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**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS AND  
RESERVATION OF EASEMENTS  
FOR  
AMELIA PARK II SUBDIVISION**

*PLAT CABINET 13, Pgs 95-96*

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- "A" - Legal Description - Initial Development
- "B" - Articles of Incorporation
- "C" - By-Laws
- "D" - Legal Description - Possible Future Development

**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
AMELIA PARK II SUBDIVISION**

THIS DECLARATION, is made this \_\_\_ day of \_\_\_\_\_, 2005, by Amelia Development Group, Ltd., an Ohio limited liability company, hereinafter sometimes referred to as the "Declarant".

**WITNESSETH:**

WHEREAS, the Declarant is the owner of the real property described in Exhibit "A" attached hereto and desires to create thereon a residential community consisting of various types of single-family residences with permanent common areas for the benefit of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common areas; and to this end, desires to subject the real property described in Exhibit "A" attached hereto to the covenants, conditions, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said Property and the subsequent Owners thereof; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an Association to which should be delegated and assigned the powers and duties of maintaining and administering the common areas and administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed "Amelia Park II Homeowners Association", as a non-profit Ohio corporation for the purpose of carrying out the powers and duties aforesaid;

NOW, THEREFORE, the Declarant hereby declares that all of the Properties described in Exhibit "A" attached hereto and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, and any subdivision plat which includes the Property, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

The words in this Declaration which begin with capitalized letters, other than words which would be normally capitalized, unless the context otherwise requires, shall have the same meanings as the definitions of those words in this Article I.

1.1 "Articles" shall mean those Articles, filed with the Secretary of Ohio, incorporating Amelia Park II Homeowners Association as a corporation not for profit under the provisions of the Ohio Revised Code, as the same may be amended from time to time. A true copy of the Articles as shown in Exhibit "B" is attached hereto and made a part hereof.

1.2 "Association" shall mean and refer to Amelia Park II Homeowners Association, its successors and assigns.

1.3 "Board" shall mean the Board of Trustees of Amelia Park II Homeowners Association, which shall also be known as the "Board of Trustees".

1.4 "Builder" shall mean and refer to any party who acquires one or more developed Lots from the Declarant for the purpose of resale to an Owner or for the purpose of constructing improvements thereon for resale to an Owner.

1.5 "By-Laws" shall mean the By-Laws of the Association, as the same may be amended from time to time. A true copy of the By-Laws as shown on Exhibit "C" is attached hereto and made a part hereof.

1.6 "Common Areas" shall mean and refer to subdivision entrance walls, signs, landscape mounds, fences, playgrounds, storm water facilities and landscaping constructed for the common use and enjoyment of the Owners, and such areas designated as "common areas" on the record plat or plats for the Property.

1.7 "Declarant" shall mean and refer to Amelia Development Group, Ltd., an Ohio limited liability company, its successors and assigns if such successors or assigns should acquire all unsold Lots and/or unplatted real property which adjoins any property already developed and which is intended to be developed into Lots.

1.8 "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of: (a) December 31, 2035, or (b) the day next following the day on which the Declarant owns no part of the Property.

1.9 "Living Unit" shall mean and refer to a single-family residence designated and intended for use and occupancy as a residence by a single family.

1.10 "Lot" shall mean and refer to any parcel of land upon any recorded subdivision plat of the Properties containing a Living Unit.

1.11 "Member" shall mean any one of those Owners who are Members of the Association as provided in Article IV hereof.

1.12 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.13 "Properties" or "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.14 "Trustee" and "Trustees" shall mean that person or those persons serving, at the time pertinent, as a Trustee or Trustees of the Association, and shall mean that same person or those persons serving in the capacity of a member of the Board of Trustees of the Association. Such individuals shall also be known as "Directors".

## ARTICLE II

### PROPERTY DEVELOPMENT - ANNEXATION

2.1 Property Subject to Declaration. The real property which is, and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in the County of Clermont, State of Ohio, and is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Planned Development. Declarant reserves the right to subject all or any part of the real estate described in Exhibit "D" to the provisions of this Declaration, so as to create a planned development consisting of various residential properties with permanent Common Areas for the benefit of said development. Such additional property shall be annexed to the real estate described in Exhibit "A" as provided in Section 2.3 hereof. Notwithstanding the above, nothing contained in this Declaration, in the By-Laws or in any map, picture, drawing, brochure or other representation of a scheme of development shall obligate the Declarant to annex any additional property to the property described in Exhibit "A" and the real estate described in Exhibit "D" shall remain wholly free from any covenant or restriction herein contained until so annexed as hereinafter provided. In addition, the Declarant reserves the right to subject any of the real estate described in Exhibit "D" for commercial use.

