

**DECLARATION OF BUILDING AND DEVELOPMENT RESTRICTIONS  
FOR  
THE POINTE AT WILLANDALE  
OF SUGARCREEK TOWNSHIP, TUSCARAWAS COUNTY OHIO**

1. Residential Use - Only one dwelling shall be erected per lot. This dwelling shall be restricted to the use of a single family, their household servants, and guests.
2. No Trade, Business, Profession, Etc. - No trade, business, profession, or other type of commercial activity shall be carried on upon any of the land in this subdivision. There shall be no signage of any type on any lot. No owner may have more than one garage sale, yard sale or similar event per year.
3. Lawn and Landscaping - All landscaping shall conform to a plan submitted to the Developer or a committee or individual appointed by the Developer and approved in advance. All lawns in the front of the property shall extend to the pavement line. Only hardwood trees shall be permitted in front of the front set back line, except for shrubbery along the front foundation of a house. No gravel, blacktop, or paved parking trips are to be allowed, except as approved on the submitted plans and specifications. All landscaping shall be completed in reasonable time after occupancy, not to exceed six months after completion, weather permitting. The Developer may direct than an owner landscape with trees, bushes, and flower beds to improve an overexposed elevation or portion of a home design.
4. Approval of Plans, Specifications, and Location of Buildings
  - A. In order to insure that the homes and other buildings in this subdivision shall preserve a uniformly high standard of construction, no structure shall be erected, placed, or remain on any building lot in this subdivision until a set of plans or the working drawings and specifications, including a plot plan showing the location of the buildings or other structures, terraces, patios, walls, driveways, poles, property lines, and setbacks is submitted to the Developer and approved as meeting the requirements of these restrictions. No alteration in the exterior appearances of buildings or structures shall be made without like approval. The provisions herein contained shall equally apply to repair, alteration, or modification made in any building, wall, or other structure.

No improvements or change of any kind, including without limitation any

    - (a) building, construction, placement of or addition to or alteration of any structure (whether temporary or permanent);
    - (b) changes in color, material finish, or appearance of any improvement;
    - (c) excavation, alteration of grade;
    - (d) landscaping, tree or shrubbery removal or plantings;
    - (e) construction, placement of or addition to or alteration of any;

- i. fencing, walls, screening;
  - ii. walkways, driveways, parking area;
  - iii. patio, deck, porch;
  - iv. swimming pool, hot tub, etc.
  - v. children's recreational equipment or structures (including tree houses, play houses, which shall be generally located in such a way as to minimize their visibility from the street;
  - vi. tennis court or other athletic facility; or
  - vii. flag pole, exterior lighting, ornamentation, or sign; or
- (f) any other change which in any way alters the exterior appearance of the lot from its theretofore natural or improved state, including a change, alteration or other modifications of any of the foregoing previously approved hereunder shall be commenced or permitted to remain on any lot unless any such improvement or change has the prior written approval of the Developer. No excavation shall be made, no construction begun and no materials shall be stored on the lot until receipt of written approval from the Developer.

B. Approval of plans or drawings shall be based, among other things, upon conformity and harmony with the subdivision as to exterior design, appearance and type of construction, materials, colors, setting, height, grade, elevations, landscaping, effect on nearby properties and the like. The Developer shall have no liability to any party for exercising the judgment required to review plans or drawings; neither shall it have any liability for any structural defects in such plans or drawings or in any building built pursuant to them, or any drainage problems resulting therefrom, or any effects upon the subdivision or its owners. By submission of plans or drawings for approval every person doing so agrees not to bring any action or suit against the Developer for damages or any other reason. No lot owner may rely upon any submission of plans or drawings by any other owner for any purpose.

C. All approvals shall be requested by submission to the Developer of plans and specifications in duplicate, showing the following:

- (a.) The arrangements of the interior and exterior of the residential structure including:
  - i. color and texture of building materials;
  - ii. type and character of all windows, doors and exterior lighting fixtures;
  - iii. type and character of chimneys
  - iv. location of the structure and orientation of the structure to the topography;
- (b.) Existing and proposed land contours and grades;

- (c.) All buildings and other improvements including walkways, access drives and parking areas, and other improved areas, and the locations thereof on the site, existing or proposed;
- (d.) All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), mail box locations, and exterior ornamentation;
- (e.) Plans for all floors, cross sections and elevations, including projections and wing walls;
- (f.) Exterior lighting plans;
- (g.) Plans and specifications for all outdoor recreational and play areas, including swimming pool, spa, tennis court or other athletic facility;
- (h.) Plans and specifications for walls, fencing and screening;
- (i.) Plans and specifications for patios, decks, and porches or any other exterior changes or improvements;
- (j.) Such other information, data and drawings as may be reasonably requested by the Developer.

