

PROVIDENCE PORT DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made this 16th day of May 2005 by Gordon L. Meling his successors or, assigns, (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of the real estate in the Village of Mount Pleasant, in the County of Racine, State of Wisconsin and legally described as Exhibit "A" attached hereto and made a part hereof (said real estate hereinafter referred to as the "Property"); and

WHEREAS, Declarant is desirous of submitting the property to the Provisions of this Declaration;

NOW, THEREFORE, Declarant hereby declares that the Property is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions & reservations, (sometime hereinafter collectively referred to as the "Declaration") hereinafter set forth.

ARTICLE I

Declaration Purposes

Section 1. The general purpose is that the Declarant wants to create a desirable single-family development for future owners of lots and homes to be created upon the Property.

- (a) The Declarant desires to provide upon the Property, through its planning and layout, the harmonious development of a single family community by the imposition of the covenants and restrictions, as hereinafter set forth, for the benefit of the Property and the Owners thereof.
- (b) The Declarant desires to protect the owners of the Lots, as hereinafter defined, against such improper use of surrounding lots as may depreciate the value of their property; provide maintenance and equal payment for same; to encourage the erection of attractive improvements, with appropriate locations thereof; and to prevent haphazard and inharmonious improvement.

Section 2. The following covenants, conditions and restrictions shall run with the land and shall be binding on all parties having the right, title, interest, or any of their heirs, successors and assigns for the property.



## ARTICLE II

Definitions

Section 1. The following words and terms, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "*Association*" refers to Providence Port Homeowner's Association, a not-for-profit organization, its successors and assigns.

(b) "*Berm*" refers to the landscaped mound of dirt used for shielding Providence Boulevard.

(c) "*Board*" refers to the Board of Directors of Providence Port Homeowner Association as constituted from time to time.

(d) "*Bylaws*", shall mean the Bylaws of Providence Port Homeowners Association, a copy of which is attached hereto as Exhibit "B" and made a part hereof.

(e) "*Declarant*" shall refer to Gordon L. Meling, his successors or assigns.

(f) "*Lot*" shall mean a platted lot designated as such on any of the recorded plats of Phases of Providence Port Subdivision upon which one Dwelling is constructed.

(g) "*Member*" shall refer to any entity or Homeowner in Providence Port.

(h) "*Unkempt*" refers to overgrown or neglected condition of lawn and landscaping.

The future owners of Lots 135-147 and Lots 209 & 210 are hereby advised that the Union Pacific Railroad lying east of these lots may from time to time generate noise, vibrations and dust impacts that are exempt from local and municipal regulations.

## ARTICLE III

General Restrictions

Section 1. Land-use-Single Family Residential. All Lots shall be used only for single-family residences.

Section 2. Lot Appearance. No person shall accumulate on his Lot junked vehicles, litter, refuse or other unsightly materials. Garbage shall be placed in receptacles and if outside shall be properly screened.

Section 3. Lot Maintenance. All Lots shall be maintained on a regular basis. All grass and weeds shall be mowed regularly and unsightly plants and underbrush shall be controlled at all times.



In the event a Lot is not maintained as indicated, then Declarant or the Association shall have the right to enter subject Lot and maintain the Lot as required. The costs thereof shall become a lien upon the Lot in the same manner as provided for nonpayment of maintenance assessments.

All lots having a 25 foot landscaped berm on the side or rear yards of Providence Boulevard shall be maintained by each individual lot owner since its lays totally within each lot. This is NOT the responsibility of the Providence Port Homeowners Association (PPHA) of the Village of Mount Pleasant to maintain.

Section 4. Antennas. Antennas will be located inside the home whenever possible. Installation of any antennas outside the home is prohibited.

Section 5. Solar Collectors. The installation of any solar panels or collectors on exterior of homes is prohibited.

Section 6. Satellite Dishes. Any satellite dish attached to the exterior of any residence shall not exceed 18" in diameter.

