

# COUNTY OF LAKE

2004R004436

LAKE COUNTY OHIO  
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FRANK A SUPONCIC  
LAKE COUNTY RECORDER

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## FRANK A. SUPONCIC, CPA RECORDER

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## Thank You

A handwritten signature in black ink that reads "Frank A. Suponic".



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**THE WOODLANDS SUBDIVISION  
PHASE TWO**

**DECLARATION OF BUILDING AND LAND USE COVENANTS AND RESTRICTIONS**

WILLOUGHBY DEVELOPMENT CO., LTD., the undersigned corporation, being the owner of all sublots and parcels of land comprising THE WOODLANDS subdivision, Phase Two, in the City of Willoughby, Lake County, Ohio, as depicted on the plat thereof as recorded in Volume 45, Page 27, of Lake County Records of Maps, does hereby declare that all such sublots and parcels of land in said subdivision are, and shall be subject to the following covenants, easements and restrictions. Grantees of such lands, by the acceptance of title thereto, do and shall assume all of the following obligations, provisions, terms, restrictions and conditions, and are and shall be entitled to all of the benefits hereof.

1. As part of the consideration for the conveyance of the Premises by Grantor to Grantee, Grantee, for itself, its successors and assigns, or for his/her heirs, executors, administrators and assigns, as the case may be, hereby covenants with and for the benefit of the Grantor, its successors and assigns, any present or future owners of the land herein conveyed, or of plots into which the land may hereafter be subdivided and the respective heirs, executors, administrators, successors and assigns of each of them, to hold and use the land herein conveyed and any portion thereof, in accordance with, and subject to, the following covenants, rights, terms, reservations, limitations, agreements and restrictions which shall run with the land and are imposed for the uniform and orderly development of the land herein conveyed, or of plots into which the land may hereafter be subdivided.

CHICAGO TITLE INSURANCE CO.  
Order No. P-L.F.O.Y.-0.00.65

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2. All plots into which the land herein conveyed may hereafter be subdivided shall be used only as single family residential lots and no building or structure shall be placed or constructed thereon unless it meets the following area requirements:
- A. One Thousand Seven Hundred (1,700) square feet of living area for a one story ranch dwelling exclusive of garages, porches, or basement area.
  - B. One Thousand Nine Hundred (1,900) square feet of living areas for a one and a half story dwelling exclusive of garages, porches or basement area.
  - C. Two Thousand One (2,100) square feet of living area for a two story (colonial) dwelling exclusive of garages, porches, or basement area.
  - D. Two Thousand One Hundred (2,100) square feet of living area for a split level dwelling exclusive of garages, porches or basement area, but including the lower level living area which does not have to be finished inside prior to occupancy. Lower level living areas shall include closets, utility and laundry areas.
  - E. Two Thousand Three Hundred (2,300) square feet of living area for a bi-level dwelling exclusive of garages, porches or basement area, but including the lower level living area which does not have to be finished inside prior to occupancy. Lower

level living area shall include closets, utility and laundry areas.

3. No building, fence, wall or other structures shall be commenced or erected on land herein conveyed, 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 as to harmony of external design and location in relation to surrounding structures and topography by an authorized representation of Willoughby Development Co., Ltd. Drawings and information should be submitted to Willoughby Development Co., Ltd., 9030 Cabriolet Avenue, Concord, Ohio 44060. In the event Willoughby Development Co., Ltd. fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications have been submitted, approval will not be required and this Article will be deemed to have been fulfilled.

4. Architectural Style

The homes are to reflect the so-called "Craftsman" architectural style; particularly in: roof design, roof gable and dormer details, porch column and rail details, windows and window trim.

5. Exterior Materials

Roof shingles are to be dimensional style asphalt with a minimum 25-year warranty. Siding material may be made of Aluminum, Vinyl, Wood, and Cement Composition. Brick is to be of the molded, handcrafted, or tumbled styles. Stone may be natural

or synthetic. Ledgestone, and Drystack patterns are preferred. Stucco may be synthetic or cement based. Stucco must be finished to a sand or float finish. Heavy textured finishes are not acceptable. All homes must have stone or brick, in an appropriate amount, on any elevation facing a street. Plans submitted for approval must contain a detailed description of all exterior materials including their color.

