

RESERVATIONS, COVENANTS, RESTRICTIONS AND CONDITIONS

SAINT JAMES PLACE

Phase 8

Lots 249 through 279

1x
18



Instr: 200307160067871 07/16/2003
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Rick Campbell 10:21AM MISC
Stark County Recorder T20030039210

WHEREAS, McKINLEY DEVELOPMENT COMPANY, hereinafter called "McKINLEY" is the owner of Lots 249 through 279 of Saint James Place and is or was the owner of certain other real estate located in Lake Township, Stark County, Ohio, which it is developing into a community known as "Saint James Place", Saint James Place is sometime hereinafter referred to as the "Development"; and

WHEREAS, the Development will include areas for single family residences and Common Area, including, without limitation, boulevards, entrance signs and open space; and

WHEREAS, McKINLEY deems it necessary for the efficient preservation of the value, aesthetic harmony, and amenities of said Development and for the maintenance and preservation of the Common Areas, to impose and provide reservations, covenants, restrictions and conditions, hereinafter called the "Restrictions", upon the real estate in said Saint James Place and to impose these Restrictions upon Lots 249 through 279 of Saint James Place; and

WHEREAS, Saint James Place Homeowners Association, Inc., hereinafter referred to as the "Association," a corporation not-for-profit, has been established pursuant to the laws of the State of Ohio, for the purpose of owning, operating, maintaining, and administering certain portions of the Development including the Common Areas and such improvements as may be constructed and developed thereon, with the costs incurred by the Association in connection with said ownership, operation, construction and development, and any maintenance, repair, replacement and administration of such portions of the Development, including the Common Areas, to be an encumbrance upon the Development, as further described herein.

NOW, THEREFORE, the following Restrictions are imposed upon Lots 249 through 279 of Saint James Place by McKINLEY, which shall be covenants running with the land, binding upon and inuring to the benefit of McKINLEY, the Association and the respective Grantees in deeds for such real estate, their respective successors, purchasers, heirs, executors, administrators and assigns:

x Plat 200305190046264

1. DEED RESTRICTIONS

Lots located in Saint James Place shall be used exclusively for single-family residence purposes, and only one such residence shall be permitted on each lot. McKINLEY shall have the right to divide lots for the purpose of adding parts thereof to other lots to be used for one single family residence on the enlarged tracts.

A. Single-Family dwellings shall meet the following requirements:

i. Type: Single family dwelling may be a one story, a two-story, a split level, or cape cod design.

(a) One story dwelling is a structure, the living area being the first floor, constructed with or without a basement and a space between the first floor ceiling and the roof of adequate height to permit its use as a dwelling place.

(b) A two story dwelling is a structure, the living area of which is on two levels connected by a stairway, constructed with or without a basement.

(c) A split level dwelling is a structure, the living area of which is one, two or more levels connected by stairways constructed with or without a basement.

(d) A cape cod dwelling is a structure, the living area of which is on two levels connected by stairway and constructed with or without a basement. The upper level is constructed within the gable portion of the roof, with window penetrations made by the use of dormers.

ii. Living Area: The living area of any dwelling shall be not less than the square footage hereinafter set forth. "Living Area" shall not include garages, attics, basements, breezeways, patios, or any enclosed area not heated for year-round living.

(a) The area of any dwelling shall be computed on the outside foundation of the first floor and the exterior dimensions of the second floor. In the case of a Cape Cod design, a second floor area shall be computed from the outside dimensions of the knee walls.

In the case of open ceilings to the second floor, the upper open space may be computed as second floor footage.

(b) The minimum square footage for each of the aforementioned designs, computed as above described shall be:

	<u>Lots 249 – 261</u>	<u>Lots 262 - 279</u>
(1) One Story	2400 square feet	2000 square feet
(2) Two Story	2800 square feet above ground	2400 square feet above ground
(3) Split Level	2600 square feet above ground	2000 square feet above ground
(4) Cape Cod	2600 square feet with not less than 1800 square feet in the first floor area	2400 square feet with not less than 1600 square feet in the first floor area

iii. Garage: No garages shall be erected which are separated from the main building except on lots combined for 1 building site that total 1 1/2 acres or more and with written approval of McKINLEY. All garages must be at least 576 square feet on lots 249 through 261 and 440 square feet on lots 262 through 279.