Section 7. Direct Access. Direct access is prohibited from all lots having side or rear yards on Providence Boulevard. Lots on corners that intersect with Providence Boulevard may not have any direct access onto Providence Boulevard or any driveway access on side street within 35 feet of the right of way of Providence Boulevard.

Section 8. Driveway Access on Corner Lots. No direct access shall be allowed within 35 feet of any intersection within Providence Port Subdivision as measured from the road rights of way.

Section 9. Wetland Setbacks. No structure shall be permitted within 25 feet of the delineated wetlands in Outlot 11.

Section 10. Maintenance of Pedestrian Trails. The pedestrian trails within Providence Port Subdivision shall be open to the public and shall be maintained the Providence Port Homeowners Association (PPHA).

Section 11. ~~Setbacks.~~ No home shall be constructed within 25 feet from the front lot line; 8 feet of the side lot line; 12 feet of the side lot line of the garage; 25 feet of the rear lot line.

#### ARTICLE IV

##### Providence Port Homeowners Association

Section 1. Creation and Purposes. There shall be formed a Not-For-Profit Association known as the Providence Port Homeowners Association (hereinafter referred to as PPHA), which shall provide for the maintenance and promote the desirable character of PROVIDENCE PORT SUBDIVISION.

Section 2. Election of Officers. The Association shall have a President, Vice President, Secretary and Treasurer, elected at intervals provided for in the Bylaws of Providence Port Homeowners Association. The officers of the Association shall not be liable to the owners or others for any mistakes of judgment or acts of omissions made in good faith as such officers. The owners shall indemnify and hold harmless each such officer against all contractual liability arising out of Contracts made by such officers on behalf of the Association, unless such contracts shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any Owner arising out of any such contract made by the Association or officers to the extent not covered by insurance, shall be limited to his proportionate share of the total liability.



Section 3. Membership. Every person who is a record owner of a fee or undivided fee interest in any Lot shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for performance of an obligation. No owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any lot, which is subject to assessment, by the Association. Ownership of such Lot shall be sole qualification of membership. Nothing contained herein shall be interpreted to exclude Declarant from membership while it or its successors in interest if any owns one or more Lots. Declarant shall be exempt from payment of any Homeowners dues or assessments.

Section 4. Powers and Duties of the Association. The Providence Port Homeowners Association shall be responsible for the maintenance of:

- (a) Islands in cul-de-sacs;
- (b) Entrance islands and landscaping at the entryways on King's Way and on Providence Boulevard;
- (c) Outlots 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12 shall be maintained by the Providence Port Homeowners Association (PPHA), as well as all pedestrian trails within these outlots. If outlot ten is ever developed Declarant, then outlot 10 will cease to be the responsibility of the Providence Port Homeowners Association.
- (d) Berms on Providence Boulevard;
- (e) Unkempt Lots, the right to enter, mow, trim, and place liens against said property.
- (f) The Providence Port Subdivision includes a stormwater retention pond in Outlot 7 to be owned and maintained by the Homeowners Association. The pond was designed by Farris, Hansen & Associates with flood storage volume of 7.87 acre-foot, the normal water elevation of 614.0, the high water elevation of 618.5 and the pond depth of 10.0 feet.

Routine inspection and housekeeping maintenance of the flow restricting manhole and surface inlets shall be performed regularly, two or three times a year, and after each significant rainfall event of 1/2" or more the first three years by the developer, Mission Enterprises, Inc. after this, routine inspections shall be done two times per year by the Owners Association.

Activities should include removal and disposal of litter from the landscaped areas and any materials floating on the surface, removal of any materials clogging inlets and maintenance of vegetated areas through reseeding damaged area, mowing and removal of tree seedlings.

Special inspection and repairs should be conducted annually or as required by special circumstances. Inspect and repair any eroded or slumping areas on or around the embankment. Inspect for excessive deposition and identify and correct the source area. Inspect all inlets and outlets for needed repairs or clogging and repair, if necessary.



