

AMENDED AND RESTATED DECLARATION
CREATING AND ESTABLISHING
A PLAN FOR OWNERSHIP
OF
THE SHORES

**(A Planned Community Under
Chapter 5312 of the Ohio Revised Code)**

Cross References:

Official Record Volume 50, pages 1616-1627
Official Record Volume 50, pages 1628-1632
Official Record Volume 488, pages 668-669
Official Record Volume 504, pages 34-36
Official Record Volume 516, pages 402-411
Official Record Volume 525, pages 111-128
Official Record Volume 528, pages 823-832
Official Record Volume 548, pages 621-631
Official Record Volume 562, pages 438-448
Official Record Volume 596, pages 89-99
Official Record Volume 613, pages 444-454
Official Record Volume 630, pages 33-43
Official Record Volume 666, pages 811-821
Official Record Volume 666, pages 822-828

Plat Book 19, Pages 126
Plat Book 21, Pages 131-132
Plat Book 24, Pages 32-33
Plat Cabinet 1, Slides 132-134
Plat Cabinet 1, Slides 293 & 293A
Plat Cabinet 1, Slides 529 & 529A
Plat Cabinet 1, Slides 645 & 645A
Plat Cabinet 1, Slides 646 & 646A
Plat Cabinet 1, Slides 778 & 778A
Plat Cabinet 1, Slides 779 & 779A
Plat Cabinet 2, Slides 223 & 223A
Plat Cabinet 2, Slides 412, 412A, & 412B
Plat Cabinet 3, Slides 391 & 391A

This instrument was prepared by:

Brosius, Johnson & Griggs, LLC
6797 N. High St., Suite 350
Worthington, OH 43085

AMENDED AND RESTATED DECLARATION
CREATING AND ESTABLISHING
A PLAN FOR OWNERSHIP
OF
THE SHORES

CERTIFICATE OF AUDITOR

_____, 202__

Receipt is hereby acknowledged of a copy of the Amended and Restated Declaration of the above-named Condominium.

Delaware County Deputy Auditor

This instrument prepared by Brosius, Johnson & Griggs, LLC, 6797 N. High St., Suite 350,
Worthington, OH 43085.

AMENDED AND RESTATED DECLARATION
CREATING AND ESTABLISHING A PLAN FOR OWNERSHIP OF
THE SHORES

This declaration is for the purpose of submitting the real property and improvements thereon, and the appurtenances thereto (hereinafter referred to as the "Property") hereinafter describing the restrictions, easements, covenants, conditions and assessments set forth hereinafter.

RECITALS

- A. Evergreen Land Company, an Ohio Corporation, filed and recorded the Declarations Creating and Establishing a Plan for Ownership of The Shores for The Shores subdivision, as the sole owner of the property described therein (the "Property"), with the Delaware County Recorder's Office, as described below and as amended and supplemented to date:

Official Record Volume 50, pages 1616-1627
Official Record Volume 488, pages 668-669
Official Record Volume 516, pages 402-411
Official Record Volume 525, pages 111-128
Official Record Volume 528, pages 823-832
Official Record Volume 548, pages 621-631
Official Record Volume 562, pages 438-448
Official Record Volume 596, pages 89-99
Official Record Volume 613, pages 444-454
Official Record Volume 630, pages 33-43
Official Record Volume 666, pages 811-821

- B. The Board of Trustees of The Shores Homeowners Association has submitted this Amended and Restated Declaration to the members of The Shores Homeowners Association for consideration and approval. Pursuant to the provisions of the Declaration, Lot Owners exercising at least seventy-five percent (75%) of the voting power of Lot Owners are authorized and empowered to amend the Declaration. At least seventy-five percent (75%) of the voting power of Lot Owners hereby amend the Declaration by duly adopting this Amended and Restated Declaration (the "Amended Declaration"), hereby superseding, in their entirety, the Declarations and all amendments thereto; provided that the filing and recording of the Amended Declaration shall in no way affect the initial creation, validity or existence of the planned community.
- C. The Amended and Restated Bylaws (the "Bylaws") for The Shores Homeowners Association are recorded with the Delaware County Recorder's Office at Official Record Volume 50, page 1608-1615, and are attached to the Amended Declaration as Exhibit A. The Bylaws are unaffected hereby, and remain in full force and effect.
- D. All of the Property shall continue to be encumbered, leased, occupied, improved, used, and conveyed subject to the covenants, easements, conditions and restrictions created, declared, and established by the Declarations, as amended and restated in this Amended and Restated Declaration, which shall run with the land and are binding on all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, including the future Owners of any Lot and any utility companies, whether public or private, who are granted rights therein, and have thereby superseded the previously described declaration and all amendments thereto.
- E. This Amended and Restated Declaration applies to the entirety of the Property, as described in the attached Exhibit B.

