

DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
THE WYNDS OF LIBERTY HOME OWNERS ASSOCIATION

THIS DECLARATION, made on the date hereinafter set forth by James M. Dixon, Trustee, and Joseph W. Schwarz, Trustee, and J. Harold Maggard, Trustee, hereinafter referred to as the "Declarants".

W I T N E S S E T H:

WHEREAS, Declarants are the owners of certain property in Liberty Township, Butler County, State of Ohio, which is more particularly described in Exhibit "A", attached hereto.

NOW THEREFORE, Declarants hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions 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.

1.1 "Assessments" Assessments shall mean the charges against the lots for Common Expenses and other charges provided herein or by any supplementary Declaration as provided in Article IV, Section 4.2 of this Declaration.

1.2 "Association" shall mean and refer to The Wynds of Liberty Homeowners Association, its successors and assigns. Except as the context otherwise requires, Association shall mean the Board of Trustees acting on behalf of the association. All actions of the Board shall be in accordance with the Declaration, Articles of Incorporation and the Code of Regulations.

1.3 "Builder" shall mean any person or entity who acquires a Lot for the purpose of construction of a house on the Lot and sale to an Owner.

1.4 "Common Expenses" Common Expenses shall mean and include the actual and estimated expense of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Association.

1.5 “Declarants” shall mean and refer to James M. Dixon, Trustee, Joseph W. Schwarz, Trustee and J. Harold Maggard, Trustee, their successors and assigns.

1.6 “Lot” shall mean and refer to any individual plot of land upon any recorded subdivision plat of the Properties.

1.7 “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.

1.8 “Property or Properties” shall mean and refer to that certain real property described in Exhibit “A”, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

1.9 “Record Plan” Record Plan shall mean the plat of The Wynds of Liberty subdivision recorded in the office of the Butler County Recorder’s Office and any replats or subsequent plats for the subdivision.

## ARTICLE II

### PROPERTY RIGHTS

2.1 General. Each Lot shall be subject to and be benefited by such easements as set forth on the Record Plan, in this Declaration or contained in any deed. Such easements shall be subject to the restrictions and conditions as set forth on the Record Plan, in this Declaration or contained in any deed. Each Owner shall have the easement rights set forth which shall be nonexclusive, but which do not inure to the benefit of the public at large. All easements shall be appurtenant to the Lots, shall run with the land and shall be binding on each Owner, his or her heirs, successors and assigns. No Owner shall take any action or make any improvements within any easement which would interfere with its intended purpose.

2.2 Sign Easement. Lots No. 1 and 63 as shown on the Record Plat are subject to an easement denominated as “Sign Easement”. This easement is for the benefit of the Association for installation and maintenance of signage, entry walls, landscaping and fencing.

2.3 Delegation of Use. Each Owner may delegate his or her easement rights to members of his or her family, tenants, and social invitees, subject to reasonable regulations by the Association and in accordance with the procedures which it may adopt.

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may act be separated from ownership of any Lot which is subject to assessment.

3.2 Voting Rights. The Association shall have two classes of voting membership:

3.2.1 Class A members shall be all Owners, with the exception of the Declarants and any Builder, 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.

3.2.2 Class B member(s) shall be the Declarants and shall be entitled to ten (10) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership when the Declarant no longer owns any lots.

## ARTICLE IV

### COVENANT FOR MAINTENANCE ASSESSMENT

4.1 Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each Lot owned within the Properties, hereby covenant, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be expressed in such deed, covenant and agree to pay to the Association: (1) Annual Assessments or charges, and (2) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The Annual and Special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such Assessment is made. Each such Assessment, together with interest, costs reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them.

4.2 Purpose of Assessments. Assessments shall mean the charges against the Lots for Common Expenses and other charges provided herein or by any supplementary Declaration and shall be used for the purpose of maintenance, lighting, repair and replacement of the entry walls, landscaping, fencing at front, mail boxes and street signs; enforcement of the provision of this Declaration and promoting the general health, safety and welfare of the Owners as may specifically authorized from time to time by the Association.

4.2 Maximum Annual Assessment. Until July 1, 1999, the maximum Annual Assessment shall be One Hundred Dollars (\$100.00).

4.3.1 From and after July 1, 1999, the Annual Assessment may be increased each year not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the membership.