Control of nuisance aquatic plants and mosquitoes may be required at certain times. These activities should only be conducted if a nuisance occurs or threatens. Mechanical controls should be used where feasible. Chemical control should be used sparingly and only if necessary. A Homeowner Association shall be formed and an initial financial basis established by a deposit of \$300.00 per lot at closing in a checking and/or savings account for the Association. (Attorney for the development is to establish the Association). The Developer shall maintain the pond until the subdivision improvements are accepted by the Village or three years from the initial construction, whichever ever occurs later, after which the lot owners shall be responsible.

The Developer shall be responsible for the operation and maintenance of the pond and storm sewer until the Village accepts the public improvements and the warranty period has expired.

The Homeowners Association shall be responsible for the operation and maintenance of the pond, after it is turned over by the Developer, and shall be responsible to repair or replace the outlet structure if it fails.

The Developer, or the Homeowners Association after the Developer turns over control of the pond to them, shall be responsible to inspect the pond for accumulated sediment and adequate function as required. Inspection reports shall be filed with the Village biannually during the first 2 years and annually thereafter. As-built surveys of the pond should be performed from time to time, but not less than once every ten years, to verify the pond's design depth and sediment storage volume.

A Storm Water Retention and Access Easement, located in Outlot 7, has been dedicated to the Village of Mt. Pleasant for maintenance purposes and related ingress and egress; however, the Village of Mt. Pleasant shall have no obligation to exercise its rights with respect to said easement. The obligations of the Village of Mt. Pleasant within the Storm Water Retention and Access Easement and as imposed by the Final Plat shall run with the land, and gives the Village the right to inspect the pond in the event the Homeowners Association should cease to exist or fail to fulfill its obligations to maintain the pond. The Village may, but is not obligated, to cause such maintenance to be performed and levy the costs thereof against all the properties within the subdivision.

#### Section 5. Maintenance Assessments.

The Owner, by acceptance of deed or other conveyance from the Declarant, its successors or assigns is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements and unforeseen expenses, to be collected from time to time as hereinafter in this Declaration, together with the Bylaws of the Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.



- (b) The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, and welfare of the residents in the Property. Such uses shall include, but are not limited to, the cost of the Association of all insurance, repair, replacement and maintenance and other charges required by this Declaration of Covenants, Conditions and Restrictions or that the Association shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, replacements, and other charges as specified herein.
- (c) In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement, of a described capital improvement upon the maintained areas, including the necessary fixtures and personal property related thereto, if any.
- (d) Both annual and special assessments must be fixed at a uniform amount for all Lots. Annual assessments shall be collected on a yearly basis.
- (e) The annual assessments provided for herein shall commence for all Lots within the Property on the first day of April each calendar year following the conveyance of the first Lot. The Association shall fix the amount of the annual assessment of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. As Owner shall first be liable for payment of the full assessment (multiplied by a fraction whose denominator is 12 and whose numerator is the number of months, pro rating accordingly, remaining until the end of the fiscal year) on the date of conveyance of title to him. The Association shall upon demand, at any time, furnish a certificate in writing signed by an officer or agent of the Association setting forth whether the assessments on a specified lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.
- (f) Any assessments, which are not paid when due, shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate allowed by law or eighteen (18%) percent, whichever is more, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment, to the extent permitted by any decision or statute now or hereafter effective. The amount of any delinquent and unpaid charges or assessment and interest, cost and fees as above provided, shall be and become a lien or charge against the Lot owner involved when payable and may be foreclosed by an action brought in the name of the Association as in the case of foreclosure of liens against real estate. Each Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of the defaulting Owner from re-acquiring his interest at such judicial sale.