NOW THEREFORE, the undersigned President and Secretary of The Shores Homeowners Association hereby certify that Lot Owners exercising not less than seventy-five percent (75%) of the voting power of all Lot Owners in the Association, as evidenced by the executed consent forms attached hereto and incorporated herein by this reference, have adopted the following amendments to the Declaration:

ARTICLE 1. THE PROPERTY AND NAME

The property referred to in Paragraph A hereinabove, and any improvements and appurtenances thereon, all of which are subject hereto, is named The Shores.

ARTICLE 2. USE RESTRICTIONS

1. The use of the Property shall at all times be subject to the provisions hereof, including those provisions set forth hereinafter with respect to the authority of The Shores Homeowners Association, an incorporated association (the "Association"), and in addition to such reasonable rules and regulations as may be promulgated by said Association.
2. Each of the aforementioned Lots shall be used and occupied solely and exclusively for private-residence purposes by a single family, and no other than a one single family, private residence purpose building (herein referred to as "Dwelling") shall be erected, reconstructed, placed, or suffered to remain thereon. Specifically, no outbuildings will be permitted.
3. No obnoxious or offensive trade or activity shall be carried on upon the Property, nor shall anything be done on the Property which may be or may become an annoyance or nuisance to any of the other Lots or owners thereof.
4. No structure of a temporary character, trailer, mobile home, tent, shack, garage, barn, or other outbuilding shall be used on the Property at any time as a residence, either temporarily or permanently, and no structure whatsoever, detached from the residence, shall be used for storage purposes or for any other purpose. No storage tanks, including but being not limited to those used for the storage of water, gasoline, oil, other liquid or any gas shall be permitted on a Lot outside of a Dwelling, except as may be approved by the Association. No exterior recreational facilities, including, but not being limited to so-called "swing sets" shall be erected, reconstructed, placed, or suffered to remain upon any Lot without first being submitted to architectural control as provided in Article 3 hereof. Further, specifically, and without limitation, all metal tubular-type swing-sets shall be prohibited. No above ground pools are permitted.
5. No spiritous, vinous, or fermented liquors of any kind shall be manufactured or sold, either by wholesale or retail, upon the Property, and no industry, business, trade, occupation, or profession of any kind shall be conducted, maintained, or permitted upon the Property. No well for gas, oil, or other substance shall at any time, whether intended for temporary or permanent purposes, be erected, placed, or suffered to remain the Property, nor shall the Property be used in any way for any purpose, which may endanger the health or unreasonably disturb the quiet of an owner or occupant of the Lots. Provided that there be no disconnection of water service otherwise provided to the Dwelling, which may be erected on any Lot, a water well is specifically permitted for the sole purpose of providing water to the exterior of the Dwelling. Provided, however, that such well shall not protrude above ground level more than twelve (12) inches. Any such well that does protrude above ground level shall be subject to prior architectural review as otherwise provided in Article 3 of this Amended Declaration.
6. No animals, rabbits, or poultry of any kind and no species of fowl, livestock, birds, or insects shall be kept upon or maintained on any part of the Property except domestic 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 (2) dogs and two (2) cats may be

kept on any Lot except when such dogs or cats in excess of such number are less than three (3) months of age. No kennels or enclosures, or so-called "dog runs" for any animal shall be erected or maintained on any Lot. Specifically, no buildings of any kind or size for any animal, including, but being not limited to so-called "dog houses", shall be erected or maintained on any Lot.

7. No trucks of one ton or more, commercial vehicles, boats, trailers, campers, or mobile homes shall be parked or stored on the Property unless the same are in the garage.

8. No portion of the Property shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. Garbage and refuse shall be placed in containers, which shall be concealed and contained within Dwellings or shall be concealed by means of screening wall (which screening wall shall be subject to architectural control as provided in Article 3 hereafter) of material similar to and compatible with that of the Dwelling situated upon said Lot, or shall be concealed by sufficient landscaping to provide a permanent screen at all times of the year. Unless specifically approved by the Association in writing, no materials, supplies, or equipment shall be stored on any Lot except inside a Dwelling, or behind a visual barrier screening such area so that they are not visible from adjacent streets or Lots.

9. No portion of any Lot nearer to any street than the building setback lines as shown upon the recorded plat of the subdivision shall be used for any purpose other than that of a lawn, nor shall any fence or wall of any kind, for any purpose, be erected, placed, or suffered to remain on any Lot nearer to any street now existing, or any hereafter created, than the front building line of the actual building, excepting ornamental railings, walls, or fences not exceeding three (3) feet in height located on or adjacent to entrance, platforms, or steps. Nothing herein contained, however, shall be construed as preventing the use of such portion of any Lot for walks, drives (if otherwise permitted), planting of trees or shrubbery, growing of flowers or other ornamental plants, or for small statuary entrance ways, fountains or similar ornamentations for the purpose of beautifying the Lot. No unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon and no fence whatsoever shall be constructed other than a so-called "split rail" fence.

