

Association Copy

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THIS DECLARATION OF COVENANTS AND RESTRICTIONS, made this 7<sup>th</sup> day of NOVEMBER, 1985, by and between FRANCIS V. LANE, JR., hereinafter sometimes called "the Declarant"; the TOWN OF PURCELLVILLE, party of the second part; and CLYDE C. LAMOND, III and DENNIS M. EAST, TRUSTEES, parties of the third part.

WITNESSETH:

WHEREAS, the Declarant is the owner of the real property described in Article II hereof and desires to create thereon a residential community with permanent common areas for the benefit of said community; and

WHEREAS, the parties of the third part are the Trustees under a certain Deed of Trust on the aforesaid property described in Article II, and recorded in Deed Book 864, at Page 545, among the land records of Loudoun County, Virginia, and join herein for the purpose of consenting to this dedication; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in said community; and to this end, desires to subject the real property described in Article II hereto to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and the subsequent owners thereof; and

Return to: Peter C. Burnett

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

WHEREAS, the Declarant has formed PURCELLVILLE MANOR HOMEOWNERS ASSOCIATION, INC., as a non-profit corporation without capital stock under the general laws of the Commonwealth of Virginia for the purposes of carrying out the powers and duties aforesaid; and

WHEREAS, the Declarant and the PURCELLVILLE MANOR HOMEOWNERS ASSOCIATION, INC., are in agreement that their respective lands in said community are hereby subjected to the restrictions, conditions, covenants, and easements as set forth in this Declaration, for and during the period of time herein specified.

NOW, THEREFORE, the Declarant hereby declares that the real property described in Article II hereof is, and shall be, held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens (hereinafter sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

Section I. Definitions . The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to Purcellville Manor Homeowners Association, Inc., and its successors and assigns.

(b) "The Property" shall mean and refer to all real property described in Article II and such additions thereto as may hereafter be made pursuant to the provisions of said Article II.

(c) "Lot" shall mean and refer to all subdivided parcels or property which are part of The Property.

(d) "Common Areas" shall mean and refer to all real property owned by the Association for the benefit, use and enjoyment of its members.

(e) "Dwelling" shall mean and refer to any building or portion of a building situated upon The Property and designed and intended for use and occupancy as a townhouse residence.

(f) "Owner" shall mean and refer to the record owners, whether one or more persons or entities, of the fee simple title to any Lot situated on The Property, including contract sellers, but excluding those having such interest solely as security for the performance of any obligation.

(c) "Member" shall mean and refer to every person, group of persons or entity who holds membership in the Association.

(h) "Developer" shall mean and refer to any person, firm or corporation developing and building upon the subject property.

(i) "Declarant" shall mean and refer to FRANCIS V. LANE, JR., his successors and assigns.

ARTICLE II

Section 1. Property Subject to Declaration . The real property which is, and shall be, held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration is located in the town of Purcellville, County of Loudoun, State of Virginia, and is Purcellville Manor Subdivision, Lots 1-21, and more particularly described on "Exhibit A" attached hereto and by this reference made a part hereof.

Section 2. Additions . At any time within four (4) years from the date hereof, provided there are still Class B Members of the Association, additional property may be annexed to the above-described property without the consent of the Class A Members of the Association, if any. Thereafter, such additional property may be annexed only with the consent of three-fourths (3/4) of

the Class A Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of the above-described property. The scheme of the within covenants and restrictions shall not, however, be extended to include any such additional property unless and until the same is annexed to the real property described on "Exhibit A" as hereinafter provided. Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants and Restrictions among the land records of Loudoun County, Virginia, which Supplementary Declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such Supplementary Declaration may contain such complementary additions and modifications to the covenants and restrictions set forth in the within Declaration as may be necessary to reflect the different character or use, if any, of such annexed property.

#### ARTICLE III

Section I. Membership . This Association shall have two classes of voting membership.