2.3 Annexation of Additional Property. During the Development Period, additional property, not limited to the Property described in Exhibit "D", may be annexed to the above-described Property by the Declarant without the assent of the Members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of fifty-one (51%)

percent of each class of Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described Property. The scheme of the within Covenants and Restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on Exhibit "A" as hereinafter provided.

Any annexations made pursuant to this Article, or otherwise shall be made by recording a supplement to this Declaration with the Recorder of Clermont County, Ohio, which supplementary Declaration shall extend the scheme of some or all of the within covenants and restrictions to such annexed property. Such supplementary Declaration may contain such additional covenants, conditions, restrictions, easements, assessments, charges and liens as the Declarant shall deem appropriate for the purpose of completing the development of the Property.

2.4 Additional Common Areas. Declarant shall have the right, from time to time during the Development Period, to convey to the Association for nominal or other appropriate consideration, and the Association shall accept conveyance of any property or interest in property owned by Declarant along with any structure, improvement, or other facility including related fixtures, equipment and furnishings located thereon. Upon conveyance of such property, the property shall constitute Common Areas.

Notwithstanding any other provision of this Declaration, Declarant does not warrant or represent that any recreational facilities will be constructed by or on behalf of Declarant.

### ARTICLE III

#### PROPERTY RIGHTS

3.1 Owner's Right of Enjoyment. Every Owner and, in the case of rented Lots, such Owner's tenants, shall have a right to an easement for the enjoyment of, in, and to the Common Areas, and such right and easement shall be appurtenant to and shall pass with title to every Lot, subject to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas.

(b) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public or municipal agency, authority or utility for purposes consistent with the purpose of this Declaration.

(c) The rights of the Association and Owners of Lots to a perpetual easement over any Common Areas, and for necessary pedestrian and automotive ingress and egress to and from such Living Unit over said streets, driveways and walkways of said Common Areas and for gas, electric, telephone, water, sewer, drain, cable television connections, and other utility conduits with rights to repair, maintain, and replace same, as they may be established over, upon, and through the

said Common Areas or other Lots, which rights are hereby expressly established, granted, and reserved for the benefit of the individual Lots.

(d) Easements and restrictions of record.

(e) The right of the Association or the Declarant to grant additional easements over the Common Areas as provided in Section 3.4.

3.2 Delegation of Use. Any Owner may delegate, in accordance with the applicable By-Laws of the Association, his right of enjoyment in and use of the Common Areas to the members of his family, guests, and his tenants or contract purchasers who reside on the Property.

3.3 Title to Common Areas. The title to any portion of the Common Areas that is to be owned by the Association in fee simple shall be conveyed to the Association, prior to the expiration of the Development Period, free and clear of all liens and encumbrances; provided, however, that the Declarant shall have the right from time to time to reserve for the purpose of development of the Property all or any portion of the Property for various easements and rights of way, together with the right to dedicate same where applicable and customary and the right of ingress and egress across the Common Areas in connection with the development of the Property. The Declarant's rights hereunder shall not unreasonably interfere with the Owner's easement of enjoyment.

3.4 Right to Grant Easements. Declarant hereby reserves the right, to grant, on behalf of the Association and/or the Owners and without the consent of the Association, or any Owner, easements, across, through or under the Common Areas. Such easements, which shall be exclusive or non-exclusive, shall be limited to utility easements (including cable television), green belt easements, sign easements, access easements or roadway easements. Declarant's rights under this Section shall terminate upon expiration of the Development Period.

The Association, without the consent of any Owner, shall have the right at any time to grant easements as set forth in this Section.

#### ARTICLE IV

##### MEMBERSHIP AND VOTING RIGHTS

4.1 Members. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.2 Classes of Members: Voting. The Association shall have two classes of voting membership:

4.2.1 Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds

an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

4.2.2 Class B Member shall be the Declarant and the Declarant shall be entitled to five (5) votes for each Lot owned, provided, however, that the Class B membership shall terminate after the Class A Members are entitled to elect all of the Board. At such time as Class B membership shall terminate, the Declarant, for any Lot owned, shall be deemed a Class A Member with reference to such Lot or Lots and entitled to the voting and all other rights of such Class A Member.

## ARTICLE V

### ASSESSMENTS

5.1 Covenant for Assessments. The Declarant for each Lot owned by it (and as hereinafter limited by the provisions of this Declaration) and each person, group of persons, or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance shall be deemed to covenant and agree to pay to the Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments; such assessments to be fixed, established and collected from time to time as hereinafter provided. All assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the land and shall be a continuing lien upon the property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as herein provided, shall also be the personal obligation of the person, group of persons, or entity who was the Owner of such property and Lot at the time when the assessment fell due.