10. No garage or any addition thereto or alteration thereof shall be erected, reconstructed, placed, or suffered to remain upon any of the aforementioned Lots unless the same is for the exclusive use of the family occupying said Dwelling and unless such garage be an integral part of said Dwelling and unless and until the size, location, type, style of architecture, cost, materials, color, and grade shall have first been approved in writing as required of all other construction as set forth in Article 3 hereinafter. No such proposed garage shall be approved by the Association unless such proposed garage shall be of a size reasonably intended to accommodate at least two (2) automobiles, and in addition, unless the driveway is large enough to contain an additional two (2) "full-size" automobiles.

11. No sign of any kind shall be displayed to the public view on any of the aforementioned Lots, except one sign of not more than 2 ft. x 4 ft. advertising the premises for sale or for rent.

12. No lines, wires, or other devices for communication purposes, including telephone, television, data and radio signals, or the transmission of electric current or energy, shall be constructed, placed or suffered to remain anywhere in or upon the property unless the same shall be in or by conduits or cables constructed, placed, and maintained underground or within Dwellings. In addition, all gas, water, sewer, oil, and other pipes gas for liquid transmission shall also be placed underground or within or under dwellings. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incidental to the construction of approved improvements. No satellite dishes larger than twenty inches (20") in diameter will be permitted. The twenty-inch (20") satellite dish must be hidden from view of the

street, if possible, and well landscaped to conceal. The foregoing is applicable to the extent such provisions are permitted by federal legislation

13. All Lots will use mailboxes of a common design and placement, subject to the provisions of Article 3 hereinafter. It is the intent of this section to promote uniformity among the Lots with respect the mailboxes and posts referred to herein, subject to rules and regulations of any governmental authority which may be applicable.

14. The location of any and all driveways shall be and shall remain as established upon each of the Lots pursuant to the plans and specifications as may be approved the Association pursuant to Article 3 hereinafter. No driveway shall be located, relocated, or suffered to remain upon any of said Lots except as approved by the Association in writing.

15. No Grantee or successor in title shall subdivide or convey less than the whole of any Lot without first obtaining the written consent of the Association.

16. With respect to sight distance at intersections, no fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot with the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street line or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway pavement. Trees shall be permitted to remain within such distance of such intersections provided the foliage line is maintained at sufficient heights to prevent obstruction of such sight lines.

ARTICLE 3. ARCHITECTURAL CONTROL, SIGNS, EXTERIOR AREA

1. No Dwelling, garage, or any addition thereto, or any alteration thereof, or any in-ground swimming pool and associated equipment, or any screening wall, shall be erected, reconstructed, placed, or suffered to remain upon a Lot until the Site Plan thereof has been approved by the Association. In addition, no Dwelling, garage, or any addition thereto, or any alteration thereof or any screening wall shall be erected, reconstructed, placed, or suffered to remain upon a Lot unless or until the size, location, type, style of architecture, use, materials of construction thereof, color scheme therefor, grading plan of the Lot (including grade elevations of the Dwelling to be constructed thereupon), the landscape plan, specifications and details of said Dwelling all shall have been approved in writing by the Association, and a true copy of said plans, specifications, and details shall have been filed with the Association.

2. All construction work commenced on a Lot shall be completed within a reasonable time after the start of construction thereof in accordance with the plans and specifications so approved by the Association, and the Association shall have the right to inspect all such construction work at reasonable times to ensure the compliance with such plans and specifications.

3. Nothing shall be permitted to be hung, displayed, stored, or erected on the outside of the Dwellings, or in view from the outside thereof, nor shall fences, hedges, or walls be erected or maintained, upon Lots, or upon the common area, if any, other than as originally provided by the plans and specifications, or as may be authorized by the Association.

4. Notwithstanding anything to the contrary set forth in this Amended Declaration, no plans, specifications, and details shall be approved by the Association which plans, specifications, and details do not provide for the use of dimensional asphalt shingles or equivalent or better roofing material (in the discretion of the Association) on all roofs.

ARTICLE 4. THE SHORES ASSOCIATION

1. ESTABLISHMENT OF ASSOCIATION: The Shores Homeowners Association (referred to herein as the "Association") was created with recording of the declaration with the Delaware County Recorder's Office at Official Record Volume 516, pages 402-411, as amended and supplemented to date, and was incorporated on January 8, 1997.

2. AUTHORITY AND PURPOSE OF THE ASSOCIATION: The authority and purpose of the Association is set forth herein. Specifically, but without limiting the generality of the foregoing, it is intended that the Association perform the following:

- A. To provide from time to time, and to the extent not provided by the appropriate governmental authorities, in its discretion, such services as it may choose to provide.
- B. To establish and enforce reasonable standards with respect to maintenance and upkeep of the Dwellings to be constructed on the Lots.
- C. To enforce the provisions of this Amended Declaration and such other rules and regulations as may be promulgated in accordance therewith.