Specifications shall describe types of construction and exterior materials to be used, including, without limitation, the colors and manufacturers thereof, and shall otherwise be prepared according to standards established from time to time by the Developer.

- D. Approval shall be based, among other things, upon conformity and harmony of the proposed plans with the design and quality of the subdivision as to external design, appearance and type of construction, materials, colors, setting height, grade, finished grade elevation, landscaping and tree removal; other structures; the effect of the location and improvements on neighboring property; and conformity of the plans and specifications to the purpose and general intent of this Declaration.

5. Preservation of Trees - Prior to the commencement of the actual construction of an approved dwelling, certain trees may have to be removed to provide clearance for the actual building, patios, etc. To preserve as many trees as possible, no trees four inches in diameter or larger may be removed which stand fifteen feet or farther from the proposed construction of the buildings, patio, terrace, etc. Removal of brush and trees less than four inches in diameter is permitted to provide a clear view around the structure, subject to landscaping approval as provided in paragraph 3. All owners must plant and/or maintain a Bradford Pear tree or trees at regular intervals as designated by the Developer along the front yard of every lot.

6. Construction - To insure that the homes in The Pointe at Willandale present a relatively uniform appearance consistent with the intentions of the development owners, the following construction details are suggested as to the preferred method, and plans will be studied closely to see that these suggestions are adhered to:

- A. All driveways shall be of asphalt or concrete construction at least 4" thick and shall have a concrete approach in front of the garage and along the

house.

- B. All roofs on the permanent structures shall be split cedar shake, slate shakes, slate, or architectural buildup asphalt shingle, or any acceptable substitute approved by the Developer. All roofs shall have a 12" minimum overhang. A sample of roofing materials shall be submitted in advance for approval. The minimum pitch on the roofs of all residences shall be at least 7/12 in all areas.
  - C. All exposed concrete block on the dwelling or other structures must be faced with brick, stone, split faced block or stucco.
  - D. The material for the exterior of each dwelling must be brick, HARDI Siding or approved vinyl siding, stone, cedar, redwood or stucco and must be submitted to and approved by the Developer.
  - E. Site plan to conform to contour as much as possible.
  - F. During construction of a dwelling or other structure, a construction shed may be placed on the lot and remain there during the course of active construction. Otherwise, no portable buildings or trailers may be placed on a lot.
  - G. All mailboxes in the subdivision shall be selected by the Developer, who shall also prescribe the location and installation of the boxes. Owners shall purchase and maintain the required boxes.
  - H. For security purposes, each home shall have one lamp post in the front lawn within the landscape area of the front yard. Only exterior lighting which has the prior written approval of the Developer may be installed on a lot. All exterior lighting must blend in with the surroundings. No mercury vapor type pole lights are permitted.
  - I. Swimming pools must be directly behind the residence and surrounded on all sides by appropriate fencing which blends with the architecture of the residence.
  - J. Upon completion of and prior to occupation of the residence, the owner must install a 54" wide concrete sidewalk along the front of the lot. The sidewalk must be a uniform distance from the street and must connect with the sidewalks from the neighboring lots. The Developer may waive or alter this requirement in its sole discretion where installing a sidewalk would not be beneficial to the lot or the neighboring lots.
7. Setback Lines and Size of Buildings - All dwellings erected or constructed on any lot shall conform in area and setback limitations of the following table (no building shall be erected on any lot which does not comprise at least the number of square feet designated on this table, nor shall a residence exceed the minimums by more than twenty percent without prior approval by the Developer);

Lots that adjoin the golf course:

<u>Minimum Square Feet</u>	<u>Setback Requirements</u>
1 Story, 2,000 s.f.	Front, 70'
1- ½ Story, 2,500 s.f.	Side, 20' both sides
2 Story, 3,000 s.f.	

