

# CHERRY BROOK

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This DECLARATION, made this 15<sup>th</sup> day of April,  
1994, by CHERRY BROOK JOINT VENTURE, a Pennsylvania joint venture  
having its principal place of business at 3901 Washington Road,  
McMurray, Pennsylvania, hereinafter referred to as "DEVELOPER".

WITNESSETH:

WHEREAS, Developer proposes to develop a parcel of land in  
the Township of Cecil, Washington County, Pennsylvania, which is more  
particularly described in Exhibit "A", attached hereto; and

WHEREAS, said land is to be developed in phases as a planned  
unit development called "Cherry Brook", and Developer proposes to  
cause said land to be subjected to the covenants, conditions,  
easements, restrictions, charges, and liens herein provided for the  
purpose of preserving and enhancing the value of said land and for  
the benefit and enjoyment of the persons residing thereon; and

WHEREAS, the land to be developed as Phase I is described in  
Exhibit "B" attached hereto; and

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

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WHEREAS, Developer has, or will have, incorporated under the laws of the Commonwealth of Pennsylvania, as a non-profit corporation, the CHERRY BROOK HOMEOWNERS ASSOCIATION for the purpose of exercising the aforesaid functions;

NOW, THEREFORE, Developer hereby declares that all of the land described in Exhibit "B" shall be held, sold and conveyed subject to the following covenants, conditions, easements, restrictions, charges and liens which shall run with the land and shall be binding upon and shall inure to the benefit of all parties having any right, title or interest therein or any part thereof and their respective heirs, devisees, personal representatives, successors and assigns:

ARTICLE I  
DEFINITIONS

Section 1. Association shall mean a not-for-profit corporation named "Cherry Brook Homeowners Association", its successors and assigns.

Section 2. Building shall mean a structure containing two or more single-family attached dwelling units.

Section 3. Conservation District shall mean the 50 foot buffer zone around the Property.

Section 4. Common Areas shall mean any part of the Property which the Association maintains for the benefit and enjoyment of the Owners.

Section 5. Common Driveway shall mean any of the driveways which serve more than one Unit (i.e., those leading from the main streets to the driveways of individual Units).

Section 6. Common Expenses shall mean and include (1) expenses of administration, maintenance, repair and replacement of the Common Areas and Common Property; (2) utility charges not separately billed or charged; (3) insurance and taxes for the Common Property; (4) expenses declared common by this Declaration or the By-Laws; (5) expenses of maintaining the access easements shown on the Plan and/or granted by prior instruments of record; (6) fire hydrant assessments; and (7) any other expenses determined by the Board to benefit generally the

members of the Association.

Section 7. Common Property shall mean all real property and personal property owned by the Association for the common use and enjoyment of the Owners. The Common Property which Developer plans to convey to the Association in connection with Phase I is described in Exhibit "C" to this Declaration; however, Developer reserves the right to modify this description prior to conveyance. Other portions of the property described in Exhibit "A" may be hereafter conveyed to the Association, at the discretion of the Developer.

Section 8. Declaration Plan shall mean the plan of lots recorded, or to be recorded, in the Office of the Recorder of Deeds of Washington County, Pennsylvania, for Cherry Brook, and any amendments thereto.

Section 9. Community Sign shall mean any entrance or directional sign, wall or fence.

Section 10. Declaration Plan shall mean the plan of lots recorded, or to be recorded, in the Office of the Recorder of Deeds of Washington County, Pennsylvania, for Cherry Brook, and any amendments thereto.

Section 11. Developer shall refer to CHERRY BROOK JOINT VENTURE, and its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from Developer for the purpose of development, construction of units on lots and/or sales of lots. Provided, however, that the rights given to Developer under this Declaration shall not be transferred automatically but must be specifically assigned to a successor or assignee (either in the deed, or by separate instrument,) so that, as between Developer and any purchaser of a Lot or Lots, Developer shall always have the primary right to exercise the development rights granted by this Declaration.

Section 12. Lot shall mean any plot of land shown on the Declaration Plan, excepting the Common Property.

Section 13. Member shall mean an Owner.

Section 14. Owner shall mean the record owner, whether one or more persons or entities, of a Lot, excluding those persons having such interest merely as security for the performance of an obligation.

Section 15. Property shall mean that real property described in Exhibit "B", and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 16. Townhome shall mean a Unit in a Building containing more than two single family attached dwelling units with

common party walls.

Section 17. Single Family Home shall mean a structure containing only one Unit with no party walls.

Section 18. Unit shall mean and refer to a home or a portion of a Building situated upon a Lot and designed and intended for use and occupancy as a residence by a single family. Units shall include Single Family Homes and Townhomes.