3. MEMBERSHIP: Every owner of a Lot or of an interest therein is hereby declared to be a member of the Association, and no one other than the aforementioned may be a member of the Association. Membership is appurtenant to and shall not be separated from ownership of a Lot. Each owner, by acceptance of a deed or other conveyance, thereby becomes a member. When more than one person or entity is owner of a Lot, all such persons or entities shall be members. When such owner ceases to own an interest therein, that person or entity is no longer a member.

4. BOARD OF TRUSTEES: The Board of Trustees and officers the Association elected as provided in the Bylaws of the Association shall exercise the powers, discharge the duties, and be vested with the rights conferred by this Amended Declaration, and by the Bylaws of the Association. Provided, however, that in the event any such power, duty, or right shall be deemed exercisable or dischargeable by or vested in an officer or member of the Board of Trustees solely in his capacity as an officer or member of the Board of Trustees, he shall be deemed to act in such capacity to the extent required to authenticate his acts and to carry out the purposes of the Amended Declaration and of the Bylaws.

5. ADMINISTRATION: The administration of The Association shall be in accordance with the provisions of this Amended Declaration and Bylaws of the Association, as each of the foregoing may be amended from time to time, and in accordance with such reasonable regulations as may be promulgated by the Board of Trustees from time to time, provided however, the amending of this Amended Declaration is limited by the provisions of Article 8, Paragraph 6 hereinafter. Each Lot owner, tenant, or occupant of a Dwelling thereon shall comply with provisions of this Amended Declaration and of the Bylaws of the Association, the regulations, decisions, and resolutions of the Board Of Trustees of the Association or of the duly appointed representatives thereof, as each of the foregoing may be promulgated or amended from time to time, and failure to comply with any such provisions, decision, resolution, or regulation shall be grounds for an action to recover sums due for damages (which sums shall be an assessment as provided hereinafter) or for injunctive relief or for such other relief which may be available.

6. BYLAWS: A copy of the Bylaws of the Association is attached hereto as Exhibit "A".

ARTICLE 5. ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS:

- A. Each member is deemed to covenant and agrees to pay such annual operating assessments or other charges as may be imposed by the Association pursuant to the terms of this Amended Declaration.
- B. The annual assessment, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter, shall be a charge on each Lot, and shall be a continuing lien upon each Lot against which such assessment is levied by the Board of Trustees as provided hereinafter.
- C. Each such assessment, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter, shall also be the personal obligation of each owner of a Lot, and if there is more than one owner of a Lot (i.e. owners of fractional interests of, or in, a Lot), then such assessment, together with the cost of collection thereof, attorneys' fees, and interest as provided hereinafter shall be the joint and several personal obligation of each of such owners.
- D. In a voluntary conveyance of a Lot, the grantee or grantees thereof shall be jointly and severally liable with such grantor or grantors thereof for all unpaid assessments against such Lot up to the time of conveyance, without prejudice to the grantee's right to recover from the grantor, the amounts paid by grantee therefor.
- E. Each Lot shall be charged with an equal portion of the annual assessment, if any (with an appropriate proration thereof to be made during the calendar year of the sale to the purchaser of such Lot). The annual assessment shall be determined, charged, and collected on a calendar year basis. The Board of Trustees of the Association is hereby empowered to make such reasonable rules and regulations so as to effectuate the fair and equitable application of this provision.

2. PURPOSE AND NATURE OF ASSESSMENTS:

- A. The assessments levied by the Association, whether annual assessments, special assessments levied for unanticipated operating deficiencies or capital expenditures, or individual lot assessments levied for any of the purposes allowed under applicable law (specifically including Chapter 5312 of the Ohio Revised Code), shall be used for any purpose allowed under applicable law and which is deemed to be desirable by the Association, through its Board of Trustees, as well as for the operation of the Association, in such manner as the Board of Trustees shall determine.
- B. LEVY AND AMOUNT OF ASSESSMENTS: The annual assessment shall be that amount of funds estimated by the Board of Trustees to be necessary for operating expenses of the Association for the balance of the next succeeding fiscal year which shall be a calendar year unless otherwise chosen by the Board of Trustees.
- C. EFFECTIVE DATE OF ASSESSMENT: Any assessment created pursuant hereto shall be effective provided it is created by the Board of Trustees in accordance with the Bylaws of the Association, and upon written notice of the amount thereof sent by the Board of Trustees to the member of the Association subject thereto at least fifteen (15) days prior to the due date. Written notice mailed, sent electronically, or delivered to a member's address as on file with the Board of Trustees shall constitute notice to that member.