2. LOT RESTRICTIONS

A. Side Yards: Each building shall have a side yard along each lot line. The least dimension of each side yard shall be not less than ten (10) feet. The sum of the widths of the two opposite side yards shall be not less than twenty (20) feet. The side yard nearest the street on any corner lot shall have a width of at least thirty (30) feet. Where two or more lots are acquired and used as single building sites, the side lot line shall refer only to the lines bordering on the adjoining property owner and/or street.

B. Front Yards: No building may be erected on any lot nearer than 50 feet to the front line in Saint James Place on lots 249 through 261 and 40 feet on lots 262 through 279.

C. Rear Yards: No building may be erected on any lot nearer than 30 feet to the rear lot line in Saint James Place.

D. Driveways: Concrete driveways are required. Other material will be considered and must be approved by the Architectural Review Board. All driveways shall be paved within 6 months after completion of the residence. Driveways shall not be wider than 16 feet from the front property line to the street on lots 249 through 261 and 22 feet on lots 262 through 279 unless approved in writing by McKINLEY or the Architectural Review Board.

E. Curb Cuts: Drain lines connected directly to the storm sewer are provided behind the concrete curb. Downspout drains are to be connected to this drain line. Curb cuts for drain lines are not permitted.

F. Corner lots: McKINLEY or the Architectural Review Board shall have sole discretion as to which street a residence will front on.

G. Variances: At its sole discretion, McKINLEY reserves the sole right to approve any setback variances, whether for McKINLEY's own construction or otherwise.

H. Sediment Control: In the construction of improvements on any lot in Saint James Place, no activities or any action will be taken by a grantee of a lot in Saint James Place to be in violation of the NPDES permit for the allotment or a violation of the erosion and sediment control plans and any other relevant plans. A grantee of a lot in Saint James Place or said grantee's employees, agents, successors, or assigns, shall not permit sediment to be discharged on adjoining property, on paved surfaces, or into public storm sewer systems. A copy of all applicable plans are on file in the office of McKINLEY, at 821 South Main Street, North Canton, Ohio 44720. The builder or lot owner agrees to submit an individual lot Notice of Intent (NOI) to the Ohio Environmental Protection Agency, General Permit Program, P.O. Box 1049, Columbus, Ohio 43266-1049.

3. PROHIBITED ACTIVITIES

The following uses and activities shall be prohibited in Saint James Place unless specific approval therefore is given by McKINLEY, or by the Association at such time that all lots within the Development have sold to individuals or entities other than McKINLEY, or an entity controlled by McKINLEY:

A. Industrial or manufacturing uses of any kind;

B. Commercial agricultural uses;

C. Mining or extraction of any minerals, including the removal of sand or gravel; provided, however, this restriction should not limit or prohibit the extraction of minerals pursuant to leases or rights granted prior to the date of these Restrictions. This restriction shall not prohibit the removal of any material in connection with development of the property for its permitted use.

D. The keeping, raising, and harboring of cattle, swine, fowl, livestock, other farm animals, or any other animals not normally kept as household pets; provided, however, that nothing in this restriction shall prohibit the keeping of household pets provided they are not kept, bred or maintained for commercial purposes, or kept in a manner as to constitute a nuisance or activity prohibited by law. Notwithstanding anything to the contrary hereinabove, only dogs that

are of a "non-vicious" breed shall be permitted to be kept on any said premises, and said dogs shall not be allowed to remain outside so as to create a nuisance with respect to their barking or howling.

E. There shall be no outbuildings constructed on any lot separate from the residence without explicit written approval of McKINLEY.

F. There shall be no above ground swimming pools, except small (48" in diameter or less) portable inflated pools for children.