5.2 Annual Assessments, Purposes. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents and for protecting, advancing and promoting the environmental concept of the Property and preserving the aesthetic and scenic qualities of the development.

To carry out these purposes, an Annual General Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas, including, but not limited to, the payment of taxes, insurance and fidelity bonds, and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and including the maintenance, repair and landscaping of storm water facilities as well as streets and right of ways, and, in the discretion of the Association, including any entrance roads or adjoining roads or areas, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association.

5.3 Annual General Assessments, Initial Amount. Until January 1, 2008, the maximum Annual Assessment for each Class A membership for general purposes provided in Section 5.2 shall not exceed One Hundred Fifty and 00/100 Dollars (\$150.00) per Living Unit.

5.4 Annual Maintenance Assessment.

(a) From and after January 1, 2008, the amount of the Annual Assessment shall be levied by the Board on such Lots in such amount as may be necessary, in the determination of the Board of Trustees, to carry out the purposes of the Annual Assessment.

(b) The assessment shall be fixed at a uniform rate based upon the number of Living Units situated on the Lots and may be billed in advance on a monthly, quarterly or annual basis. Annual Assessments and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association.

(c) Negligence or Willful Neglect. In the event that the need for the maintenance or repair of landscaping is caused through the willful or negligent act of the Owner, his family, tenants, guests or invitees, the cost of such maintenance or repairs (including costs incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become a part of the assessment against the individual Lot upon which the maintenance or repairs are performed.

(d) Access to Lot. For the purpose solely of performing the maintenance and repair required or authorized herein, the Association, through its duly authorized agent or employees, or subcontractors, shall have the right, without notice to the Owner, to enter upon any Lot at reasonable hours on any day.

5.5 Individual Assessments. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that to be provided by the Association under Section 5.2 above for which assessments are provided, then the Association, after approval by sixty-six and two-thirds (66-2/3%) vote of all Members of the Board shall have the right through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot) shall be added to and become part of the total assessment to which such Lot is subject.

5.6 Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy in any assessment year Special Assessments, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair, replacement or addition of a described capital improvement located upon the Common Areas, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any

such assessment shall have the approval of fifty-one (51%) percent of the total number of votes held by Class A Members and fifty-one (51%) percent of the total number of votes held by the Class B Members. Any Special Assessments levied by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The assessment may be billed in advance on a monthly, quarterly or annual basis.

5.7 Commencement of Assessments. The Annual Assessments shall commence on January 1, 2007, or at such other date as determined by the Association. The first assessment for any such membership may be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. The Board may from time to time determine the manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of the assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least forty-five (45) days in advance of such date or period and shall, at the time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be opened to inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the Owner of any Lot subject thereto thirty (30) days prior to the due date. Annual Assessments subsequent to the first Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice thereof.

5.8 Assessment of Declarant and Builder. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Builder shall be required to pay an assessment for any recorded, unsettled Lot in which they have the interest otherwise required for Class A membership only in any amount equal to ten (10%) percent of the Annual Assessments and Special Assessments which the Association levies for purposes set forth in Sections 5.2 and 5.6. The Declarant shall be completely exempt from the payment of any assessment set forth in this Article V. The provisions of this Section 5.8 shall not apply to the assessment of any Lot and Living Unit held by the Declarant or Builder for rental purposes and which is or has been occupied as a Living Unit; in which event the Declarant or Builder shall be required to pay the full amount of the assessments levied thereon.

5.9 Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for assessment a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificate shall be conclusive evidence of the payment of any assessment

therein stated to have been paid. A reasonable charge may be levied in advance by the Association for each certificate so delivered.

5.10 Non-Payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them with the consent of the Association.

If the assessment is not paid within fifteen (15) days after the due date, the assessment shall bear interest at the rate of ten percent (10%) per annum, 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, in either of which events interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner shall waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or abandonment of his Lot or Living Unit.

In addition to the ten percent (10%) per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any assessment that is not paid within fifteen (15) days after due date.

5.11 Subordination of Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, any first mortgagee who obtains title to a Lot pursuant to the remedies in the mortgage or through foreclosure shall not be liable for more than six (6) months of the Lot's unpaid assessments or charges accrued before the acquisition of title to the Lot by the mortgagee.

5.12 Assessment at Closing. At the time of closing, each purchaser of a Lot shall be required to pay a pro-rata share of the Annual Assessment, for the balance of the current year to the extent that such assessment is not otherwise being collected by the Association. The Declarant and the Builder shall be exempt from the contributions and assessments collected pursuant to this Section.