3. PAYMENT AND NON-PAYMENT OF ASSESSMENTS:

- A. METHOD OF PAYMENT: Each assessment created pursuant hereto shall be due in full on the effective date thereof; provided, however, that nothing herein shall prohibit the Board of Trustees from collecting such assessment in such installments as the Board of Trustees may, in its discretion, determine to be appropriate and beneficial. If assessments collected during any fiscal year are in excess of the funds necessary to meet the anticipated expenses for which the same have been collected, the excess shall be allocated and paid into such reserve account as the Board of Trustees may deem appropriate, and shall in no event be deemed to be profits, nor available, except a dissolution of the Association, for distribution to members; provided, however, that if the Board of Trustees should determine that the retention of any assessment collected in excess of ordinary and necessary expenses would subject any proceeds to taxation, the Board of Trustees may, in its discretion, refund or credit all or any portion of such excess among the members in the same proportions as the same were paid. In such event, such excess shall be so divided among only those who are members at the time of distribution, without regard to the question of who was the owner at the time of the assessment or collection.
- B. EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION:
1. If any installment of any assessment is not paid within thirty (30) days after the same has become due, the entire unpaid balance of such assessment shall then be automatically accelerated, and shall immediately become due and payable in full, together with the cost of collection thereof, attorneys' fees, and interest on the entire balance of such assessment at the highest rate of interest permitted by law.
 2. At any time after an assessment or installment thereof levied pursuant hereto remains unpaid for thirty (30) days after the same has become due and payable, a Certificate of Lien for the entire unpaid balance of such assessment, together with any subsequent assessment which may thereafter become due, together with the cost of collection thereof, attorneys' fees, and interest on the entire unpaid balance of such assessment at the rate set forth hereinabove may be filed with the Recorder of Delaware County, Ohio, pursuant to authorization given by the Board of Trustees. Such Certificate shall contain a legal description of the Lot against which the lien exists, the name or names of the record owner or owners thereof and the amount of the unpaid assessment, and shall be signed by the President or other officer designated for such purpose by the Board or Trustees.
 3. The lien provided for herein shall remain valid for a period of five (5) years from the date of filing of the aforementioned Certificate of Lien, unless sooner released or satisfied in the same manner provided by law in the State of Ohio for the release and satisfaction of mortgages on real property, or, discharged by the final judgment or Order of the Court in an action brought to discharge the lien.
 4. Except as to first mortgages as provided hereinafter, the lien referred to herein and the rights of the Association as provided herein shall not in any way be affected, abridged, or impaired by the conveyance of the Lot to which such lien applies, such lien and rights shall be applicable as against the parties to whom such Lot is conveyed as provided hereinabove, and any grantee of a Lot shall be jointly and severally liable with the grantor for the amount secured by such lien.

5. The Association, as authorized by the Board of Trustees may bring an action at law against the member or members obligated to pay the assessments referred to herein, or an action to foreclose the lien referred to hereinabove, or both. In the event of a foreclosure, the Association shall be entitled to become a purchaser at the foreclosure sale. In any such action, interest and cost of such action shall be added to the amount of any such assessment to the extent set forth in this Amended Declaration and permitted by the laws of the State of Ohio.
6. No member of the Association may waive or otherwise escape liability for the assessments provided herein.
7. The lien of the assessment provided herein shall be subject and subordinate to the lien of any previously duly executed and recorded first mortgage, and any holder of such first mortgage which comes in possession of a Lot pursuant to the remedies provided in such mortgage, whether by foreclosure of the mortgage or by deed or assignment in lieu of foreclosure, shall take the Lot free of any claims of unpaid assessments of charges against the said Lot which are attributable to the period prior to the time such holder of such mortgage obtains title to such Lot.

ARTICLE 6. EASEMENTS

Each Lot shall be subject to easements for utilities and such other purposes consistent with the development of the Property. Upon request by the Association, an owner of a Lot shall join in any documentation necessary for the purpose of effectuating this provision, and the provisions more fully set forth hereinafter.

1. **EASEMENT FOR ACCESS:** A non-exclusive perpetual easement over the Property is hereby reserved to Evergreen Land Company, an Ohio corporation (the "Developer"), its successors and assigns, for the benefit of it and for the future owners of Lots and occupants of Dwellings to be constructed thereon, and for the benefit of the licensees and invitees of the foregoing individuals and entities, for the purpose of providing access to and from the various Lots, and for the purpose of using such roadways, sidewalks, drives, and walkways as may, from time to time, exist upon the Property for pedestrian and vehicular travel, as might be appropriate, to and from public streets and to and from the Lots.
2. **EASEMENT FOR REPAIR; RESTORATION AND OTHER MATTERS:** The Association shall have a perpetual right of access and an easement to, over, and through each Lot for the purpose of ingress, egress, repair, maintenance, restoration, and for all other purposes which enable the Association to perform its obligations, rights, and duties as set forth herein.
3. **EASEMENTS FOR CERTAIN UTILITIES:** The Board of Trustees may hereafter grant easements on behalf of members to entities for utility purposes or for other miscellaneous purposes for the benefit of the Property including, but being not limited to, the right to install, maintain, repair, and replace water mains and pipes, sewer lines, gas mains, telephone wires, television cables and equipment, electrical conduits, and wires over, under, along, and on any portion of the Lots; and each owner of a Lot hereby grants, and the transfer of title to Lot Owner shall be deemed to grant, the Association an Irrevocable Power of Attorney to execute, acknowledge and record for and on behalf of such Lot owner, such instrument as may be necessary to effectuate the foregoing.
4. **EASEMENT FOR SERVICE:** A perpetual, non-exclusive easement is hereby granted to all police, firemen, ambulance operators, mailmen, delivery men, trash removal personnel, and all similar persons, and to the local governmental authorities and to the Association, but not the