G. Any containers used in connection with trash or garbage, if placed outside the residence, must be concealed from view and protected from animals. Collection services must pick up trash and garbage at the house and at no time shall either be placed at the street.

H. Temporary structures including but not limited to trailers, basements or incomplete houses, tents, shacks, garages or other buildings of any kind; provided, however, that this restriction shall not prohibit trailers and temporary structures used in connection with the development of the property.

I. Erection or maintenance of any signs, billboards or advertising devices of any kind except (a) signs not larger than ten (10) square feet for offering premises for sale shall be permitted on the premises to be sold (one per lot). (b) Home Builders and General Contractor signs, not larger than ten (10) square feet (one per lot) and only until sold. The configuration of home builder and general contracting signs shall be at the sole discretion of McKINLEY. Nothing herein contained shall limit McKINLEY's right to place entry signs to the Development or signs designating the existence and location of model homes. The size and design of said sign shall be within the sole discretion of McKINLEY. Directional signs, political signs, and garage or yard sale signs are strictly prohibited from being placed in the right of way.

J. Nuisances and noxious or offensive activities of any kind.

K. Storage of motor homes, campers, travel trailers, trailers of any type, recreational vehicles, commercial trucks and trailers, machinery, equipment, boats and unworking vehicles, unless such is not in view from any street or adjacent residence. Nothing herein contained shall limit use of trucks, trailers, or equipment during construction. Recreational vehicles owned by the homeowner or guests of the homeowner may be parked in the homeowner's driveway for a period of time not to exceed seven calendar days on two separate occasions but shall not exceed fourteen days within any one calendar year.

L. Hanging of laundry outdoors.

M. No fences may be erected or placed or permitted on any lot or lots from the house to the street. In the rear lot, fences exceeding three (3) feet may be permitted only if allowed by the applicable zoning code and approved, prior to installation, by McKINLEY or the Architectural Review Board for decorative and aesthetic value. Wire mesh type fences are strictly prohibited in all instances including kennels. Any fence approved must be erected not less than two feet from the property line.

N. Site lighting which interferes with the comfort, privacy or general welfare of adjacent or other lot owners is prohibited.

O. No unsightly growth shall be permitted to grow or remain upon any lot and no refuse, pipe or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon.

P. No satellite dishes shall be permitted, except those less than twenty (20) inches in diameter and not visible from the street. In the event that it is determined that the Federal Communication Commission, pursuant to its rule-making power as set forth at Section 207 of the Telecommunications Act of 1996 has the right to pre-empt this covenant, the maximum sized dish which will be permitted shall be the minimum size dish as provided for by the relevant rule. Also, in such event, McKINLEY or the Association shall have the right to regulate the location and manner of installation of said dishes. Furthermore, antennas, aerials, or other such devices for television or radio reception are not permitted on the outside of any dwelling or outbuilding or otherwise on any lots in the Development.

Q. No lot in the Development shall be subdivided or divided, unless or until the plat showing such proposed subdivision or division shall have been submitted to McKINLEY or the Architectural Review Board and the written consent of same have been obtained.

R. No split face concrete block is permitted nor shall it be used in place of a brick or stone band in complying with Item 6. H. of these Restrictions.

4. SUBMITTALS AND APPROVALS

A. At such time as all of the lots in Saint James Place have been sold to individuals or entities other than McKINLEY, or an entity controlled by McKINLEY, or at such

earlier time as McKINLEY may elect, the right to approve all further construction or other items contained therein shall shift from McKINLEY to an Architectural Review Board established by the Association ("Association's Board"), comprised of three (3) lot owners nominated and elected by the majority of the lot owners. The lot owner receiving the most votes will have a three (3) year term. The lot owner receiving the second most votes will have a two (2) year term and the lot owner receiving the third most votes will have a one (1) year term. Thereafter, said Board shall be comprised of said three (3) members or their successors. Nothing herein contained shall be construed as a diminution in McKINLEY's authority to appoint an initial Architectural Review Board (the "Board") to make all reviews and approvals as contemplated herein until the Association's Board assumes said duties pursuant to the terms hereof or until McKINLEY relinquishes authority as provided herein above or hereinafter.