## ARTICLE VI

### INSURANCE

6.1 Liability Insurance. The Association shall obtain and maintain a Comprehensive policy of public liability insurance covering all of the Common Areas, insuring the Association, Trustees, and Owners and members of their respective families, tenants and occupants in an amount of not less than One Million 00/100 Dollars (\$1,000,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by

the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

6.2 Other Insurance. In addition, the Association shall obtain and maintain contractual liability insurance, Trustees' and Officers' liability insurance and such other insurance as the Board may deem desirable from time to time.

6.3 Insufficient Insurance. In the event the improvements forming a part of the Common Areas shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which whose benefit the amount was so advanced, and such assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

## ARTICLE VII

### ARCHITECTURAL CONTROL

7.1 Approval Required. No building, fence, wall, deck, structure or other exterior improvement shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the appropriate entity. Review of the construction of the original dwellings and related improvements, including landscaping, shall be by the Declarant. All review associated with the remodeling of dwellings and related improvements shall be by the Board of Trustees of the Association. Such plans and specifications shall be reviewed as to harmony of external design and location in relation to surrounding structures and topography in accordance with the requirements hereinafter set forth and the design review criteria established from time to time. Except as otherwise provided in the Declaration, in the event that the Declarant or the Board (as the case may be) fails to approve or disapprove said plans and specifications within forty-five (45) days after submission, approval will not be required and this Article shall be deemed fully complied with, provided such improvement complies with the General Requirements of Section 7.3.

The plans and specifications to be submitted shall be in such form and shall contain such information as the Board may reasonably require.

7.2 Approval - Not a Guarantee. No approval of plans and specifications shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals shall in no event be construed as representing or guaranteeing that any improvement built in accordance therewith will be built in a

good and workmanlike manner. Neither Declarant, nor the Association, shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the non-compliance of such plans and specifications, any loss or damage arising from the non-compliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications. In addition, all plans and specifications shall be approved by the appropriate governmental agencies of the Village of Amelia and Clermont County, Ohio.

7.3 General Requirements. The following requirements shall be applicable to the Properties:

7.3.1 General Conditions: No structure shall be erected on, placed upon, altered or permitted to remain on a Lot other than a dwelling not to exceed two and a half stories in height. Two story or one and one-half story homes shall be 1250 square feet minimum of finished living space, ranch style homes shall be 1145 square feet minimum of finished living space excluding the basement level, and bi-level homes shall be 1000 square feet minimum of finished living space on the upper level of the dwelling. All homes shall have a minimum two car attached garage.

Except for improvements constructed by the Declarant in connection with the development of the Property, or improvements authorized pursuant to Section 7.1, no improvement of any kind shall be erected, altered, placed or permitted to remain on the Common Areas. Additionally, no improvement constructed by the Declarant in connection with the development of the Property shall be removed from the Common Areas without the prior written consent of the Declarant or the Association.

7.3.2 House Placement and Yard Grading: Residences and Lots shall conform to existing grade and drainage patterns as set forth on the grading plan for the Property filed with the appropriate Village of Amelia and Clermont County governmental authorities.

7.3.3 Driveways: All driveways shall be surfaced with concrete.

7.3.4 Building Materials: The facade of each dwelling house constructed on a Lot shall consist primarily of brick, masonry, siding or similar type material. Foundation walls shall be of poured concrete except on homes without basements, in which event block foundations shall be permitted. Ranch, one and one half story structures, and bi-level structures on such Lots shall be built with roof slopes of either 4"/12", 5"/12" or 6"/12" pitch or greater. The Declarant reserves the right to approve the kind, quality, and finished colors of all exterior materials used on each dwelling house.

7.3.5 Antennas: No apparatus, free standing antennas or satellite dishes shall be constructed or used on any Lot; provided, however, that a satellite dish not exceeding

18 inches in diameter may be placed on a roof top of a Living Unit if not visible from the street in front of the Living Unit. All television and radio antennae, including CD radio antennae, must be enclosed within the Living Unit located on the Lot. All telephone, electric and other wires of all kinds must be underground.

7.3.6 Completion of Residence: Within twelve (12) months of the start of construction, each Living Unit shall have a completed exterior appearance, including but not limited to finished walkway, concrete driveway, landscaping, laying of sod or growing grass seed, installed gutters and down spouts, installation of all windows and doors and completed exterior painting. The landscaping shall have a minimum value of One Thousand Dollars (\$1,000.00). The Declarant reserves the right to approve all landscaping designs and types of plantings and materials.

7.3.7 Trees: No trees shall be cut, removed or intentionally destroyed following completion of the dwelling house except for those trees that are dead and those that are in the building line. Any proposed trimming of trees shall only be performed with the consent of the Declarant or the Association.