Lots that do not adjoin the golf course:

<u>Minimum Square Feet</u>	<u>Setback Requirements</u>
1 Story, 2,000 s.f.	Front, 70'
1- ½ Story, 2,200 s.f.	Side, 20' both sides
2 Story, 3,000 s.f.	

Whether two or more lots are acquired and used as a single building site, the side lot lines shall refer only to the lines bordering on the adjoining property owner.

Setback lines for corner lots, odd-shaped lots, wooded lots, lots with problem topography and lake front lots shall comply as nearly as possible as set out above, except the variations must be authorized by the owner at the time plans for building are submitted and a copy of such plans, including the plot plan, will be kept on file by the owner to establish the setback lines approved.

8. Method of Determining Square Foot Area - The method of determining the square foot area of proposed buildings and structures or additions and enlargements thereto shall multiply the outside horizontal dimensions of the building or structure at each floor level. The area of garages, screened porches, finished or unfinished basements, patios and/or terraces shall not be taken into account in calculating the minimum square foot area as required by this restrictive covenant.
9. Outbuildings - No outbuildings, accessory buildings, or structures are to be built in the subdivision without prior approval by the Developer. No kennels, dog houses, or other small or large buildings housing pets shall be permitted in the subdivision. No storage tanks shall be permitted, including but not limited to those used for water, gasoline, oil or any other materials.
10. Parking of Trucks or Equipment - No trucks of greater than 1 ton capacity, or other machinery or equipment shall be permitted to be parked in this subdivision for a period of more than four (4) hours, unless the same is present in the actual construction or repair of buildings located on the land, and no such trucks or other machinery or equipment shall be parked overnight, unless parked inside of the structure.
11. No Boats, Motor Homes and Farm Implements - No mobile homes, trailers, boats, tractors, farm implements, or other types of recreational vehicles shall be stored on the property, unless they are housed inside a permanent structure.
12. Nuisances -
  - A. No activity or business or any act shall be done upon the property covered by these restrictions which may be or may become an annoyance or nuisance to the neighborhood.
  - B. No animals, birds, insects, livestock or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats or other household pets which are kept for domestic purposes only, and are not kept, bred or maintained for any commercial purpose. No more than two dogs or two cats or two other pets which are permitted outdoors may be kept on any lot except when animals in excess of such numbers are less than three months old.
  - C. All pets must be maintained inside the home. No kennels, fenced runs, dog houses or other dwelling place for pets shall be permitted in the

subdivision.

13. Garbage Containers - All garbage or trash containers must be placed in walled-in areas so that they shall not be visible from the adjoining properties.
14. Fences - No fences of any type shall be built or erected in this subdivision, including any animal enclosures or runs, without express written permission of Developer.
15. Maintenance of Premises -
  - A. No weeds, underbrush, or other unsightly growths shall be permitted to grow or remain upon the premises hereby conveyed, and no refuse, or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereof, and in the event that the individual lot owner herein shall fail or refuse to keep the demised premises free from weeds, underbrush, or refuse piles or other unsightly growths, or objects, then any other owner(s) may enter upon the lands and remove the same at the expense of the lot owner, and such entry shall not be deemed a trespass.
  - B. All windows, porches, balconies and the exterior of buildings shall at all times be maintained in a neat and orderly manner.
16. No Temporary Buildings - No tents and no temporary buildings or structure shall be erected for more than three days without the written consent of the Developer or all other owners in the subdivision.
17. Waiver of Restrictions - The failure of the Developer, Homeowners Association and/or other owners to enforce any building restrictions, covenant, condition, obligation, right or power herein contained, however long continued, shall in no event be deemed a waiver of the right to enforce thereafter these rights as to the same violation or as to a breach or violation occurring prior to subsequent thereto.
18. Right to Entry - The Developer deserves the right to itself, its agents, employees or any contractor or subcontractor dealing with the Developer to enter upon the land covered by the restrictions for the purpose of carrying out and completing the development of the property covered by these restrictions, including, but not limited to completing any dredging, filling, grading, or installation of drainage. These reserved rights in the Developer shall also apply to any additional improvements which the owner has the right but not the duty to install, including, but not limited to an streets, sidewalks, curbs, gutters, beautification, or any other improvement,