(a) With the exception of the Declarant, every person, group of persons or entity who is a record Owner of a fee interest in any Lot which is or becomes subject to covenants of record and assessment by the Association shall be a Class A Member of the Association, provided, however, that any such person, group of persons or

entity who holds such interest solely as security for the performance of any obligation shall not be a member and provided, further, that any person, group of persons or entity who holds such an interest in any Lot designated as Common Area shall not be a Member on account thereof. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

(b) The Class B Member shall be the Declarant who shall be entitled to three votes for each Lot in which he holds the interest otherwise required for Class A membership, provided, however, that the Class B membership shall lapse and become a nullity on the first to happen of the following events:

(i) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or;

(ii) On 31 December, 1989; or

(iii) Upon affirmative relinquishment by all Class B Members by document recorded in the Office of the Clerk of the Circuit Court of Loudoun County.

ARTICLE IV

Section I. Member's Rights of Enjoyment . Every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the rights of the Association expressed in its Articles of Incorporation and By-Laws and to the following:

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and facilities and in aid thereof to mortgage said property, provided the same does not, in any way, interfere with the Member's right and easement of enjoyment to the Common Areas. The Association shall not mortgage the Common Areas except by resolution approved by three-fifths (3/5) of the Members of all Classes; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described property against mortgage default and/or foreclosure; and

(c) The right of the Association to dedicate or transfer all or any part of the Common Areas to any public or municipal agency, authority or utility for

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purposes consistent with the purposes of this Declaration and subject to such conditions as may be agreed to by the Members, provided, however, that no such dedication or transfer shall be effective unless an instrument signed by three-fourths (3/4) of all Classes of the then Members of the Association has been recorded, agreeing to such dedication, transfer, purpose or conditions, and unless written notice of the proposed Agreement and action thereunder is sent to each Member at least ninety (90) days prior to the taking of any action; and provided the same shall not be contrary to the provisions of the then existing Ordinances of the Town of Purcellville and/or County of Loudoun; and

(d) The rights of the fee Owners of Lots to a perpetual easement over any Common Areas or such portion of their Dwellings that may overhang said Common Areas, and for necessary pedestrian ingress and egress to and from any such Dwelling over said Common Areas.

(e) The right of the Association to suspend the right of enjoyment of The Property of any Member for non-payment of dues or fees.

#### ARTICLE V

##### Section 1. Covenant for Maintenance Assessments

The Declarant subjects each Lot owned by him, and each person, group of persons or entity who becomes an Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other



conveyances, shall be deemed to subject his lot to the covenant and obligation to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, or maintenance provided by the Association, such assessments to be fixed and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon The Property and Lot against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, shall also be the personal obligation of the person, group of persons or entity who was the Owner of such property and Lot at the time when the assessment fell due.

Section 2. Purpose of Assessment . The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the residents of The Property, and in particular, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance

for said Common Areas and repair, replacement and additions thereto, and for the cost of labor, equipment, and materials, management and supervision thereof.

Section 3. Annual Assessments . The maximum annual assessment for each Lot shall not exceed Six Hundred Dollars (\$600.00) per annum, and may be levied on a monthly, quarterly, semi-annual or annual basis. The Board of Directors of the Association may fix the annual assessment at any amount not in excess of the maximum herein provided for.

Section 4. Increase in Maximum Assessment . The maximum assessment may be increased in the same manner as other changes may be made to this Declaration, as provided in Article 10.

Section 5. Special Assessment . In addition to the annual assessments authorized by this Article, 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 or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of three-fourths (3/4) of all Classes of the then Members of the Association. A meeting of the Members shall be duly called for this purpose. Any special assessment levied

by the Association pursuant to the provisions of this Section shall be fixed at a uniform rate for each Lot.

Section 6. Commencement of Annual Assessments .

The annual assessment for each membership shall commence on the same day as the conveyance of a Lot to a third party by the Declarant. The first annual assessment for any such membership shall be made for the balance of the calendar year and shall become due and payable and a lien on the date aforesaid. Except as herein provided, the assessment for any Lot for any year after the first year shall become due and payable and a lien on the first day of said year. It shall be the duty of the Board of Directors of the Association periodically to fix the amount of the annual assessment against each Lot for each assessment period and the Board of Directors shall make reasonable efforts to fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board. Written notice of the assessment shall thereupon be sent to the owner of any Lot subject thereto.