4.3.2 From and after July 1, 1999, the Annual Assessment may be increased more than ten (10%) percent by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

4.3.3 The Board of Trustees may fix the Annual Assessment at an amount not in excess of the maximum.

4.3.4 Declarants may, but are not obligated to for a period of five (5) years, subsidize the Common Expenses and in such event, no Assessments shall be due.

4.4 Special Assessments for Capital improvements. In addition to the Annual Assessments authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement within the Sign Easement, including fixtures and personal property related thereto, mail boxes and street signs, provided that any such Assessment shall have the assent of Two—Thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

4.3 Notice and Quorum for Any Action Authorized Under Section 4.3 and 4.4. Written notice of any meeting called for the purpose or taking any action authorized under Section 4.3 or 4.4 shall be sent or hand delivered to all members not Less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.6 Uniform Rate of Assessment. 30th Annual Assessments and Special Assessments must be fixed at: a uniform rate for all Lots and shall be collected on an annual basis.

4.7 Date of Commencement of Annual Assessments: Due Dates. The Annual Assessments provided for herein for each Lot shall commence on the first day of the month following occupation of a dwelling built on that Lot. Such initial assessment shall be prorated to the end of the Association's fiscal year. The Board of Trustees shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent or hand delivered to every Owner subject thereto. The due dates shall be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as of the date of its issuance.

4.8 Effect of Nonpayment of Assessments: Remedies of the Association. Any Assessment not paid by its due date shall bear interest from the due date at the rate of eighteen percent (18%) per

annum. The Association may establish reasonable late charges for delinquent Assessments. The Association may bring an action at Law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of any easements or abandonment of his or her Lot.

4.9 Subordination of the Lieu to Mortgages. 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 lieu. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the liens thereof.

## ARTICLE V

### RESTRICTIONS

5.1 General. The architectural and use restrictions set forth in this Article shall be applicable to the Property, except that nothing herein shall be construed to provide for any prior plan approval or consent.

5.2 Approval Required. No new construction shall be commenced on any lot 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 James M. Dixon and Joseph W. Schwarz. 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. In the event that the Declarant, or their successors, fails to approve or disapprove said plans and specifications within thirty (30) days after submission, approval not be required and this Article shall be deemed fully complied with.

5.3 The following requirements shall be applicable to the Property:

5.3.1 General Conditions: Each Lot shall be used only for residential purposes. No building shall be erected, altered, placed or be permitted to remain on any Lot other than one detached single family dwelling with a private garage for not more than three cars or less than two, which is to be attached to the principal dwelling, excepting outbuildings as hereafter designated, unless otherwise approved by Declarant. No home shall be built with less than a 6/12 pitch roof.

5.3.2 Dwelling Floor Areas: The floor area of the main dwelling exclusive of porches, decks, basements and garage shall be no less than 1700 square feet for a ranch type dwelling, 2250 square feet for a two-story dwelling. Contemporary designs having a lesser floor area than the above stated, however, may be approved if said design shall have a volume comparable to the above stated. Any other dwelling design must have prior written approval by Declarant.

5.3.3 Siding Materials: Aluminum and vinyl shall be permitted as siding materials. All other sheeting materials used as siding shall require the written consent of Declarant. Cedar or redwood siding that is to be exposed for natural weather must be treated with a bleaching stain. All ranch plans and the first floor of a two story must be brick, unless otherwise approved.

5.3.4 House Placement and Yard Grading: Houses shall conform to existing grade and drainage patterns. Existing grades at lot lines shall not be altered more than three (3) feet without the written consent of Declarant. Each Lot Owner and/or builder shall endeavor to retain as much of the natural trees as is practical.

5.3.5 Underground Houses and Log Houses: Underground and log structures are prohibited.

5.3.6 Driveways: Gravel or dirt driveways are prohibited.

5.3.7 Water Discharge: Storm water must be disposed of in accordance with drainage plans on file with the Butler County Engineer. Declarant shall review all drainage plans and have the right to require changes.

5.3.8 Radio and Television Antennas: Satellite Dishes are prohibited. Radio or television antennas of any kind which exceed the highest point of the roof of the residence by more than ten (10) feet are prohibited. Any antennas not attached to the residence as above permitted are prohibited.