ARTICLE II  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner of a Lot shall automatically become a member of the Association upon acquiring legal title to a Lot. Membership shall be appurtenant to and may not be separated from ownership of any Lot. All members are obligated to abide by all of the terms and conditions of this Declaration and any By-Laws and Rules & Regulations adopted by the Association.

Section 2. Voting. The Association shall have two classes of Voting Membership:

Class A. Class A Members shall be all Owners, with the exception of the Developer, and they 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, however, shall be exercised as such persons among themselves shall determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Member(s) shall be the Developer and/or any successor or assign who takes title for the purpose of development of Lots, construction of Units, and/or sale of completed units, provided, however, that the Developer must assign these Class B voting rights in the deed to the builder or developer, or the purchaser will only receive Class A voting rights. The Class B members shall be entitled to three (3) votes for each Lot or Unit owned. The Class B membership shall cease and be converted to Class A membership, upon the happening of the earliest of the following events:

- (a) when the total of the Class A votes outstanding equals the total votes outstanding in the Class B membership; or
- (b) seven (7) years after the first lot is conveyed; or
- (c) when in its discretion the Developer so determines.

From and after the happening of the first of these events the Class B members shall be deemed to be Class A members entitled to one vote for each Unit owned as set forth in the preceding paragraph.

ARTICLE III  
PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right shared in common with all other Owners to use the Common Property, (if any) which right shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The Right of the Association:

(1) to suspend the voting rights and privilege of use of the Common Property by an Owner and his guests or tenants for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations or for the duration of the infraction, whichever is longer. Assessments shall continue during any suspension Period;

(2) to dedicate or transfer all or any part of the Common Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;

(3) to borrow money for the purpose of repairing or improving any facilities located thereon, and to give as security therefor a mortgage covering all or any portion of the Common Property; provided, however, that in the event of a default and foreclosure upon any such mortgage, the mortgagee must permit continued use of the Common Properties by the Owners and their guests, but shall have the right to charge admission and other fees.

(4) for access to all lots for the purpose of cutting grass or performing other Common Area maintenance.

(b) The Right of the Developer:

(1) during the development and construction of the property to modify and amend the areas designated as Lots or Common Property as may be reasonable and appropriate for engineering or architectural reasons and as dictated by marketing experience. Provided, however, that the quantity of Common Property will not be substantially diminished;

(2) and/or its successors and/or assigns, in and to an easement over, upon, under and through all of the Common Property until completion of all development, construction and sales of the entire Cherry Brook development, including those parts which are not subject to this Declaration, including, but not limited to streets and open areas. Said easement shall include but not be restricted

to: installation of improvements and/or repair of streets, utilities, walks, roads, driveways and parking areas; storage of top soil and construction materials; grading, seeding and landscaping; parking for construction vehicles, trailers, workmen and open house or promotional activities; use of units for sales models and construction or project sales offices; erection of signs and temporary structures such as sales offices and construction trailers; connection of streets between phases; such easements shall run with the land; and

(3) to grant easements upon, across, over, under, in and to any part of the Common Property to any public agency, authority or utility for ingress, egress, repair, and maintenance of all utilities, including, but not limited to television cable service, security and similar systems, water, sewer, gas, telephone and electricity; upon termination of the Class B membership, this power shall pass to the Board of Directors of the Association.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Property and facilities to members of his (or her) family, tenants or contract purchasers who reside on the property, subject to such rules and regulations as the Board of Directors may from time to time adopt.

Section 3. Title to Common Property. Title to the Common Property shall be conveyed to the Association, subject to all prior grants and reservations of coal, oil, gas, mining rights, rights of way, building line, building and use restrictions, all exceptions, easements and conditions as the same may be and appear in prior instruments of record, including those set forth in this Declaration, except real property taxes, which taxes shall be prorated to the date of conveyance.

Section 4. Sidewalks and Common Driveways. Each Owner is hereby granted an access easement for ingress, egress and regress over and across all sidewalks and Common Driveways on the Property, whether located on Common Property or on a Lot.

Section 5. Easement for Access to Undeveloped Additional Real Estate. Developer hereby reserves an easement over and through the Common Property for the benefit of Developer, its successors and assigns for use and for ingress, egress and regress, all easements to run with the land. In the event that all Parts of Exhibit "A" are not developed as part of the Development, access to all recreational facilities in the Development shall be available to all residents of Cherry Brook, even if not part of the planned residential development. Developer hereby grants to the Owners of all Lots the right to use recreational areas in any other part of the property described in Exhibit "A" in the event said property is not part of the Development. In the event that either easement is utilized, the cost of maintenance of the recreation areas shall be paid by the users and/or the Association in proportion to the number of people

using said facilities.