6. Front Porches

All homes are required to have a front porch. Porches must have posts and rails reflecting the "Craftsman" style, particularly: large box or round columns, tapered or straight, minimum 12" wide, or 8" wide where more than one column is used at a single location. Stone or brick columns and column bases are to be a minimum of 16" square. Column bases are to have a minimum height equal to the railing.

7. Architectural Details

The Willoughby Development Co. LTD. will maintain at its main office examples of acceptable architectural details to aid in the preparation of architectural drawings to comply with these regulations.

8. These requirements pertain primarily to front elevations or any elevation that may be exposed to view from the right-of-way.

9. Each dwelling will have a two (2) car attached or integral garage.

10. All sidewalks shall be five (5) feet wide and shall be constructed of concrete and must be completed as required by the City of Willoughby.

11. Lawns and shrubbery between the roadway and dwelling shall be installed within ten (10) months after the completion of the dwelling.

12. Any dwelling that is constructed shall have no concrete or block above grade on that portion of the dwelling facing a dedicated roadway.
13. No dwelling on adjacent lots shall be the same color except white.
14. No dwelling elevation shall be duplicated within three (3) lots.
15. All driveway aprons shall be constructed of concrete and completed before the dwelling is occupied.
16. No trailer, basement or tent or other out-buildings shall be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted. No garage or utility building shall be erected prior to the erection of the principal dwelling house. In no instance shall the construction on the exterior of a building or structure, extend beyond one year from the date construction commenced.
17. No trailer or permanent tent of any kind or description whatsoever shall be placed or suffered to remain in said subdivision.
18. No owner shall damage any streets within the subdivisions or permit any contractor or materialmen to damage said street during the period of any home construction or said owner shall be personally liable for the cost of repairing such street, and shall hold Willoughby Development Co., Ltd. or its successors and assigns harmless from any liability to any governmental entity for the cost of repairing such street.
19. Easements for installation and maintenance of utilities and drainage facilities are reserved for the benefit of the land herein conveyed, or of plots into which the land may hereafter be subdivided, Willoughby Development Co., Ltd. and the City of Willoughby.

20. No campers, trailers, boats, motor homes, commercial vehicles, or recreational vehicles of any kind shall be kept on the property for more than thirty (30) days if they are visible from the street.
21. No chain link fence with metal posts may be installed on lot lines surrounding a portion of a lot. However, chain link fencing only (must be painted or coated a dark color, not silver or aluminum) may be used as backing to a split rail or similar type wood fence. All fences must be in compliance with applicable ordinances of the City of Willoughby and/or Lake County, and, if required, a permit must be obtained.
22. Willoughby Development Co., LTD., its successors or assigns shall have the right to waive, cancel, alter or modify any or all of the restrictions contained herein provided, however, that no modifications or alterations shall in fact cause these restrictions to become more restrictive. A copy of said modifications and alterations shall be filed with the Lake County Recorder. This section shall apply as long as Willoughby Development Co., Ltd. owns the property herein conveyed or any plot into which the land herein conveyed may hereafter be subdivided.

In addition to the foregoing restrictions imposed by the developer of the land which comprises The Woodlands subdivision, the following restrictions are imposed at the direction of the City of Willoughby and form a part of the total deed restrictions, and shall be subject to all provisions, conditions or restrictions imposed by the foregoing.

23. The Grantee shall cooperate in the formation and maintenance of an association of which each property-owner shall be a member.
24. The homeowners association, to be known as The Woodlands Homeowners

Association, shall be created by Willoughby Development Co., Ltd., which shall maintain exclusive control thereof until the City of Willoughby building department has issued a “final grade approval” for the last residence to be built in the subdivision. When such approval is granted, control of said homeowners association will automatically devolve upon the owners of sublots.

25. “Final grade approval” by the City of Willoughby building department shall be contingent upon said subplot containing at least four trees with a diameter at breast height (DBH) of eight (8) inches or greater.
26. If a lot contains less than four trees with a DBH of eight inches or greater, the builder of that subplot must plant new trees at a rate of 1.5 to 1, i.e., a maximum of six new trees may be required. The Chief Building Inspector will be allowed to waive or modify these requirements in order to help preserve very large trees, or where difficulties with lot geometry or drainage make preservation and/or replacement impractical.
27. Trees approved for replacement, where necessary, shall be restricted to the following species and size:
  - 1) “Black Gum” Nyssa, 2-1/2 inches to 3 inches (DBH);
  - 2) “Pin” Oak, 2-1/2 inches to 3 inches (DBH);
  - 3) “Red Sunset” Maple, 2-1/2 inches to 3 inches (DBH);
  - 4) “Summit” Ash, 2-1/2 inches to 3 inches (DBH).