public in general, to enter upon the common area, if any, and upon the various Lots in the Property in performance of their respective duties.

5. EASEMENT FOR DEVELOPMENT AND CONSTRUCTION: There is hereby reserved to the Developer, its successors and assigns, a non-exclusive right and easement over, on, and under the Property and all Lots for the purpose of doing all things necessary to complete construction work necessary and intended to develop the land, including but being not limited to, the right to install, use, maintain, repair, and replace pipes, wires, storm and sanitary, sewer, and telephone services.

6. GENERAL: All easements and rights described herein or easements appurtenant to and running with the land, shall be perpetually in full force and effect, and at all times shall inure to the benefit of and be binding upon the Association, and any owner, purchaser, mortgagee, or other person having an interest in the property, or any part or portion thereof. Failure to refer to any or all the easements and/or rights described herein in any deed of conveyance or any mortgage deed or other evidence of obligation shall not defeat or fail to reserve said rights or easements, but the same shall be deemed conveyed or encumbered therein.

ARTICLE 7. POND USE AND MAINTENANCE

1. DEFINITIONS:

- A. The pond partially situated upon the real property described as the following shall be known for the purposes of this Article 7 as the "Phase 11 Pond":

Situated in the State of Ohio, County of Delaware, and in the Township of Orange:

Being known as Lots 3761, 3762, 3763 and 3764 of The Shores- Phase 11, as the same are numbered and delineated upon the recorded plat hereof, of record in Plat Cabinet 2, Slides 223-223A, Recorder's Office, Delaware County, Ohio.

The Lot Owners of the foregoing Lots shall be known for the purposes of this Article 7 as "Phase 11 Lot Owners".

- B. The pond partially situated upon the real property described as the following shall be known for the purposes of this Article 7 as the "Phase 12 Pond":

Situated in the State of Ohio, County of Delaware, and in the Township of Orange:

Being known as Lots 4869, 4871, 4872, 4905, 4906, 4907, 4908, 4909, 4910, 4911, 4912, 4913, 4913, 4915, 4916, and 4917 of The Shores- Phase 12, as the same are numbered and delineated upon the recorded plat hereof, of record in Plat Cabinet 2, Slides 412, 412A, & 412B, Recorder's Office, Delaware County, Ohio.

The Lot Owners of the foregoing Lots shall be known for the purposes of this Article 7 as "Phase 12 Lot Owners".

- C. The Phase 11 Pond and the Phase 12 Pond shall collectively be known for the purposes of this Article 7 as the "Ponds".

2. EASEMENT: The Developer has granted to, and reserved for the benefit of itself, its successors and assigns, and the Phase 11 Lot Owners and their respective licensees and invitees, an exclusive, irrevocable easement on, over, through, upon, across and under the Phase 11 Pond for the uses and purposes set forth herein. The Developer has granted to, and reserved for the benefit

of itself, its successors and assigns, and the Phase 12 Lot Owners and their respective licensees and invitees, an exclusive, irrevocable easement on, over, through, upon, across and under the Phase 12 Pond for the uses and purposes set forth herein. The Developer reserved for the benefit of itself, its successors and assigns, and for the County of Delaware, Ohio, the right to use the Ponds for storm drainage and retention as may be required and/or approved by the County of Delaware, Ohio.

3. USE RESTRICTIONS:

A. Limitation to Recreational Use. The Ponds shall be used for recreational purposes only, including, but being not limited to, fishing, boating (as limited hereby), ice skating, and swimming. Any other recreational use consistent with the purpose and intent of this Amended Declaration shall be permitted subject to the restrictions herein.

B. Motor Crafts. No craft powered by motors of any sort shall be permitted on the Ponds. Sail boats are also prohibited. It is the intent hereof to prohibit all craft except row boats, canoes, pedal boats, and inflatable flotation devices. Notwithstanding the foregoing, remote controlled model boats may be used on the Ponds.