Section 7. Assessment Certificates . The

Association shall, upon demand, at any reasonable time, furnish to any Owner liable for assessment a certificate

in writing signed by an officer or other authorized agent of the Association, setting forth the status of said assessment, i.e., whether the same is paid or unpaid. Such certificates shall be conclusive evidence of the payment of any assessment therein stated to have been paid. A charge not to exceed Fifteen Dollars (\$15.00) may be levied in advance by the Association for each certificate so delivered.

ARTICLE VI

Section 1. Non-Payment of Assessment . Any assessment made pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with interest thereon and cost of collection thereof, as hereinafter provided, thereupon become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his successors, heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall also remain his personal obligation for the statutory period.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest at the rate of twelve per cent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property (to the same extent including a foreclosure sale and deficiency

decree, and subject to the same procedures as may then be applicable to mortgages under the laws of the Commonwealth of Virginia), in either of which events, interest, costs and reasonable attorney's fees shall be added to the amount of each assessment. No Owner may waive or otherwise escape liability for the assessments herein provided for by non-use of the Common Areas or abandonment of his Lot or Dwelling.

Section 2. Subordination Provisions . The lien of the assessments provided for in this Declaration shall be subordinated only to the lien of any first mortgage or mortgages now or hereafter placed upon the Lot subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not release such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 3. Exempt Property . The following property subject to this Declaration shall be exempt from assessments created herein:

(a) All property dedicated to and accepted by a local public authority;

(b) Common Area;

- (c) Property owned by non-profit organizations; and
- (d) All Lots owned by Declarant.

ARTICLE VII

Section 1. Architectural Control Committee .

Following the initial construction on The Property, no building, fence, wall or other structure shall be commenced, erected or maintained upon The Property, nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design, color and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of not less than three (3) members appointed by the Board of Directors. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. Fences . No fence, hedge or wall shall be constructed upon The Property without the prior written approval of the Architectural Control Committee.

Section 3. Prohibited Uses and Nuisances .

Except for activities during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any Lot or within any Dwelling situate upon The Property nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the Owners of The Property.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be, and is, hereby prohibited on any Lot or within any Dwelling situate upon The Property except that this shall not prohibit the keeping of dogs, cats and/or caged birds as domestic pets provided they are not kept, bred or maintained for commercial purposes.

(c) No burning of any trash and no accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted on any Lot.

(d) Except as herein elsewhere provided, no junk vehicle, commercial vehicle, trailer, truck, house trailer, boat or the like, shall be kept upon The Property nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of

Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) Trash and garbage containers shall not be permitted to remain in public view except on days of trash collection.

(f) In order to facilitate the free movement of passing vehicles, no automobiles belonging to residents shall be parked on the paved portion of any joint driveway or streets, public or private, except during bona fide temporary emergencies.

(g) With the exception of the area to be occupied by a Dwelling and an area of six feet on each side thereof, no sound hardwood trees measuring in excess of six (6) inches in diameter five (5) feet above the ground shall be removed from any Lot without written approval of the Association acting through its Board of Directors or duly appointed committee.

(h) Except as may be approved in writing by the Board of Directors or their designated committee, no structure of a temporary character, trailer, tent, shack, barn or other outbuildings shall be used on any Lot at any time.

(i) Except for entrance signs, directional signs, and the like, no signs of any character shall be erected, posted, or displayed upon, in or about any Lot or Dwelling situate upon The Property, provided,



however, that one temporary real estate sign not exceeding six (6) square feet in area, may be erected upon any Lot or attached to any Dwelling placed upon the market for sale or rent.

(j) No structure, planting or other material shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

(k) There shall be no violation of any rules of the use of the Common Areas which may, from time to time, be adopted by the Board of Directors and promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in these By-Laws authorized to adopt such rules.

(l) There shall be no operation of motor vehicles, including "trail bikes", "mini-bikes", and the like, upon any Common Area, except upon prior written consent of the Board of Directors.

(m) All Lots and improvements thereon shall be at all times maintained in a safe, orderly, sanitary and aesthetically pleasing fashion, such maintenance to include the regular periodic cutting of grass and removal of weeds.