7.3.8 Swimming Pools, Hot Tubs and Spas: No above-ground swimming pools shall be constructed, erected, placed or permitted to remain upon any Lot. Portable wading pools used by small children are permitted but may not be more than eighteen (18) inches in height and shall be placed in the rear yard only. In-ground swimming pools are permitted provided it is approved by the Board in accordance with Section 7.1. This Section shall not prohibit the construction, erection or placement of a diving board, slide or other equipment appurtenant to an otherwise conforming swimming pool. Hot tubs and spas shall be permitted on any Lot but must be in-ground or if above ground be incorporated into a deck and shall not be visible from the street or any neighboring Lot.

7.3.9 Fencing: No fences shall be erected or built on any part of any Lot between the rear of the Living Unit constructed thereon and the street in front of the Living Unit. Fences erected on said Lot from the rear of the Living Unit and the back property line shall not be in excess of four (4) feet in height and shall be rustic rail, split rail, decorative PVC, ornamental iron, decorative wood, decorative metal or hedge, provided however, that all fences constructed of the aforesaid materials shall be at least fifty percent (50%) open. Non-reflective metal fence may be installed as an integral part of a fence constructed of the aforesaid materials in order to provide a secure enclosure. Barbed wire, chain link or similar fences shall be prohibited. On a corner Lot, the section or sections of fence running with the side street shall not extend closer to said side street at any point than the Living Unit on said Lot. Entrance designations, recreational facilities, fences and any other structure erected by Declarant, builder and/or the Association are exempt from this restriction.

7.3.10 Other Structures: There shall be no detached garages and no other detached buildings or out buildings of any kind, unless approved in writing by the Declarant or the Association.

7.3.11 Zoning: All improvements shall be constructed in accordance with and subject to all applicable zoning regulations and building codes.

7.4 Variances. In order to avoid unnecessary hardship and/or to overcome practical difficulties in the application of certain provisions of the Declaration, the Board shall have the authority to grant reasonable variances from the provisions of Section 7.3. Additionally, so long as Declarant owns one or more Lots on the Property, the Declarant, may grant reasonable variances from the provisions of Section 7.3. No variance shall materially injure or materially adversely affect any other part of the Property or any other Owner or occupant. No variance granted pursuant to the authority of this Section 7.4 shall constitute a waiver of any provision of the Declaration as applied to any other party or other part of the Property, and no variance may be granted to permit anything that is prohibited by applicable law. All provisions of the Declaration not affected by the grant of a variance shall continue to apply with full force and effect to the Lot for which the variance is granted and to the balance of the Property.

### ARTICLE VIII

#### USE RESTRICTIONS AND MAINTENANCE

8.1 Restrictions. The Property shall be subject to the following restrictions:

8.1.1 Purpose of Property: Except for lots designated as Common Areas, the Property shall be used only for residential purposes and common recreational purposes auxiliary thereto. Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g. family room, bedrooms, offices or recreational rooms). The Declarant and Builders shall have the right to use unsold residences as model homes or sales offices.

8.1.2 Nuisance: No obnoxious or offensive activity of any kind shall be engaged in on any Lot nor shall any Owner or occupant thereof engage in any activities that interfere with the quiet enjoyment, comfort and health of the occupants of adjacent neighboring Lots. This paragraph shall not apply to any Lots owned by the Declarant or a Builder and held for sale.

8.1.3 Animals: No animals of any kind shall be raised, bred, or kept on any Lot including the Common Areas, except that dogs or other household pets not totaling more than three (3) in number, may be kept on a Lot, provided that it is not kept, bred or maintained for any commercial purpose, and provided that it is kept subject to the rules and regulations, if any, of the Association, including, but not limited to, rules regarding weight limitations for certain types of pets. Any such pet or pets causing

or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon seven (7) days written notice from the Board. No such pets may be allowed to run unattended. Dogs, cats, or other household pets must be kept within the confines of the Owner's Lot except when being held on hand leash by the person attending the animal. A Lot Owner shall be responsible for cleaning up after his/her household pet. Notwithstanding the foregoing, the Association shall have the right to promulgate rules and regulations pertaining to size, number and type of such household pets and the right to levy fines and enforcement charges against persons who do not clean up after their pet.

8.1.4 Easements: There shall exist a temporary construction easement of five (5) feet around the boundary of each Lot in order to facilitate grading, drainage, and general construction activity on a neighboring Lot. If the Owner of a Lot places an obstacle such as a fence, shrubbery, or sprinkler system within this temporary construction easement before final grading of the adjoining Lot, then that Owner shall be responsible to remove the obstacle at his or her expense to allow for proper grading and drainage. In general, drainage swales should be set as near to property lines as possible. This easement allows for dirt to be added or removed as needed to allow for proper transition between adjoining Lots and construction of drainage swales as needed.