B. All matters herein requiring the approval of McKINLEY and/or the Architectural Review Board by the terms of this instrument, shall be submitted to McKINLEY and the Architectural Review Board in writing, accompanied by such specifications, details and other documents as are reasonably required by it to make a proper decision. In order to insure that the homes and other buildings will have a uniform high standard of construction, and that the Development will be comprised of high quality custom homes, McKINLEY and the Architectural Review Board reserve the right to reject all such plans and specifications as aforesaid for any reasonable grounds, including, but not limited to aesthetic reasons. McKINLEY and the Architectural Review Board shall approve or disapprove such written submission or application for approval in writing.

C. ARCHITECTURAL REVIEW BOARD

i. McKINLEY will establish and appoint the Board, to serve until McKINLEY relinquishes authority and the Association's Board is appointed by the Association, for the following purposes:

a. To provide a staff of persons for reviewing, evaluating, approving and disapproving proposed plans.

b. To establish, maintain and preserve specific architectural guidelines and standards to carry out the intent of these Restrictions, which guidelines and standards from time to time in effect with respect to all or any portion of the Property, shall

hereinafter be referred to as the "Architectural Guidelines." The Architectural Guidelines are established written guidelines which are hereby incorporated herein and made apart hereof. Every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Development is and shall be conclusively deemed to have actual notice of the Architectural Guidelines which are established written guidelines governing any physical improvements to the lots located within Saint James Place, including but not limited to, structures, fencing, landscaping, garages, plantings, color schemes, building materials, etc. Copies of the Architectural Guidelines are available through the Association or McKINLEY upon request.

c. To enforce the provisions of these Restrictions.

ii. Board Responsibilities: Effect of Actions: The Board shall exercise its best judgment to see that all improvements in the Development conform to Saint James Place Architectural Guidelines and Building Restrictions as to external design, quality and types of construction, materials, colors, setting, height, grade, finished ground elevation, landscape, and tree removal. The actions of the Board, through its approval or disapproval of plans and other information submitted pursuant hereto, shall be conclusive and binding on all interested parties.

iii. Requirements of Plan Approval: No improvement, change, construction, addition, excavation, landscaping, tree removal, or other work or action which in any way alters the exterior appearance of the Development from its theretofore natural or improved state (and no change, alteration or other modification of any of the foregoing previously approved hereunder), shall be commenced or continued until the same shall have first been approved in writing by the Architectural Review Board in accordance with Saint James Place Architectural Guidelines. (See the Saint James Place Application For Review to accompany building plans.) Approval shall be required by submission to the Architectural Review Board of plans and specifications, in duplicate, showing the following:

a. Existing and proposed land contours and grades: McKINLEY reserves the right to establish grades and slopes on the premises in the Development and to fix the grade at which any building or structure shall be hereafter erected or placed, so that the same may conform to a general plan wherein the established grade and slope of each lot, as the grade of the lots on either side; having due regard for natural contours and drainage of the land.

b. All Buildings, and other improvements, access drives, and other improved areas and the locations thereof on the site;

c. All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), and ornamentation.

d. Plans for all floors, cross sections and elevations, including projections and wing walls.

e. Exterior lighting plans;

f. Walls, fencing, and screening;

g. Patios, decks, pools, and porches;

h. Parking areas;

i. Complete exterior color scheme & color samples.

j. Samples of all major materials to be used.

k. Such other information, data, drawings as may be reasonably requested by the Committee.

Specifications shall describe types of construction and exterior materials to be used.

D. Basis of Approval: Approval shall be based, among other things, upon conformity and harmony of the proposed plans with Saint James Place Architectural Guidelines and other structures in Saint James Place; the effect of the location and use of improvements on neighboring property; and conformity of the plans and specifications to the purpose and general intent of these Restrictions.

E. Liability Relating to Approvals: Neither McKINLEY, the Architectural Review Board, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone submitting plans for approval by reason of mistakes in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans. Every person and entity who submits plans to McKINLEY and/or to the Architectural Review Board agrees, by submission of such plans, that he or it will not bring any action or suit against the Architectural Review Board or McKINLEY in law or equity or to recover any damages.