Section 4. Right of Association to Remove or Correct Violations of this Article . The Association

may, in the interest of the general welfare of all the Owners of The Property and after reasonable notice to the Owners, enter upon any Lot or the exterior of any Dwelling at reasonable hours on any day except Sunday for the purpose of removing or correcting any violations or breach of any attempted violation of any of the covenants and restrictions contained in this Article, and for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board.

#### ARTICLE VIII

Section 1. Residential Use . All Dwellings shall be used for single family private townhouse residential purposes exclusively.

#### ARTICLE IX

Section 1. Easement - Common Areas . An easement is hereby granted to the Declarant and its successors or assigns, to enter upon Common Areas in order to accomplish anything which may be required to be done thereon by any governmental authorities.

Section 2. General Easement . An easement is hereby granted to the Declarant and its successors or assigns, to enter upon all areas of The Property for the installation and maintenance of underground utilities,

supply and transmission lines, drain facilities, walkways and trails through and across all areas of The Property as shown on the plat dated the 7th day of May, 1985, and prepared by Chamberlin-Wolford Associates, and recorded in Deed Book 864, at Page 554, among the land records of Loudoun County, Virginia, whether within the boundaries of residential Lots or in Common Areas (excepting only approved building areas), provided that damage resulting from the exercise of the rights hereinabove granted shall be promptly repaired, or replacement effected, at the expense of the Declarant or the authority which procured the entry.

Section 3. Special Easement. An easement is hereby granted to the Town of Purcellville and/or Loudoun County law enforcement officers, rescue squad personnel, and fire fighting personnel while in pursuit of their duties to enter upon all areas of The Property, including Common Areas, to permit the enforcement of cleared emergency vehicle ingress and egress.

Section 4. Drainage. No person, except the Declarant or its duly authorized agents, shall obstruct, alter or in any way modify the established drainage pattern from, on or over any Common Areas, Lot or parcel of land, nor shall any person obstruct, alter or in any way modify any drainage swales, devices and/or

facilities installed on any Common Areas, Lot or parcel of land, nor shall any structure be erected, placed or maintained which shall in any way obstruct such drainage.

ARTICLE X

Section 1. Duration . Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of twenty-five (25) years each, unless an instrument signed by the then Owners of eighty percent (80%) of the Lots has been recorded, agreeing to change said covenants and restrictions, in whole or in part. No such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken and no such agreement to change shall be effective with respect to

any permanent easements or other permanent rights or interests relating to these Common Areas herein created.

Section 2. Incorporation by Reference on Resale .

In the event any Owner sells or otherwise transfers his Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, easements, charges and liens set forth in this Declaration.

Section 3. Notices . Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member or Owner on the records of the Association at the time of such mailing.

Section 4. Enforcement . These covenants and restrictions may be enforced by the Association or any Owner. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association or 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. There shall be and there is

hereby created and declared to be a conclusive presumption that any violation or breach of any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or by recovery of damages. The Association, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the admission, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any finding, determination, ruling or order or in carrying out any directive contained herein, the Association shall take into consideration the best interests of the Owners of the Lots to the end that The Property shall be preserved and maintained as a high quality community.

Section 5. No Dedication to Public Use . Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Areas by any public or municipal agency, authority or utility.

Section 6. Severability . Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

## ARTICLE XI

Section 1. Interpretation . The headings of the Articles herein are for convenience only and shall not affect the meanings or interpretations of the contents thereof.

Section 2. Applicability . Each grantee accepting a deed, lease or other instrument conveying any interest in a Lot, whether or not the same incorporates or refers to these covenants, restrictions, easements, charges and liens, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by these covenants, restrictions, easements, charges and liens.

WITNESS the following signature and seal:

By: Francis V. Lane, Jr. (SEAL)  
Francis V. Lane, Jr.

STATE OF VIRGINIA  
COUNTY OF LOUDOUN, to-wit:

This day appeared before me, PETER C. BURNETT, a Notary Public in and for the County and State aforesaid, Francis V. Lane, Jr., whose signature appears on the above Declaration of Covenants and Restrictions, and acknowledged the same before me in the County and State aforesaid. Given under my hand this 7<sup>th</sup> day of NOVEMBER, 1985.

Peter C. Burnett  
Notary Public

My commission expires:

SEPT. 15, 1986