8.1.5 Parking: Each Living Unit shall be provided with a minimum of two (2) off-street parking spaces. No parking spaces, streets or driveways nor any other part of the Common Areas nor any Lot upon which a Living Unit is constructed shall be used for parking of any trailer, truck, boat, or anything other than operative automobiles, motorcycles or scooters, except while loading, unloading or cleaning which shall not exceed twenty four (24) hours. Any of such vehicles may, however, be stored or parked in an enclosed garage provided such garage door is completely closed at all times when such a vehicle is parked therein. The word "trailer" shall include trailer coach, RV, recreational vehicle, house trailer, mobile home, automobile trailer, boat trailer, campcar, camper or any other vehicle, whether or not self-propelled, constructed or existing in such a manner as would permit the use and occupancy thereof for human habitation, for storage, or the conveyance of machinery, tools or equipment, whether resting on wheels, jacks, tires or other foundation. The word "truck" shall include and mean every type of motor vehicle other than passenger cars and other than any pick-up truck of no more than four (4) wheels, sports utility vehicle or van which is used as a principal vehicle by an Owner of a Living Unit or his/her family. Notwithstanding the restrictions in this Section, vehicles being used for the purpose of construction, delivery or repair work to or upon any Lot or Living Unit may be permitted to be parked on any Lot and street in the Subdivision. The restriction in this Section shall not be applicable to Declarant, its successors, assigns and affiliates, and any Builder during the Development Period.

8.1.6 Utilities and Drainage: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structures, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation of drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continually by the Owner of the Lot, except for those improvements for which a public authority, utility company or the Association is responsible.

8.1.7 Maintenance: Each and every Lot and Living Unit thereon as well as the driveway providing access thereto, shall be maintained by the Owner thereof in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the Property. Should any owner fail to maintain his Lot or Living Unit to the extent provided in the Declaration, the Association may do so, after notice, and assess such owner for the cost. The assessment shall be a lien on the Owner's Lot to the same extent as other liens provided for herein. This paragraph shall not apply to any Lots owned by the Declarant or a Builder and held for sale.

8.1.8 Signs: No permanent sign shall be permitted on any Lot, Living Unit, Common Areas or public street in the Subdivision. An Owner of a Living Unit is permitted to place and maintain a standard "For Sale" or "For Rent" sign on his Lot; provided, however it is of a typical size within the industry. An Owner must obtain the prior written consent of the Board in the event said Owner desires to maintain a "For Sale" or "For Rent" sign which is not of a typical size within the industry. This sign restriction shall not apply to signs used by Declarant and/or Builder or their assigns, while Declarant and/or Builder are selling Living Units in the Subdivision, or to traffic, street names, Common Areas or subdivision identification signs.

8.1.9 Laundry or Rubbish: No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed on any part of the Property. No clotheslines shall be located on any Lot. The Property shall be kept free and clear of rubbish, debris and other unsightly materials.

8.1.10 Swing Sets, Trampolines, and Play Areas: Swing sets, trampolines, and play areas may be erected on a Lot only after the location and materials of those structures are approved in writing in accordance with Section 7.1.

8.1.11 Lawns: No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Lot within the Subdivision not owned by the Declarant and/or builder. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. All mulch beds shall be maintained in a neat and orderly manner and shall be void of weeds. Lot Owners shall remove all dead shrubbery within fourteen (14) days of receiving notice from the Association

to remove said shrubbery. Lot areas left in a naturalized state by the Builder may be left in such naturalized state by the Lot Owner.

8.1.12 Obligation to Keep Dwelling Unit in Good Condition: Each Lot Owner or occupant shall keep his/her Living Unit and all structures located on his/her Lot in good order, condition and repair and such maintenance, repair, appearance and condition shall comply with the provisions of this Declaration and applicable laws and ordinances.

8.1.13 Mailboxes: Declarant or Builder reserves the right to establish a standard design for mailboxes for use by all Lot Owners. The decision of the type of material to be used by each Owner shall be at sole discretion of Declarant and/or Builder. Lot Owners shall be responsible for maintenance of their individual mailboxes. Declarant and/or Builder may however, waive this right or establish the use of cluster mailboxes.

8.1.14 Lakes: All lakes, ponds and streams within the Property shall be aesthetic amenities only and other use thereof, including without limitation, swimming, boating, playing or use of personal floatation devices shall not be permitted except in accordance with rules and regulations established by the Declarant or the Association. Neither the Declarant, a Builder nor the Association shall be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of the lakes, ponds or streams within the Property.