F. Requirement for Approval: Owner or his representative shall submit simultaneously with building drawings for approval, a completed copy of the "Application For

Review” checklist, indicating compliance or non-compliance with the building restrictions as listed, and shall furnish reasons for non-compliance on a separate page. This is intended to reduce delays and expedite approval.

5. CONSTRUCTION

A. Start of Construction; Requirements of Completion:

Construction shall be completed no later than twelve months after construction was commenced. Landscaping shall be complete no later than 180 days after completion of construction.

B. Residential lots purchased, but on which construction has not commenced, must be mowed not less than once every thirty days during the growing season.

C. Residential lots purchased, but on which construction has not commenced, must have the sidewalk installed at the time an adjacent lot owner installs their sidewalk.

6. SAINT JAMES PLACE DESIGN STANDARDS AND BUILDING RESTRICTIONS

A. Houses should fit into sloped lots as much as possible. Stepped plan arrangements are encouraged to minimize cut and fill in these areas. This is not a major consideration in Saint James Place.

B. Retaining walls in cut situations are permitted and shall be constructed per the Architectural Guidelines.

C. The rear yard on wooded lots must remain as much as possible in its natural state. Decks and patios are permitted.

D. Patios shall not be permitted in the front yard unless approved by McKINLEY or the Architectural Review Board.

E. Garage location shall be determined by McKINLEY or the Architectural Review Board and garage doors shall be of one color.

F. Yard and security lights shall be of a design approved by McKINLEY or the Architectural Review Board. Lights are designed to light walks and drives. Emergency flood lights for security are permitted provided they are located so as to not disturb adjacent owners.

G. No vents shall be placed on the “front” half (50%) of the roof area, regardless of roof slope or shape. Flashing and vents shall be painted the same color as the roof.

H. No exposed concrete block foundation, including split face concrete block, shall be permitted. A brick band is required on all sides. On walkout basements, the brick band shall be installed from ground level to the first floor, floor joists.

I. Mailboxes and newspaper boxes will be provided and installed by the Developer. Mailbox location will be determined by the United States Postal Service. Mailboxes and newspaper boxes once installed, shall be maintained by the Lot Owner. No mailbox or newspaper delivery receptacle shall be erected other than the type approved and installed by the Developer.

J. Roofs shall have a minimum pitch of 8/12 with asphalt dimensional shingles or other approved high quality roofing products.

K. Each residence is to be pre-wired for cable TV. Cable TV will be provided underground adjoining each lot.

L. No more than two main wall colors and two main materials on any building unless approved in writing by McKINLEY or the Architectural Review Board.

M. A minimum of three trees, at least 1-1/2" trunk diameter, per unit are required on non-wooded lots, in addition to trees provided by Developer along streets. Proposed trees and tree locations must be shown on the site plan.

N. Owners should select building sites and plans so as not to attempt to construct repetitious designs within close proximity. Furthermore, careful consideration must be given to roof lines of adjacent residences. An early discussion before design is encouraged if you have any question about approval regarding this point.

O. Repainting of any existing residence with a color other than previously approved shall require approval of McKINLEY or the Architectural Review Board.

P. All builders are required to keep on record with the Developer a 24 hour emergency phone number.

Q. Materials, Details & Directions: Building Materials: All materials used (roofs, walls, etc.) should be compatible with each other and blend together with a common tone. Accent colors are acceptable if used carefully to add detail and highlight architectural features. The following materials are acceptable for use at Saint James Place:

i. Wood Siding: Four and eight inch clapboard, rough or smooth finish; channel rustic boards; v-joint tongue and groove boards; vertical board and batten; wood shingles; all with semi transparent stains are recommended. Paint is allowed, but does require more maintenance than stain and is not considered as desirable as stain.

ii. Vinyl or Aluminum Siding: Not permitted on lots 249 through 261 and is permitted on lots 262 through 279.