5.3.9 Air Conditioning and Heat Pump Equipment: Such equipment shall be located only in side or rear yards.

5.3.10 Awnings: No metal or plastic awnings for windows, doors or patios may be erected or used. Canvas awnings may be used subject to prior written approval.

5.3.11 Exterior Carpeting: No exterior carpeting shall be allowed if it is visible from the street or any neighboring Lot.

5.3.12 Foundations: Any concrete or block foundation that is exposed more than two feet above grade shall be covered with brick, wood, stone or stucco.

5.3.13 Gutters: All gutters shall match the color or the adjacent fascia board.

5.3.14 Mailboxes & Street Signs: Mailbox design and location will be identical and will be installed by Declarants at notification that home is complete. Any mailbox damaged will be repaired or replaced as necessary by and at the expense of the individual Lot owner with the same style and color of mailbox as originally installed. Maintenance of mail boxes and street signs shall be the responsibility of the Association.

5.3.15 Lighting Exterior: Christmas lights may be erected no sooner than four weeks prior to and removed no later than four weeks after Christmas.

5.3.16 Completion: Construction of a residential building, established lawn and approved landscaping, including three shade trees in front yard and two shade trees in rear yard of two inch diameter on any lot shall be completed within one (1) year from the date construction is started.

5.4 Use Restrictions: The following use restrictions shall be applicable to the Property.

5.4.1 Purpose of the Property. The Property shall be used only for residential purposes and common recreational purposes auxiliary thereto.

5.4.2 Nuisance. No activity deemed to be obnoxious or offensive by reason of sight, sound or odor 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.

5.4.3 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Exterior compounds, cages or kennels for the keeping of household pets or hunting dogs are prohibited. Any pets causing problems by means of damage, excessive noise or unsanitary conditions shall be removed from the Properties upon three (3) days notice to the Owners.

5.4.4 Signage. Except for entry way sign allowed for in sign easement, no sign of any kind shall be displayed to the public view on any Lot except (a) one sign of not more than two square feet advertising the property for sale; (b) and signs used by the builder or the Declarant to advertise the property during the construction or sale period; (c) political signs erected 30 days before any election and removed no later than 7 days after the election.

5.4.5 Temporary Structures. No temporary building, mobile home, trailer, tent or storage shed, placed upon a Lot shall be used at any time as a residence, temporarily, or permanently before, during or after construction.

5.5 Maintenance. Each and every Lot and house thereon shall be maintained by the Owner thereof in a reasonable manner in accordance with the general standards of maintenance prevailing throughout the property. All Lots shall be kept free of debris and clutter and shall be kept mowed.

5.4.7 Fencing, Storage Sheds, Pools. No clothes hanging fixtures may be erected. No detached garages, storage sheds, barns, or any structures other than one single family residence will be permitted, unless otherwise approved by Declarants.

Above ground pools are prohibited.

Split rail fence will be permitted in rear yard only. Any other fence must have written approval by the Declarants or their successors.

5.4.8 Automobiles, Recreational Vehicles, Boats, Travel Trailers. No recreational vehicles, boat, travel trailer, utility trailer or truck shall be parked or stored on any Lot unless the same is in a garage and completely out of view.

No vehicle in inoperable condition shall be stored on any Lot for a period in excess of ten days.

5.4.9 Garage and Yard Sales. There shall be no more than two garage or yard sales held on any Lot during a one year period.

5.4.9 Trade or Business. No trade or business of any kind may be conducted in or from any Lot except that an owner or occupant residing in a dwelling constructed on a Lot may conduct such business activity within the dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the dwelling, (b) the business activity conforms to all zoning requirements for the property, (C) the business activity does not involve persons coming on to the Lot who do not reside in the Properties; and (d) the activity is consistent with the residential character of the Property.

The terms “business or trade” as used in this provision shall be construed to have their ordinary generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full-time or part-time; (ii) such activity is intended to or does generate a profit, and (iii) a license is required therefore.

5.5 Maintenance. The Property shall be maintained as follows:

5.3.2. Lots. Each Owner shall maintain his or her own Lot and dwelling in accordance with the prevailing custom in he Property. Such maintenance shall include, but not be limited to, landscaping, lawn installation and mowing, painting and general repair.