In addition, if any Owner shall default in the payment, when same shall be due, of the aforesaid charges or assessments and said default shall continue for thirty (30) days after notice to said Owner by the Association, setting forth the amount of unpaid charges or assessments together with a demand for payment thereof, the Board shall have the right to declare said default a Forcible Detainer of the Dwelling and shall have the right, on behalf of the other Owners, to enter and take possession of the Dwelling from said defaulting Owner, to put out the Owner, or any occupant or tenant claiming by, through or under the Owner, using such reasonable force as the Board shall deem necessary.

- (g) The lien of the assessments provided for herein shall be subordinate to the lien of any mortgages now or hereafter placed on the Lots prior to the effective dates of such liens. In the event of the issuance of a deed, pursuant to the foreclosure of such prior mortgage or in lieu of such foreclosure, the grantee of such deed shall take title free and clear of any lien herein provided which may accrue prior to the recording of such deed.
- (h) The yearly assessment shall be determined by the affirmative vote of a majority of the Association, but the yearly rate of assessment may not be increased without the affirmative vote of a majority of the voting membership if the amount of increase exceeds five hundred dollars (\$500.00) per Lot per year.

Section 7. All Owners hereby covenant and agree that in the event the Association herein provided for shall be dissolved, all restrictions and obligations created herein shall remain in full force and affect.

Section 8. Insurance The Association shall also have the authority to obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and worker's compensation insurance, and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, the Declarant, and their respective employees and agents from liability and insuring the officers of the Association and members of the Association from liability for good faith actions within the scope of their respective authority.

Such insurance coverage shall include cross liability claims of one or more insured parties other insured parties. The premiums for such insurance shall be common expenses payable out of the proceeds of the assessments required by and collected. The Association shall be further responsible as the Association may deem desirable and may also obtain such other kinds of insurance as the Association shall from time to time deem prudent. Upon request, the Association shall furnish unto owners, copies of certificates of insurance or other adequate evidence of such insurance as the Association is required or authorized to maintain by the provisions hereof.

Section 9. Maintenance of Easement. An easement of ingress and egress is hereby reserved and granted unto the Association for the purpose of maintaining the Berm upon and along the twenty five (25) foot berm maintenance easement as shown on the Plat of Subdivision recorded September 15, 2005.



Section 10. Interim Procedure.

(a) Until each of the various Lots shall have been conveyed by the Declarant to the first Owner thereof (or to such Owner's Nominee) the beneficial owner of the Declarant shall, with respect to each such unsold Lot, have all rights granted to the owners.

(b) Until the Association shall have organized and shall have assumed its duties and powers, the Declarant shall have all the rights, powers, duties and obligations herein granted to, or imposed upon, the Association and shall be authorized and empowered to take all such actions as the Association would have been authorized and empowered to take if the Association had then been informed. Alternatively, until the initial meeting of the Members, the Declarant (or its beneficiaries or designees) may appoint the officers which shall have the same powers and authority as given to the Association generally.

(c) The powers granted to the Declarant by Section 10 (b) hereof shall include, without limitation, the power to assess upon and collect from the individual owners, (not to exceed \$300.00 per year) their respective proportionate shares of the funds required for the carrying out of all the duties and obligations of the Association.

ARTICLE V

General Provisions

Section 1. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, subject of amendment as provided herein.

Section 2. If and to the extent that any of the covenants would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only until the expiration of a period of twenty one {21} years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of Gordon L. Meling c/o 472 Majestic Court Gurnee, IL 60031.



Section 3. If at any time the Association shall deem it necessary or advisable to re-record this Declaration or any part hereof in the Office of the Recorder of Deeds of Racine County, Wisconsin in order to avoid the expiration hereof or of any of the covenants, easements, agreements or other provisions herein contained presently in force commonly known as the Marketable Title Act, or any other law or statute of similar purport, they shall submit the matter not less than ten (10) days notice, and unless at such meeting at least two thirds (2/3) of said Members shall vote against such re-recording, the Association shall have, and is hereby granted, power to so re-record this Declaration or such part thereof, and such re-recording shall be binding upon all Owners of any part of the Property in every way and with all the full force and effect as though such action were taken by each of said Owners and the re-recorded document executed and acknowledged by each of them.