iii. Brick: Natural sand molded brick is preferred. "Manufactured" sand mold and textured brick may also be used. Color ranges should be subtle with no dark brown, speckled or glazed brick permitted. Brick detail in chimneys, sills, entry steps and foundations are encouraged. Exposed single depth of brick or stone at building corners is not allowed.

iv. Stone: Natural stone laid in a natural horizontal bed is preferred. Rubble and roughly squared stone is felt to be aesthetically more pleasing because of its natural quality than square cut dimensional or ashlar stone. Native Ohio limestone in gray or buff is recommended over more exotic stone.

v. Stucco: Natural, hand finished, or sand textured are the preferred finishes; scratches, splashes and artificial textures are discouraged. Stucco colors must blend with other colors. White stucco is discouraged.

vi. Other Materials: Use of other man made materials is permitted if they are painted to blend with other natural materials. The use of wrought iron and other decorative ornamentation must be approved by the Architectural Review Board.

R. Facades: All sides of the residence should be finished with the same materials, or with compatible materials that blend with one another. Termination of masonry front facade materials shall be at inside building corners and at second floor roof overhangs. Where front facade masonry turns an outside corner to the side of the house, masonry must continue to the next break in the building facade; rear corner of side wall; or terminate to a carefully designed detail of architectural element (faux column, window bay, etc.) as approved by the Architectural Review Board.

S. Windows: Windows should be carefully selected and proportioned to enhance walls in which they are placed. Windows are required on all major walls including

walls facing side yards. All windows to be wood or vinyl clad wood. The same window type must be used on all sides of the home. Muntins should only be used in traditional homes.

T. Chimney: Brick or stone masonry exterior construction is required. Exposed pre-fab fireplace flues, vinyl sided chases, or bump-outs are prohibited on all elevations. All fireplaces shall have a masonry foundation. A through the wall vent is permitted on the rear elevation only.

U. Sidewalks: The owners or their assigns shall, within three (3) months of occupancy of their residences, construct on said lot a sidewalk which shall be four feet (4') wide, four inches (4") deep, constructed of concrete (six sack limestone mix) and meet the specifications of Stark County and shall span the width of the lot and connect with the sidewalk constructed on adjoining lots on each side of the premises.

7. STREETLIGHTS

McKINLEY shall provide streetlights. The cost of operation and maintenance of the lights shall be shared equally by lot owners and such costs shall be assessed as provided in Paragraph 10, Assessments.

8. RESERVATIONS, EASEMENTS AND COMMON AREA

A. McKINLEY reserves to itself and its successors and assigns, the right to petition for or grant future easement or rights of way for the construction, maintenance, extension and operation of all public or private utility facilities in or upon all highways and streets, now and existing or hereafter established, upon which any portion of the Development may now or hereafter front or abut. The owners of any and all lots of the Development agree to and do hereby consent to and affirm all such agreements that may be entered into between McKINLEY and public or private utility companies, entities or authorities.

B. McKINLEY reserves to itself the right to relocate utility easements in accordance with the requirement of the Stark County Engineer, the Township of Lake, or as necessary for the orderly development of the Development.

C. McKINLEY reserves the right for itself, its agents, employees, successors and assigns to enter upon any lot for the purpose of carrying out and completing the development of the property, including but not limited to the completion of any dredging, filling, grading or

installation of drainage facilities. Entry onto said property for such purposes shall not be deemed a trespass.

D. McKINLEY has provided and/or conveyed to the Association easements to maintain the areas around the entrance signs, fencing, mounding and boulevard entrances to the various phases of the Development. McKINLEY has also conveyed to the Association the pond, gazebo and open space common areas located around the Mount Pleasant Street entrance to the Development. Upon designation by McKINLEY of any part of the Development owned by it as Common Area, McKINLEY shall cause a plat, showing those areas so designated, easement, deed or a declaration stating that such land has been so designated to be recorded among the records of the Recorder of Stark County. No part of the Development shall be Common Area subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been so designated and the above described plat easement, deed or declaration filed in accordance with the foregoing procedures. Common Area shall remain such in perpetuity, subject only to the provisions of subparagraphs A, B and C of this Section 8.