5.3.2 Entryways. Entryways to the Subdivision, Including the landscaping and lighting, shall be maintained by the Association.

## ARTICLE VI

### GENERAL PROVISION

6.1 Enforcement. The Declarants, 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 Declarants, 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.



6.2 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.

6.3 Amendment. 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 after Declarant has transferred the last Lot, this Declaration may be amended in whole or in part, or terminated by James M. Dixon and Joseph W. Schwarz. After the 1st day of July, 1999, any of these restrictions may be amended in whole or to. part, or terminated by a written instrument executed by at least seventy-five percent (75%) of the Owners of all of the aforementioned Lots. Any amendment shall be certified by the President and Secretary that the requisite consent has been obtained and shall not be effective until recorded.

6.4 Right to Amend Documents. Notwithstanding anything above to the contrary, this declaration may be amended at any time without the vote of Owners by a written instrument executed by the Declarants for the purpose of eliminating or correcting any typographical or other inadvertent error herein; eliminating or resolving any ambiguity herein; making nominal changes; clarifying Declarants' original intent; making any change necessary or desirable to meet the requirements of any institutional lender, the Veteran's Administration, the Federal Home Loan Mortgage Corporation or any other agency which may insure or purchase loans on a Lot; 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 by Declarants 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 Declarants to be necessary or proper to effectuate the provisions of this paragraph.

6.5 Annexation. The Declarants may, without the consent of the Owners, annex additional properties to the terms of this Declaration. Other residential properties may be annexed to the Property of the Association by a vote of two-thirds (2/3) of each class of membership. Such annexation shall be accomplished by the filing of a supplemental declaration with the Recorder of Butler County, Ohio. Any declaration by the Association shall be signed by the President of the Association who shall certify that the requisite vote was obtained. The members need not sign such declaration.

IN WITNESS WHEREOF, the undersigned being the Declarants herein have hereunto set their hands and seal this 3rd day of June, 1994.

Signed and Acknowledged  
In the Presence of:

Shirley Hibbard  
Ronald E. Randolph  
Christine A. Engler

James M. Dixon  
Joseph W. Schwarz  
J. Harold Maggard

AMENDMENT for WYNDY of LIBERTY, SECTION TWO, BLOCK "A"

WHEREAS, James M. Dixon, Trustee. Joseph W. Schwarz, Trustee, and J. Harold Maggard, Trustee are the Declarant in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Wynds of Liberty Home Owner's Association, and have the unilateral right to amend the Declaration pursuant to Article VI, Section 6.3, and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Wynds of Liberty Home Owner's Association is hereby amended to permit the construction of a four car garage on lot 92, more particularly described in Exhibit "A" attached. Said property is hereby declared to be made subject to the terms of the Declaration which shall be binding on all parties having any right, title or interest in the property or any part thereof their heirs, successors, successors in-in-title, and assigns and shall inure to the benefit of each owner thereof.

In witness Whereof, this instrument has been executed this 19th day of August, 1997 by James M. Dixon, Trustee, Joseph W. Schwarz, Trustee, and Harold Maggard, Trustee.

AMENDMENT for WYNDS of LIBERTY. SECTION ONE and, SECTION TWO  
BLOCKS "A. B. C &D"

WHEREAS, Joseph W. Schwarz, Trustee, James M. Dixon, Trustee, and J. Harold Maggard, Trustee are the Declarant in the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Wynds of Liberty Home Owner's Association, and have the unilateral right to amend the Declaration pursuant to Article VI, Section 6.3, and

WHEREAS, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for The Wynds of Liberty Home Owner's Association paragraph 5.38, Radio and Television Antennas, is hereby amended to permit "Satellite Dishes" not to exceed eighteen (18") inches in diameter, and paragraph 5.312, Foundations, is hereby eliminated. These amendments apply to all lots more particularly described in Exhibit "A" attached.

The recitals, exhibits and all prior restrictions incorporated herein by reference has been attempted here and modified. The declaration remains in full force and effect.

The determination by a court of competent jurisdiction that any provision of this instrument is invalid for any reason shall not affect the validity of any other provision hereof,

In witness Whereof, this instrument has been executed this 17th day of December, 1997 by Joseph W. Schwarz, Trustee, James M. Dixon, Trustee, and J. Harold Maggard, Trustee.