acknowledged before me this 26th day of March, 2001, by Karen A. Johnson, as Assistant Vice President of Sky Bank-MidAm Region, f/k/a MidAm Bank, on behalf of the corporation.

Lori A. Shanno
Notary Public

RECEIVED & RECORDED
MAR 30 2001
11 AM
SUE RIoux
RECORDED, LUCAS COUNTY, OHIO

01 1478A07