8.1.15 Irrigation Systems: No irrigation system outlets shall be located in the public right-of-way. No irrigation system of any type shall be permitted to draw upon water from any lake, creek, stream, pond or other ground or surface waters within the Property without the express written permission from the Association.

## ARTICLE IX

### EASEMENTS AND MAINTENANCE

9.1 Access Easements. All Lots shall be subject to an access easement in favor of the Declarant and the Association for the purposes of maintaining, cleaning, repairing, improving, regulating, operating, replacing and otherwise dealing with the Common Areas, including all improvements thereon. Such access easement shall also permit the Declarant and the Association to enter upon any Lot for the purpose of correcting grade and drainage patterns for the benefit of the entire Properties, provided that the Lot shall be restored with any pavement, grass or sod which shall have been removed.

9.2 Association Maintenance Responsibility. The Association shall maintain and keep in good repair the Common Areas, such maintenance to be funded as provided in this Declaration. In the event the Board of Trustees determines that such maintenance is necessary or desirable to

maintain the community, the Association may also maintain or share in the maintenance of property which it does not own including, without limitation, property dedicated to the public or property owned by another homeowners association.

9.3 Right of Association to Remove or Correct Violations. The Association may, in the interest or the general welfare of all of the Owners, enter upon any Lot or the exterior of any Living Unit at reasonable hours on any day for the purpose of removing or correcting any violation or breach of any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Trustees of the Association authorizing access to any Lot or property covered under this Section and any charges incurred by the Association in correcting the violation hereunder, (including court costs and reasonable attorney's fees) shall constitute a charge against the subject property and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of said lien amount, which lien shall be subordinate to first mortgages as provided in Article V, Section 5.11.

9.4 Handicap Accessibility. Notwithstanding the other provisions herein, an Owner of a Living Unit and Lot may, at his expense, have such reasonable modifications made to the interior and exterior of his Living Unit and Lot and the Common Areas as may be necessary to afford physically handicapped persons full enjoyment of his premises. Any modifications to be undertaken to the exterior of a Living Unit and Lot or the Common Areas shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board of Trustees. The approved contractor shall provide an adequate performance bond for the benefit of the Association.

Notwithstanding the other provisions herein, including those requiring approval of the Members of the Association, the Board of Trustees is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Living Unit and Lot, including the Common Areas.

9.5 Use of Common Areas by Declarant and Builder. Declarant and Builder and their affiliates and associates, shall have the same right of use and enjoyment of the Common Areas as the Class A Members during the Development Period, and shall have the right to use the Common Areas for promotional, sales and similar purposes until all of the Living Units have been sold.

9.5 Arbitration. In the event of any dispute between Owners, other than the Declarant, regarding the application of these restrictions or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board, after hearing such

evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

## ARTICLE X

### GENERAL PROVISIONS

10.1 Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

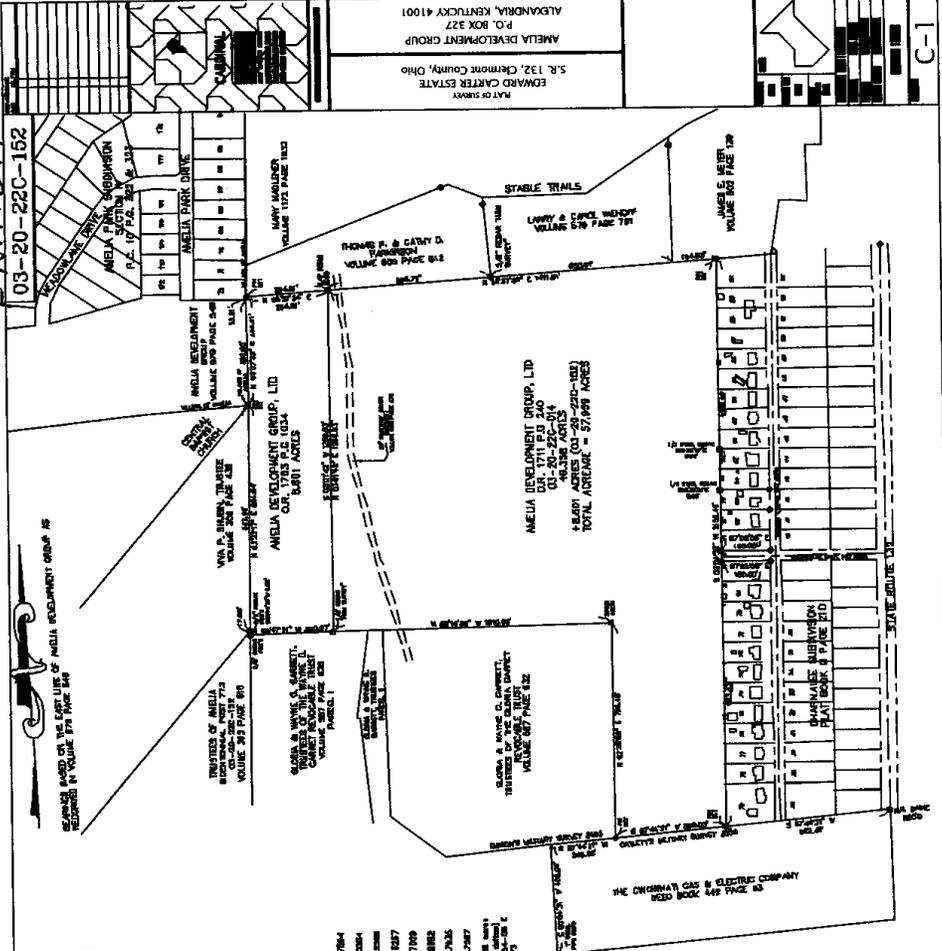
10.3 Amendment. Except as otherwise provided in this Declaration, the covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than fifty-one percent (51%) of the Lot Owners. Any amendment must be recorded. No amendment to the covenants and restrictions of this Declaration shall be binding upon any Lot owned by the Declarant or Builder or upon any additional property annexed to the terms of this Declaration by the Declarant, or upon any Lot upon which a Living Unit has not yet been erected unless the Declarant or any such Lot Owner agrees to said amendment in a recorded writing.