In this respect, the Developer agrees to restore said property to its conditions at the time of said entry, and shall have no further obligation to the individual lot owner in connection therewith.
19. Remedies for Violation - Violation or breach of any condition, restriction, or covenant herein contained by any persons or entity claiming under the Developer or by virtue of any judicial proceeding shall give the Developer, Homeowner's Association, or individual lot owner(s) of said subdivision, in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said conditions, restrictions, or covenants, and to prevent the violation or breach of any of them. In addition to the foregoing, the Developer, Homeowner's Association, or individual lot owner(s) shall have the right, whenever there shall have been built on any lot any structure which is in violation of these restrictions exists and summarily abate or remove the same at the expense of the lot owner, and such entry and abatement or removal shall not be deemed a trespass.

20. Invalidity Clause - Invalidation of any of these covenants by a Court of competent jurisdiction shall in no way affect any of the other covenants which shall remain in full force and effect.
21. Completion - Every dwelling must be completed within twelve months from beginning of construction.
22. Homeowners Association

Section 1. A Homeowners Association shall be created after eighty percent (twenty-eight) of the homes have been completed in the development. At that time, the Association shall, unless otherwise noted in these Restrictions, assume all of the responsibilities and duties of the Developer set forth in these Restrictions. The Association shall also maintain areas not maintained by individual homeowners, control and arrange for neighborhood lighting, contract for or otherwise arrange for collective rubbish removal, maintain storm sewers and storm water runoff, and any other responsibilities deemed necessary or advisable for the common good of the subdivision.

Section 2. The Association may or may not be incorporated, and shall be governed by a Board of Directors, President, Secretary-Treasurer, and any other officers deemed necessary by the Board of Directors. The initial three member Board shall be appointed by the Developer, two of which shall serve a one year term, and one of which will serve a two year term. The Developer will also appoint a President and a Secretary/Treasurer who will serve one year terms. Before the initial terms end, an election shall be held whereby the owners of the lots in the subdivision elect the board members and officers for the next term. Board members shall serve staggered two year terms, and the President and Secretary/Treasurer shall be elected to two year terms. To be eligible to be elected, the board members and officers must be an owner of a lot in the subdivision. The number of Board members may be increased by a majority vote of all members of the Association but there must always be an odd number of Board members.

Section 3. The Board and officers shall conduct periodic meetings, open to all members, not less than semi-annually, and as often as is necessary to conduct the business of the Association. At least one weeks notice of a meeting shall be given to all members and officers of the Association. Notice may be waived in writing by any member of officer.

Section 4. The governing power of the Association shall be vested in the Board of Directors. The President shall conduct the daily business of the Association as directed by the Board. The President shall sign all legal instruments on behalf of the Association and shall be the agent for service of process for the Association. The Secretary/Treasurer shall keep minutes of all meetings, serve notice of all meetings on Members, keep a membership roll, assume responsibility for all financial matters of the Association, including maintaining correct and complete books, records and financial statements of the Association. The Board may create any committees that it deems necessary or helpful to conduct the business of the Association and appoint the members of said committees.

Section 5. The Board of Directors may remove the President and or Secretary/Treasurer for any or no cause by a 2/3 majority vote of the members of the Board. Members may remove a board member or officer by a 3/4 majority vote of all members at an election called for that purpose. Upon removal of an

officer, or any other vacation of office, the Board shall appoint an interim President, Board member, or Secretary/Treasurer to complete the term of office.

Section 6. Neither the Board or officers may be compensated for holding office without a majority vote of all members of the Association. Actual expenses incurred may be reimbursed by the Association.

Section 7. Each record owner of a legal interest in a Lot, at the time of acquiring that interest, shall automatically become a member of the Association. Membership is mandatory and each owner is deemed to consent to membership in the Association by purchasing or otherwise voluntarily or involuntarily acquiring an ownership interest in a Lot. Membership shall automatically terminate at such time as the Lot owner ceases to own an interest in the Lot.

Section 8. For the purposes of this Association, multiple owners of one Lot, tenants in common, survivorship tenants, owners of a life estate and a remainder interest, long term tenants and landlords, owners of fractional interests, Land Installment Contract Vendors and Vendees, and any other multiple owner arrangement of a Lot, shall be considered to be one owner for the purposes of voting and financial obligations with joint & several liability for debts and obligations to the Association.