Willoughby Development Co., Ltd., Grantor, reserves the right, if changing circumstances warrant, to modify the foregoing list of approved



species by the recording of such modification with the Recorder of Lake County, Ohio.

28. The site plan submitted to the City of Willoughby building department as part of an application for a building permit shall contain a statement referring to the tree preservation requirements in the deed restrictions, and an acknowledgment by the submitter that a “final grade approval” is conditioned on compliance with said restrictions.

In addition to the foregoing restrictions imposed by the developer of the land which comprises The Woodlands subdivision, and those imposed at the direction of the City of Willoughby, the following restrictions are imposed at the direction of the Lake County Board of Commissioners, and form a part of the total deed restrictions, and shall be subject to all provisions, conditions or restrictions imposed by the foregoing.

29. Declaration of Easements and Rights

Declarant hereby declares non-exclusive perpetual easements for storm drainage purposes within the Local Service Drainage Easement areas shown on the Subdivision Plat, for the mutual benefit of the owners of the sublots upon which such easements are located, to utilize the storm drainage facilities with said easements. For purposes of this Declaration, these easements may be utilized by any owner of a subplot within the Subdivision for the purposes described herein. The owner of the subplot upon which the Local Service Drainage Easement is located is enjoined not to commit any act, nor to allow or suffer any person to commit any act, which impedes the purpose of the Easement.

30. Mutual Maintenance and Repair Responsibilities

The owners of the sublots that share the Local Service Drainage Easements shall have equal rights and responsibilities to access, lay, maintain, repair, replace and remove pavements, storm sewer pipe, manholes, culverts, drains, ditches, swales, plantings and/or appurtenances within such Local Service Drainage Easement areas (the "Maintenance Work"). In addition, such owners have equal rights and responsibilities for removing, clearing, cutting and pruning of underbrush, weeds, stumps, and other growth that impairs the flow of storm drainage through the Local Service Drainage Easement areas, and shall keep the same in a clean and sanitary condition (the "Additional Work").

The owner of any subplot within the Subdivision may perform any Maintenance Work and/or Additional Work as described herein and may obtain recompense as described in Section 31, hereunder.

31. Right of Non-Defaulting Owner/Owners

If one of the owners fails to perform the Maintenance Work and/or the Additional Work (the "Defaulting Owner"), the non-defaulting owner or owners shall have the right to perform the Maintenance Work and/or the Additional Work and charge the Defaulting Owner for the Defaulting Owner's prorata share of the maintenance costs, together with interest thereon and costs and expenses, including reasonable attorney's fees.

32. Ultimate Responsibility

Neither any instrumentality of Lake County, Ohio, nor of The City of Willoughby,

Ohio shall be responsible for any work or maintenance upon the Local Service Drainage areas, nor for any liability which arises from the design, use, maintenance, or any injury occurring upon the Local Service Drainage areas. This responsibility shall rest entirely with the owners of sublots as identified herein and on the plat of this subdivision.

The Lake County Engineer, the Lake County Board of Commissioners, and/or the City of Willoughby (individually known as "Entity"), may, in their sole discretion, order the owner or other person with a possessory interest in a subplot in this subdivision, upon which a Local Service Drainage Easement is located, to make repairs, maintenance, or improvement as directed by said Entity to ensure that the easement area continues to function properly as a drainage area. In the event the owner or person with a possessory interest fails to perform the work required by the Entity, the Entity may, in its sole discretion, file suit to enjoin the property owner or persons with a possessory interest to perform the work. Said suit shall not be filed unless and until the Entity gives the person being sued thirty (30) days written notice to perform the required work.

There shall be a corresponding right on the part of the owner of any subplot located within the subdivision to file suit to enjoin the owner or other person with a possessory interest in a subplot in this subdivision, upon which a Local Service Drainage Easement is located, to make repairs, maintenance, or improvement to ensure that the easement area continues to function properly as a drainage area. Said suit shall not be filed unless and until said person filing suit gives the person being

sued thirty (30) days written notice to perform the required work.