10.4 Right to Amend Documents. Notwithstanding anything above to the contrary, this Declaration and the By-Laws may be amended at any time without the vote of Owners by a written instrument executed by the Declarant for the purpose of: eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarant's original intent; conforming to any requirements imposed or requested by any governmental agency, public authority or financial institution; provided, however, that no such amendment shall materially affect any Owner's interest in the Association. Each Owner and his mortgagees, by acceptance of a deed to a Lot or a mortgage encumbering such Lot, shall be deemed to have consented to and approved of the provisions of this paragraph and the amendment of this Declaration and the By-Laws by Declarant as provided in the immediately preceding sentence. All such Owners and their mortgagees, upon request of Declarant, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Declarant to be necessary or proper to effectuate the provisions of this paragraph.





EXHIBIT D



REFERENCE DOCUMENTS  
 1) 24-108  
 2) 6L-11  
 3) 74-52  
 4) 74-181  
 5) 184-150  
 6) 157-9  
 7) T-2344

**PLAT OF SURVEY**  
**IN**  
**GIBBON'S MILITARY SURVEY No. 493**  
**HATAVIA TOWNSHIP**  
**CLERMONT COUNTY, OHIO**

I, JOSEPH G. BREWER, A REGISTERED LAND SURVEYOR IN THE STATE OF OHIO, DO HEREBY CERTIFY THAT THIS SURVEY WAS MADE AND CONDUCTED BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION IN ACCORD WITH O.A.C. 4733-07, AND THAT THE MONUMENTS SHOWN HEREON WERE FOUND OR SET AS NOTED.

Joseph G. Brewer  
 5-8227  
 DATE

Plat Name: GIBBON'S MILITARY SURVEY No. 493

Line	North	South	East	West	Length	Area	Remarks
1	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 1
2	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 2
3	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 3
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88	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 88
89	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 89
90	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 90
91	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 91
92	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 92
93	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 93
94	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 94
95	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 95
96	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 96
97	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 97
98	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 98
99	174.7478	174.7478	0.0000	0.0000	174.7478	30533.87	Line 99
100	0.0000	0.0000	174.7478	174.7478	174.7478	30533.87	Line 100

THE SURVEYOR IS A REGISTERED SURVEYOR AND HAS MADE THIS SURVEY IN ACCORDANCE WITH THE OHIO PROFESSIONAL SURVEYING ACT AND HAS NOT BEEN CONVICTED OF ANY CRIME OR FELONY IN CONNECTION WITH HIS PROFESSION. THE SURVEYOR IS NOT PROVIDING ANY GUARANTEE OR WARRANTY OF ANY KIND FOR THE ACCURACY OF THE SURVEY. THE SURVEYOR IS NOT PROVIDING ANY GUARANTEE OR WARRANTY OF ANY KIND FOR THE ACCURACY OF THE SURVEY. THE SURVEYOR IS NOT PROVIDING ANY GUARANTEE OR WARRANTY OF ANY KIND FOR THE ACCURACY OF THE SURVEY.

GRAPHIC SCALE  
 1" = 100' ±

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