Section 9. Each record owner of a Lot shall have one vote for each Lot owned by that owner. Unless the Association is first notified otherwise, a vote cast by a Lot owner who only owns a partial interest in a Lot, shall be the only vote cast for that Lot. If notified, the Association shall count each vote by an owner of a partial interest in a Lot as a fractional vote matching the proportional interest owned by the voter.

Section 10. The Association shall have authority to enforce these Restrictions, maintain areas not maintained by individual homeowners, control and arrange for neighborhood lighting, contract for or otherwise arrange for collective rubbish removal, maintain storm sewers and storm water runoff, and any other responsibilities deemed necessary or advisable for the common good of the subdivision. The Association also has the authority to assess and collect funds from the owners of individual Lots for the payment of its obligations, whether on not the individual Lot directly benefits from Association services or not. In addition, the Association may also:

- a. Impose interest and late charges for the late payment of assessments and impose return check charges;
- b. Adopt and amend rules that regulate the collection of delinquent assessments and the application of payments of delinquent assessments;
- c. Suspend the voting rights of Lot owners who have not paid assessments when due, or after notification in writing, suspend the voting rights of a member who is in violation of these Regulations;
- d. Sue to enforce these regulations, collect assessments, be sued, enter into agreements to arbitrate or mediate disputes, and use reasonable methods to collect unpaid assessments.

23. Modification - These restrictions can be modified by a majority of the lot owners in the subdivision. Those sections which give the Developer the powers to approve plans, grant variances and generally enforce these restrictions shall never be modified to remove those powers from the Developer. Each lot purchaser expressly agrees to be bound by and accept the owner's rights to approve plans, grant variances and generally enforce these restrictions. Any such modifications shall be filed in the records of the Tuscarawas County Recorder's Office as are these original restrictions. Only after ten years from the date of the filing of these

restrictions, may they be terminated by a majority vote of the lot owners. Any termination shall be filed in the same manner as set forth above.

24. Antennas - Satellite antennas in excess of three square feet shall not be permitted. Televisions and radio antennas, including but limited to, satellite dishes, whether rooftop or ground mounted, shall be prohibited on the exterior of any improvement or lot. No solar panels, attached or detached, shall be permitted on any lot.
25. No Access - A dwelling may be placed on more than one lot if the lot owners so desire. Each lot shall not be further subdivided.

No lot shall be utilized for driveway or roadway purposes except to provide access to the owner's private dwelling on said property.

In addition, no lot shall be used to obtain access to adjoining land except for land used in conjunction with the owner's single family dwelling. The lot shall not be used to obtain access to water, sewer, other utilities, or the roadways of this subdivision.

26. Utility Easement - Locations of utility easements are shown on the recorded plat. All lines and wires shall be placed and maintained underground or concealed in or under buildings or other improvements. All lot owners agree to execute any and all documents which may be required from time to time to carry out such easements. Easements are also reserved to the Developer, or the Association and all public utilities or governmental entities in the street shown on the plat to lay, erect and maintain any type of gas, water, electric, storm sewer, sanitary sewer or other utility.

27. Definitions:

Association - The Homeowner's Association of the Pointe at Willandale Subdivision as created by these Restrictions and described in Paragraph 22 above, or its rightful successor.

Developer - MILLER-HOPE DEVELOPMENT, LLC, its successors in interest and/or its designees or assigns.

28. Willandale Golf Club Restrictions - For The Pointe at Willandale only, these restrictions shall supercede the restrictions set forth in the Restrictions of the Willandale Golf Club Properties of Sugar creek Township, Tuscarawas County, Ohio dated May 3, 2005, and recorded May 5, 2005 in Tuscarawas County Official Records Volume 1187, Page 703, and noted in the Deed from Willandale Golf Club, Inc., to Miller-Hope Development, LLC, recorded in Tuscarawas County Official Records Volume 1209, Page 168. Should these restrictions be canceled as set forth in paragraph 23 above, then the Willandale Restrictions shall apply to the property set forth in that deed.

Executed this \_\_\_\_ day of April, 2006

WILLANDALE GOLF CLUB, INC.  
Waiving its Covenants and Restrictions

MILLER-HOPE DEVELOPMENT, LLC

By: \_\_\_\_\_  
Jeffrey A. Willis, President

By: \_\_\_\_\_  
Roy W. Miller, Manager and Member