33. Binding Effect

The terms, covenants, conditions and agreements imposed at the direction of the Lake County Board of Commissioners shall run with the land and inure to the benefit of and be binding upon the Declarant and all present and future owners of the sublots in the subdivision and their respective heirs, executors, administrators, successors, and assigns.

## **GENERAL PROVISIONS**

### **Section 1. Effect of Acceptance of Conveyance**

The acceptance of a conveyance of title to land in The Woodlands subdivision by a grantee is acknowledged to be, and shall be construed to be, and is, an acceptance of all the terms and conditions upon which the grant of the property itself and of the rights, restrictions and easements herein mentioned are made and by such acceptance said grantee, his/her heirs, executors, administrators and assigns or its successors and assigns, as the case may be, hereby consent that said terms and conditions may be construed to be covenants upon the part of each of them to observe and perform the same, and are fully enforceable in a court of law or in equity.

### **Section 2. Enforcement**

Any owner of the land herein conveyed, or of plots into which the land may hereafter be subdivided, 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 these deed restrictions. Failure by Willoughby Development Co., Ltd. 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.

**Section 3. Severability**

Invalidation of any one of these restrictions by judgment or court order shall in no way effect any of the provisions which shall remain in full force and effect.

**Section 4. Amendment**

These deed restrictions shall run with and bind the land, and shall inure to the benefit of and be enforceable by the owner of the land herein conveyed, and/or by the owners of plots into which the land may hereafter be subdivided, their respective legal representatives, heirs, successors and assigns, for a term of fifteen (15) years from the date these deed restrictions are recorded. These deed restrictions may be amended by an instrument signed by not less than two-thirds (2/3) of the owners of the land herein conveyed, or of plots into which the land may hereafter be subdivided. Any amendment must be properly filed for record with the Recorder of Lake County, Ohio.

**Section 5. Title To, and Responsibility For, Storm Water Retention Basis**

By direction of the City of Willoughby, title to Block A as noted on the official plat of The Woodlands Subdivision, which is the parcel of land on which the storm water retention basin is located, shall repose in the Woodlands Homeowners Association, which shall be and remain responsible, at its charge and expense, for the control, upkeep, maintenance and repair of the storm water retention basin and the parcel of land on which the same is located.

**IN WITNESS WHEREOF**, the said corporation sets its hand and corporate seal by Patrick J. Tulley, Trustee, Member, Management Committee, and by Lost Nation Properties, Inc., by William R. Martin, Member, Management Committee, this 27<sup>th</sup> day of January, 2004.

WILLOUGHBY DEVELOPMENT CO. LTD.

Rebecca S. Pace

By [Signature]  
Patrick J. Tulley, Trustee of the  
Mary A. Clarke Testamentary Trust,  
Member, Management Committee

Rebecca S. Pace

LOST NATION PROPERTIES, INC.  
By [Signature]  
William R. Martin  
Member, Management Committee

STATE OF OHIO            )  
  )  
  )        SS:  
COUNTY OF LAKE        )

*Before me*, a Notary Public in and for said County, personally appeared the above named WILLOUGHBY DEVELOPMENT CO., LTD., by PATRICK J. TULLEY, Trustee of the Mary A. Clarke Testamentary Trust, Member, Management Committee, and LOST NATION PROPERTIES, INC. by WILLIAM R. MARTIN, Member, Management Committee, who acknowledged that they did sign the foregoing instrument and that the same is the free act and deed of said trust and of said corporation and the free act and deed of each of them personally and as such officers.

*In testimony whereof*, I have hereunto set my hand and official seal, at Willoughby, Ohio, this 27<sup>th</sup> day of January, 2004.

Rebecca S. Pace  
Notary Public  
**REBECCA S. PACE**  
Notary Public, State of Ohio  
My Commission Expires July 20, 2004  
(Recorded in Lake County)

*This instrument prepared by:*  
Patrick J. Tulley, Esq.  
1300 East Ninth Street, Suite 900  
Cleveland, Ohio 44114  
(216) 621-8400

“Exhibit A”

Situated in the City of Willoughby, County of Lake and State of Ohio: And known as being Sublot Nos. 20 through 38, inclusive, and Sublot Nos. 87 through 10, inclusive, in the Woodlands Subdivision – Phase 2 of part of Original Willoughby Township Lot No. 14, Douglas Tract, as shown by the recorded plat in Volume 45 of Maps, Page 27 of Lake County Records, as appears by said plat, be the same more or less but subject to all legal highways.