E. Authority to Convey Common Area: Notwithstanding the rights, easements and privileges granted hereunder, the Association shall nevertheless have the power and authority to convey or dedicate any property or easement or right of way over The Common Area free and clear of all such rights, easements and privileges if such conveyance or dedication is for use as a public roadway or pedestrian walkway, or to a public or private utility for the installation, operation and maintenance of utility services. Any other conveyance or dedication of Common Area shall be made only for a public purpose and, if made for a purpose other than those specified in the immediately preceding sentence of this Paragraph, only by an affirmative vote of at least two-thirds of the voting members of the Association represented in person or by proxy entitled to vote at a meeting (annual or special) called for such purpose.

F. Authority to Borrow Funds: The Association shall have the power and authority to borrow money for the purpose of improving the Common Area and in aid thereof, to mortgage the same, and the rights of any such mortgages shall be superior to the easements and privileges herein granted and assured.

9. LIMITS, MODIFICATIONS AND ENFORCEABILITY

A. McKINLEY reserves for itself, its successors and assigns, the right to amend, change, cancel or add to any or all of the aforementioned provisions when it deems such course of action advisable; provided, however, that no amendment, change, cancellation or addition shall be made unless an appropriate instrument signed by owners of two thirds of the lots within Phase 8 of Saint James Place agree to such amendment, change, cancellation or addition. The Restrictions contained herein shall be deemed as covenants running with the land not part of the property herein described and all persons claiming-under them.

B. If by reason of the shape, dimension, or topography, of any lot or for any other reason satisfactory to McKINLEY, the enforcement of the provision of these Restrictions would work a hardship, McKINLEY may modify or grant a variance from such provisions. Such modification or variance may be granted by McKINLEY if such modification or variance will not do material damage to any adjacent lot or property. Requests for modifications or variances must be submitted to McKINLEY in writing with the sufficient plans, specifications, and evidence required or requested by McKINLEY to render a modification. Construction or improvement shall not commence until written approval is granted by McKINLEY.

C. The provisions herein shall run in favor of and shall be enforceable by any person or entity, and the heirs, assigns and successors for such person or entity, who is or becomes an owner of any lot in the Development as well as McKINLEY, its successors or assigns. It is understood and agreed that all of the foregoing are part of a common and general plan for the development of the Development and the protection of all present and future owners of any part of the Development. Failure of McKINLEY to enforce any of the restrictions contained herein, shall in no event be construed to be in any manner a waiver of, acquiescence in, or consent to a further or succeeding violation of these Restrictions. However, the failure, refusal or neglect of McKINLEY, its successors or assigns to enforce these Restrictions or to prevent violations thereof shall in no event make McKINLEY, its successors or assigns liable for such failure, refusal or neglect.

10. ASSESSMENTS

A. All lot owners shall be members of the Association and shall be bound by all the rules and regulations that may be established by its governing body.

B. For the purposes of providing funds for the operation, administration, development, maintenance and upkeep of the Common Areas, the subdivision entrance walls and

signs, and fences, constructed by McKINLEY, along the exterior of the Development, the Association shall fix and assess a yearly assessment against each lot owner in the Development. In making each assessment, the Association shall allocate a fair pro-rated share to each of the phases within the Development. The annual assessment for each of the phases of the Development shall be divided equally among and be assessed equally against each lot or proposed lot within the particular phase.

C. As soon as practicable in each year, the Association shall send a written statement to each lot owner which sets forth the amount of the annual assessment and stating the terms of the total sum due and owing. The annual assessment may be billed, however, in annual, semi-annual, quarterly or monthly installments, as the Association shall in its sole discretion determine, and shall be due within ten days of receipt.