C. Boat Docks. Each Phase 11 Lot Owner and each Phase 12 Lot Owner shall be entitled to construct one (1) boat dock on their Lot, subject to the following restrictions:

i. No boat house, cabana, or other structure may be erected on any Lot within eight (8) feet of the edge of the Pond.

ii. The surface area of the boat dock shall be on one (1) level only, and shall be no larger than six (6) feet by eight (8) feet.

iii. No portion of the structure of the boat dock shall extend higher than one (1) foot above the ground at the edge of the Pond adjacent to said boat dock.

iv. Such boat dock shall not be covered in any fashion with roofs or awnings. Portable beach umbrellas shall be permitted.

D. Stocking of Fish. Upon agreement of a majority of the Phase 11 Lot Owners, the Phase 11 Pond may be stocked with fish for purposes of fishing. Upon agreement of a majority of the Phase 12 Lot Owners, the Phase 12 Pond may be stocked with fish for purposes of fishing.

E. Third Party Usage. No third parties, other than the Phase 11 Lot Owners and their respective licensees and invitees shall be permitted to use the Phase 11 Pond, except as may be permitted by the provisions of Article 7 Paragraph 1 hereinabove. No third parties, other than the Phase 12 Lot Owners and their respective licensees and invitees shall be permitted to use the Phase 12 Pond, except as may be permitted by the provisions of Article 7 Paragraph 1 hereinabove.

F. Public Nuisance. Each Phase 11 Lot Owner and each Phase 12 Lot Owner and their licensees, invitees, family, or guests, shall use the Ponds in a reasonable manner so as not to commit a nuisance in the use thereof.

4. MAINTENANCE:

A. Pond Condition. The Ponds shall be maintained in a size and condition substantially similar to that of such Ponds as of the date hereof. Specifically, but without limitation, there shall be no pumping of water from the Ponds, no enlargement thereof, and no easements granted thereto. No beach shall be constructed.

B. Hazardous Materials. No party shall directly or indirectly release, discharge or dispose of any substances or materials which are the subject of any federal, state, or local laws, ordinances, or regulations relating to environmental conditions (collectively referred to as "Hazardous Materials") on, in, or near the Ponds.

C. Maintenance and Repair. All decisions with respect to the maintenance and repair of the Phase 11 Pond shall require the consent of the majority of the Phase 11 Lot Owners, and all decisions with respect to the maintenance and repair of the Phase 12 Pond shall require the consent of the majority of the Phase 12 Lot Owners. The cost of maintenance and repair of the Phase 11 Pond shall be divided equally amongst all Phase 11 Lot Owners, and the cost of maintenance and repair of the Phase 12 Pond shall be divided equally amongst all Phase 12 Lot Owners. To the extent reasonable in order to effectuate the intent hereof, the Bylaws shall not be applicable to decisions made with respect to the Ponds.

5. MISCELLANEOUS:

A. Indemnity and Release. Each Phase 11 Lot Owner does hereby indemnify and hold harmless every other Lot Owner of and from claims, demands, or causes of action arising out of the use by such Phase 11 Lot Owner, their licensees, invitees, family, or guests, of the Phase 11 Pond. Each Phase 12 Lot Owner does hereby indemnify and hold harmless every other Lot Owner of and from claims, demands, or causes of action arising out of the use by such Phase 12 Lot Owner, their licensees, invitees, family, or guests, of the Phase 12 Pond. Each Phase 11 Lot Owner and Phase 12 Lot Owner, on behalf of their licensees, invitees, family, or guests, and their respective heirs, executives, administrators, and assigns, as the case may be, does hereby release the Developer of and from all claims, demands or causes of action arising out of the use of the Ponds by any person whomsoever.

B. Liability Insurance. Each Phase 11 Lot Owner shall be responsible for obtaining liability insurance relative to the use and/or ownership of the Phase 11 Pond. Each Phase 12 Lot Owner shall be responsible for obtaining liability insurance relative to the use and/or ownership of the Phase 12 Pond.

C. Assessments. Upon a majority vote of the Phase 11 Lot Owners, the cost of the maintenance and repair of the Phase 11 Pond shall be paid by each Phase 11 Lot Owner in the manner and amount as decided by such majority. Upon a majority vote of the Phase 12 Lot Owners, the cost of the maintenance and repair of the Phase 12 Pond shall be paid by each Phase 12 Lot Owner in the manner and amount as decided by such majority. For purposes hereof, the foregoing is referred to herein as the "Assessment". Each Assessment created pursuant hereto shall be due as decided by the aforesaid respective majorities. If any Assessment is not paid within thirty (30) days from the due date thereof, then the provisions of Article 5 Paragraph 3(B) of the Amended Declaration shall be applicable with respect to the applicable Lots, and the remedies for the nonpayment of such Assessment may be enforced by fifty percent (50%) or more of the applicable Phase 11 Lot Owners or Phase 12 Lot Owners who have not defaulted in the payment of the Assessment.