Section 4. Each grantee of Declarant by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation and the rights described in this Section 4 or described in any other part of this Declaration shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgagees of such Lot ownership as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 5. Declarant, the Village and each Owner or Owners of any of the above land from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants above set forth, or any of them, in addition to the right to bring an ordinary legal action for damages. A violation of the covenants above set forth, or any of them, for a period of 30 days after actual receipt of written notice of such violation from Declarant by the Owner of such Lot, then Declarant shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant, the village and such Owners to enforce any of the covenants herein set forth due to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

Section 6. Subject to the provisions of Section 15 of this Article, the record owners in fee simple of the Lots in Providence Port Homeowners Association may revoke, modify, amend or supplement in whole or in part any or all of the covenants and conditions contained in this Declaration and may release from any part or all of said covenants all or any part of the real property subject thereto, but only at the following times and in the following manner:



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- (a) Any such change or changes may be made effective at any time within ten years from the date of recording of this Declaration if the record owners in fee simple of at least three fourths (3/4) of the Lots consent thereto.
- (b) Any such change or changes may be made effective at the end of said initial ten (10) year period or any such successive ten (10) year period if the record owners in fee simple of at least two thirds (2/3) of said Lots consent thereto at least one (1) year prior to the end of any such period.

Any such changes shall be effective only if expressed in written instrument or instruments executed and acknowledged by each of the consenting owners, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of Racine County, Wisconsin.

Upon and after the effective date of such change or changes, it or they shall be binding upon all persons, firms, and corporations then owning property in Providence Port Homeowners Association and shall run with the land and bind all persons claiming by, through or under anyone or more of them.

Section 7. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development.

Section 8. All articles and section headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration.

Section 9. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any part of any covenant or provision contained in this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration, which shall remain in full force and effect.

Section 10. At any time Declarant may assign any or all of its rights conferred on it as set forth in this Declaration and upon its execution of any assignment by Declarant, it shall be relieved from any liability arising from the performance or nonperformance of such rights or obligations.

Section 11. Each Owner of a Lot in Providence Port Homeowners Association shall file the correct mailing address of such Owner with Declarant and shall notify Declarant promptly in writing of any subsequent change of address. Declarant shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner wherever notices are required in this Declaration.

Section 12. The singular shall include the plural wherever the Declaration so requires, and the masculine the feminine and neuter and vice versa.



Executed at 472 Majestic Court Gurnee, Illinois 60031 on May 16th 2005.

IN WITNESS WHEREOF said Gordon L. Meling has caused this declaration of covenants, conditions and restrictions to be signed hereto, this 16th day of May 2005.

BY: Gordon L. Meling  
ATTEST:

STATE OF ILLINOIS

SS

COUNTY OF LAKE

I, CYNTHIA L. DENINNO a notary Public in and for the County and State aforesaid, do hereby certify that before me this 16th day of May 2005 day in person appeared Gordon L. Meling personally known to me and severally acknowledge that he signed and delivered the foregoing instrument in the respective capacities herein set forth as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and seal this 16<sup>th</sup> day of May, 2005.

Cynthia L. Deninno  
NOTARY PUBLIC



This instrument was prepared by & mail to:

Gordon L. Meling  
472 Majestic Court  
Gurnee, IL 60031



0000392

EXHIBIT

LEGAL DESCRIPTION

LOTS 62-117 AND OUTLOTS 6 & 7 LOCATED IN

PROVIDENCE PORT, A SUBDIVISION LOCATED IN PART OF THE NORTHWEST  
QUARTER AND SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32  
AND IN PART OF THE NORTHEAST QUARTER AND SOUTHEAST QUARTER OF THE  
SOUTHEAST QUARTER OF SECTION 31, ALL IN TOWN 3 NORTH, RANGE 23 EAST,  
VILLAGE OF MT. PLEASANT, RACINE COUNTY, WISCONSIN.