11. INTERPRETATION AND SEVERABILITY

In case of uncertainty as to the meaning of any article, paragraph, sentence, clause, phrase or word in these Restrictions, the interpretation by McKINLEY shall be final and conclusive upon all interested parties, including the Association. Subject to the foregoing sentence, in case of uncertainty as to the meaning of any article, sentence, clause, phrase or word in these Restrictions, the interpretation by the Association shall be final and conclusive upon all interested parties, except McKINLEY. Further, determination by any appropriate authority or court that any paragraph or provision of the Restrictions is invalid or unenforceable shall in no way limit or restrict the validity and enforceability of any other paragraph or provision.

12. PERIOD OF DURATION

These Restrictions, and the charges and liens provided for herein, shall be deemed to run with the land; shall continue in full force and effect for a period of thirty-five (35) years from the date hereof; and shall be automatically reinstated for a like period unless written objection is theretofore declared and filed by the Association or by McKINLEY with Recorder of Stark County, Ohio.

13. CONSTRUCTIVE NOTICE AND ACCEPTANCE

Every person who now or hereafter owns or acquires any rights, title or estate in any portion of the Development is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein whether or not a reference to these

Restrictions is contained in the instrument by which such person acquired an interest in said Development.

14. RIGHTS OF MORTGAGEE

All provisions of these Restrictions, including the provisions hereof respecting liens and charges against the Development, shall be deemed subject and subordinate to the lien of all recorded first mortgages and mortgage deeds on or for the Development securing a debt, now or hereafter executed, and none of these Restrictions shall supersede or in any way reduce the security or affect the validity of such lien or mortgage or deed to secure such debt; provided, however, that if any portion of said Development is sold or conveyed under a foreclosure or other enforcement of any mortgage or under the provisions of any deed to secure debt, any grantee or purchaser at such sale, and his heirs, personal representatives, successors and assigns, shall hold any and all property so conveyed or purchased, subject to all the covenants, conditions, restrictions and liens, and other provisions of these Restrictions.

15. MUTUALITY - ENFORCEMENT

All restrictions, conditions and covenants contained herein are made for the direct mutual and reciprocal benefit of McKINLEY, the Association, and the Grantees and their successors and assigns; these Restrictions shall create mutual equitable servitude's upon the Development in favor of other real property in the Development; these Restrictions shall create reciprocal rights and obligations between the respective owners of all such property and privity of contract and estate between all Grantees thereof; and these Restrictions shall operate as covenants running with the land for the benefit of all such property and the owners thereof.

In the event McKINLEY and/or the Association takes any action, legally or otherwise, to enforce any provision of these Restrictions, the lot owner(s) against whom the action is taken shall be assessed for and be responsible to pay to McKINLEY and/or the Association any and all costs and expenses (including, but not limited to, discovery, court costs and/or reasonable attorney fees) incurred by McKINLEY and/or the Association related to the action.

16. McKINLEY ACTING AS ASSOCIATION OR BOARD

Until such time as all the lots in Saint James Place have been sold to individuals or entities other than McKINLEY, or an entity controlled by McKINLEY, or at such earlier time as McKINLEY may elect, McKINLEY may, in its discretion, exercise all rights granted herein to the Association or the Architectural Review Board. McKINLEY, however, shall have no obligation to exercise such rights.

These Reservations, Covenants, Restrictions and Conditions have been duly signed, acknowledged and delivered by McKINLEY DEVELOPMENT COMPANY, the sole owner of development, this 11th day of July, 2003.

McKINLEY DEVELOPMENT COMPANY
An Ohio General Partnership


By: Robert J. DeHoff, partner


By: William J. Lemmon, partner

STATE OF OHIO, STARK COUNTY

Before me, a Notary Public in and for said county and state, personally appeared the above named McKINLEY DEVELOPMENT COMPANY, an Ohio general partnership, by Robert J. DeHoff and William J. Lemmon all of its partners, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed of them individually and as said partners and that they are duly authorized herein.

In witness whereof, I have set my name and official seal this 11th day of July, 2003.


Notary Public **TERRI L. SHOEMAKER**
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES 12-18-05

This instrument prepared by:

McKinley Development Company
821 South Main Street
North Canton, Ohio 44720
(330) 499-8153