D. Voting Rights of Lot Owners. The Owner or Owners, collectively, of the fee simple title of record of each Phase 11 or Phase 12 Lot shall be entitled to one (1) vote per Lot. In the event of a dispute between the Owners of such Lot, and in the absence of a certificate signed by all of the Owners of such Lot authorizing the casting of a vote, then such vote shall not be counted with respect to any decision requiring a vote of the Phase 11 Lot Owners or Phase 12 Lot Owners. In the event there are an even number of Lot Owners eligible to vote to effectuate maintenance, repair, or any other matter governed by this Article 7, then more than 66.67% of the votes shall be required.

E. Amendment. Any provision to the contrary notwithstanding, this Article 7 may be amended upon the affirmative vote of more than 66.67% of the Phase 11 Lot Owners and Phase 12 Lot Owners. Further, no such amendment shall be effective to limit in any way the use of the Ponds for storm drainage and retention without the express, prior written consent of the County of Delaware, Ohio.

ARTICLE 8. GENERAL PROVISIONS

1. COVENANTS RUNNING WITH THE LAND: Each grantee of a Lot, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights, and power created or reserved by this Amended Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind every person having at any time any interest or estate in said land, and shall inure to the benefit of such owner in like manner as though the provisions hereof were recited in full in each and every deed of conveyance, and shall encumber the land for a period of fifty (50) years from the date of the recordation of this Amended Declaration, after which from time they shall be automatically be deemed to be extended for successive period of ten (10) years each, unless otherwise amended as hereinafter provided.

2. ENFORCEMENT: In addition to any remedies provided in this Amended Declaration, the Association and any member of the Association, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges set forth hereon or now or hereafter imposed in accordance with this Amended Declaration and the Bylaws of the Association. Failure by the Association or such member of the Association to proceed with such enforcement shall in no event be deemed to be a waiver of such right to enforce at a later date the original violation or a subsequent violation, nor shall the doctrine of laches, nor any statute of limitations, bar the enforcement of such restriction, condition, covenant, easement, reservation, lien, or charge.

3. SEVERABILITY: The invalidity of any restrictions, conditions, covenants, reservations, easements, liens or charges, or any other provisions of this Amended Declaration or of any part of the same shall not impair or affect in any manner the validity, enforceability, or effect of any other of the provisions which shall nevertheless remain in full force and effect.

4. GENDER AND GRAMMAR: The singular wherever used herein shall be construed to be the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply to either corporations, partnerships, or individuals (whether masculine or feminine) shall in all cases be assumed as though in each case fully expressed.

5. CAPTIONS: The captions of the various provisions of the Amended Declaration are not a part the context hereof but are merely labels to assist in locating the provisions hereof.

6. AMENDMENT:

A. This Amended Declaration and the Bylaws of the Association may be amended by the affirmative vote of those exercising, in person or by proxy not less than seventy-five percent (75%) of the voting power of the Association at a meeting otherwise duly convened as provided in the Bylaws of the Association, and such amendments shall become effective upon the filing with the Recorder of Delaware, Ohio, a copy of such amendments, together with a certificate thereof signed by the President and Secretary of the Association. Provided, however, that no such amendment shall have any effect upon material rights of bona fide mortgagees until the written consent of such mortgagees to such amendment has been secured. Such consent shall be retained by the Secretary of the Association, and the certification of such Secretary in the instrument of amendment, and the names of the

consenting and/or nonconsenting mortgagees of the various Lots may be relied upon by all parties for all purposes.

B. Notwithstanding anything to the contrary set forth in Subparagraph A of this section, it is the intent of the Association that no subsequent amendment hereof, and no subsequent amendment of the Bylaws of the Association, shall serve to circumvent or subvert the spirit, purpose and intent of this Amended Declaration, but shall be only for such purposes as may be consistent with the spirit, purpose and intent of this Amended Declaration, as expressed herein.

IN WITNESS WHEREOF, the undersigned officers of The Shores Homeowners Association, an Ohio not-for-profit corporation, hereby certify that by the affirmative vote of Lot Owners holding not less than seventy-five percent (75%) of the voting power of Lot Owners, this document and the attachments hereto have been adopted as the Amended and Restated Declaration of The Shores, thereby superseding the previously described declaration and all amendments thereto.

THE SHORES HOMEOWNERS ASSOCIATION

An Ohio Not-for-profit Corporation

By: _____,
President of the Board of Trustees

By: _____,
Secretary of the Board of Trustees

STATE OF OHIO
COUNTY OF DELAWARE, SS:

This instrument was acknowledged before me on this ____ day of _____, 20__ by _____, President of the Board of Trustees of The Shores Homeowners Association, an Ohio not-for-profit corporation, on behalf of the corporation.

Notary Public

STATE OF OHIO
COUNTY OF DELAWARE, SS:

This instrument was acknowledged before me on this ____ day of _____, 20__ by _____, Secretary of the Board of Trustees of The Shores Homeowners Association, an Ohio not-for-profit corporation, on behalf of the corporation.

Notary Public