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## LICENSE AGREEMENT

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**WHEREAS**, the Napoleon City Council, pursuant to City Code 133.03 authorizes the City Manager to enter into certain license agreements pertaining to City property and right-of-ways; and, the City Manager has given approval to a proposal subject to certain conditions to be contained in a License Agreement;

**NOW, THEREFORE**, this License Agreement (hereinafter called "this Agreement") is made by and between the City of Napoleon, Ohio (hereinafter called "the City") and KenJames Condominium Association (hereinafter called "the Licensee") for the consideration and upon the terms and conditions set forth herein, all of which are hereby agreed to by the parties.

1. Subject to the full and prompt payment by the Licensee of all monetary consideration set forth in this Agreement and subject to the performance and observance by the Licensee of all terms and conditions set forth in this Agreement, the City hereby grants to the Licensee the license to utilize a portion of KenJames Court right-of-way island located at the entrance of the Court approximately adjacent to the property addresses: 2400 and 2401 KenJames Court, City of Napoleon, Ohio (see attached map incorporated into this document by reference thereto marked Exhibit A), for the sole purpose as contained in paragraph 2 (below) of this Agreement.
2. This license is for the utilization of the Island right-of-way, KenJames Court for the installation and maintenance of a masonry identification sign, identifying KenJames Condominiums and certain shrubbery, hereinafter referred to as "the structure".
3. The Licensee shall be responsible for improvement costs as well as related maintenance costs associated with the structure; however, said premises shall remain the property of the City.
4. The Licensee shall submit to the City of Napoleon an engineering drawing illustrating placement of the structure.
5. This license does not allow the Licensee to construct, plant, park or store any other improvements and/or property on said right-of-way, with exception to shrubbery, so long as the shrubbery does not exceed three foot in height or extend beyond the limits of the concrete curbing around the island.
6. This license shall be perpetual subject to the right of the City to terminate this Agreement, without the City suffering penalty or recourse, upon the City's necessity of use of the premises that is occupied by the stone mail box structure. City shall give Licensee sixty (60) days notice of its intent to terminate this license. The City shall be the sole determining authority as to what constitutes necessity.
7. This license shall be perpetual subject to the City interfering with the use of the area for installation and/or repair of utilities, whether planned or in case of emergency. Any



damage to the structure thereof as a result of the City's necessity to work shall be at the sole expense of Licensee.

8. Hence this License Agreement, the parties acknowledge the structure is within the City's right-of-way of KenJames Court.
9. Licensee shall pay City the sum of One Dollar (\$1.00) as and for the consideration of this license, the receipt of which is hereby acknowledged.
10. The Licensee at all times shall comply with the Zoning Ordinances and Regulations of the City except as varied by this Agreement or any Ordinance pursuant to this Agreement and Application for Zoning Variance.
11. This license shall run with the land to the benefit of the properties in question, but shall not be assignable by Licensee to anyone other than successors in interest to the land in question.
12. In the event Licensee violates any term or condition of this Agreement or abandons the license or the premises covered by this Agreement, the City, by action of the City Manager or any other authorized representative of the City, may terminate this license without notice, without any further action whatsoever and without the City suffering penalty or recourse. In that event, Licensee shall immediately forfeit all rights and privileges associated with this license (including the right of possession) and shall vacate the premises covered by this Agreement; and all improvements thereon shall be the sole and absolute property of the City without any obligation to compensate Licensee therefor. Licensee shall pay the cost of any cleanup.
13. At all times during the existence of this license, Licensee shall maintain in full force and effect residential or commercial liability insurance with insurance carriers and in amounts satisfactory to the City insuring Licensee and the City, its officers, officials, agents, and employees as their interest may appear from all demands, claims, expenses, losses, damages, and liabilities that may occur or may be claimed by or with respect to the injury, death, damage or destruction of any person or property occurring on or about the premises covered by this Agreement resulting from Licensee or the Licensee's agents, employees, contractors, invitees or guests. The Licensee shall pay all premiums for such insurance coverage as they become due. The City shall have the right to hold a memorandum copy of such insurance policy and the Licensee shall deliver to the City a memorandum copy thereof and receipts verifying that all premiums therefore have been paid. In addition, the Licensee shall indemnify and hold harmless the City its officers, officials, agents, and employees from all demands, claims, expenses, losses and liabilities that may occur or may be claimed by or with respect to the injury, death, damage or destruction of any person or property occurring on or about the premises resulting from the use, misuse, possession, occupancy or non-occupancy of the premises by the Licensee or the Licensee's agents, employees, contractors, invitees or guests.



14. The Licensee shall not create, permit or suffer any lien or encumbrance against or upon the premises within the City right-of-way during the existence of this license.
15. The City's waiver of any default by Licensee shall not constitute a continuing waiver or a waiver of any subsequent default, whether of the same or any other term or condition of this Agreement. Any delay or failure by the City to exercise any right, power or remedy provided in this Agreement or bylaw or in equity shall not constitute a waiver of any such right, power or remedy or acquiescence in any default by the Licensee.
16. The intent of the parties in this Agreement is to grant a perpetual license to Licensee, not a leasehold interest, easement, right-of-way or any other right, title or interest in land.
17. This Agreement contains the entire agreement between the parties. There are no promises, terms, conditions or obligations other than those set forth in this Agreement. This Agreement shall supersede all previous commitments, representations, understandings and agreements, whether verbal or written, regarding the subject matter of this Agreement.
18. The City shall cause this license to be filed with the recorder of Henry County, Ohio at the Licensee's expense.

**IN WITNESS WHEREOF**, the City has caused two (2) originals of this Agreement to be executed on this 3rd day of April, 1997, and the Licensee has executed two (2) originals of this Agreement on this 3rd day of April, 1997.

Signed and acknowledged in the presence of:

**CITY OF NAPOLEON, OHIO**

by: Marc S. Gerken  
 Marc S. Gerken, City Manager

Kurt Ops  
 Witness

Sheryl K. Rathge  
 Witness

**KENJAMES CONDOMINIUM ASSOCIATION**

by: Robert L. Beck  
 Robert L. Beck, President

Dan M. Dammann  
 Witness

Sheryl K. Rathge  
 Witness



State of Ohio  
County of Henry) SS.

Before me, a Notary Public in and for the State of Ohio, personally appeared the City of Napoleon by Marc S. Gerken, City Manager, who acknowledged that he signed this License Agreement and that the same is his free act and deed as such officer and the free act and deed of the City of Napoleon, Ohio.

IN TESTIMONY WHEREOF, I have signed my name and affixed my official seal at Napoleon Ohio, this 3rd day of April, 1997.

(SEAL)

Sheryl K. Rathge  
Notary Public

SHERYL K. RATHGE  
NOTARY PUBLIC, STATE OF OHIO  
COMMISSION EXPIRES OCTOBER 16, 2001

State of Ohio  
County of Henry) SS.

Before me a Notary Public in and for the State of Ohio, personally appeared the KenJames Condominium Association by Robert L. Beck, President who acknowledged that he signed this License Agreement and that the same is his free act and deed as such officer and the free act and deed of the said Association.

IN TESTIMONY WHEREOF, I have signed my name and affixed my official seal at Napoleon Ohio, this 3rd day of April, 1997.

(SEAL)

Sheryl K. Rathge  
Notary Public

SHERYL K. RATHGE  
NOTARY PUBLIC, STATE OF OHIO  
COMMISSION EXPIRES OCTOBER 16, 2001

***This Instrument Prepared And Approved  
As To Form And Correstness By:***

David M. Grahn, City Law Director  
255 West Riverview Avenue  
Napoleon, Ohio 43545

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