Section 6. Joint Maintenance Agreement. In the event the Developer develops any part of the land described in Exhibit "A" as a separate development or retains ownership for rental or other purposes, the Association is hereby expressly granted the power and authority to enter into joint maintenance and/or management agreements with such other entities, or the Developer, as may be required for the most efficient operation of the Property.

Section 7. Use of Name. The Developer hereby reserves the right to call all of the land described in Exhibit "A" by the name "Cherry Brook", or any variation thereof, even if not part of the planned unit development under this Declaration.

Section 8. Developer's Rights. The rights given to Developer under this Declaration shall inure to the benefit of Developer, its successors and any assignee who takes title to all or part of the Property for the purpose of development, construction or sales.

Section 9. Utility Connections. Developer shall have the right, as often as it deems necessary, to connect utility lines, pipes and cables, including, but not limited to, water, gas, sewer, electricity, telephone and cable television, from the other parts of the land described in Exhibit "A" not made subject to this Declaration to those similar pipes, cables or lines which may be on land which has been subjected to this Declaration in order to furnish utility services to the remainder of the land described in Exhibit "A" or to any adjacent land owned or controlled by Developer. Any such connection shall be without charge or consideration paid to the Association or any Lot Owner. Charges for service shall be made directly to the utility providing such service by those using the service. This right shall also extend to any private streets located on the Property (if any). If private streets are utilized by Developer, or residents on other property, the users of such streets shall contribute toward the maintenance, repair and replacement of the private streets, including snow removal, pro-rata with the residents of this part of the land based on the number of dwelling units involved, whether single family or multi-family (i.e. each townhome or detached house would count as one unit).

Section 10. Utility Rights-of-Way. Owner shall not obstruct or interfere with the existing utility rights of way which are shown on the Plan.

Section 11. Mortgage or Conveyance of Common Property. The Common Property cannot be mortgaged or conveyed without the consent of at least 2/3 of the lot Owners (excluding the Developer).

Section 12. Access Easements. Developer has recorded two easement agreements which provide for an emergency vehicle entry,

easement agreements which provide for an emergency vehicle entry, access to the sewage treatment plant and access to the pumping station. The expense of maintaining these easements shall be paid by the Association as a common expense, but only to the extent that the easement serves other lots, and only to the extent that the municipal authority does not pay for the maintenance.

Section 13. Easement for Access to Recreation Parcel. Developer hereby grants to each Unit owner and to the Association the right of ingress and egress for people and equipment to the recreation parcel over and across the easements shown on the Plan at Parcels A, Q, R, S, T, and Recreation Parcel. These easement areas shall be maintained by the Association.

#### ARTICLE IV COVENANT FOR ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation of Assessment. The Developer, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot or Unit by the acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree, to pay the Association: (1) annual assessments; (2) special assessments; (3) limited expenses; and (4) assessments against particular units for fines or other charges. The said assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and a continuing lien upon the Lot against which the assessment was made and, in addition, shall also be the personal obligation of the person who was the Owner of such Lot or Unit at the time when such assessment fell due. The said Owner shall remain personally liable for delinquent assessments even if the property is conveyed to a new Owner, who shall not be personally liable for such delinquent assessment unless expressly assuming that obligation, notwithstanding the continuing lien against the Lot.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used: (a) to promote the recreation, health, safety and welfare of the residents of the Property; (b) for the improvement and maintenance of the Common Property and Common Areas including, but not limited to, maintenance and replacement of the entry island, entry monuments, tot lot, sidewalks, signs, sewage treatment plant until taken over by the municipality, easements and emergency vehicle entry; (c) for the payment of taxes and insurance on and the repair, replacement and additions to the Common Property; (d) for the cost of labor, equipment, materials, management and supervision; (d) for garbage collection and trash removal (if not individually billed); (f) with respect to buildings containing more than one Unit, assessments may be used for exterior maintenance and repair and for upkeep, repair, maintenance, improvement or replacement of all facilities used in common by more than one Unit (except as specifically assessed against individual units or buildings); (g) fire hydrant assessments; and (h) for reserves.



be established annually on a calendar year basis by the Board of Directors and shall commence on the first day of the month following conveyance of the Lot from the Developer to an Owner (other than a builder who takes title for the purpose of construction of a Unit on a Lot). The Annual Assessment consists of two categories of expenses: general expenses and limited expenses. All Lots shall be responsible for payment of the general expenses portion and Lots containing townhomes shall have additional limited expenses added to their bill. Assessments shall be collected and paid in such installments as may be set by the Board of Directors. The Developer, or any mortgagee, builder or other successor in interest who takes title for the purpose of completing or continuing development, shall not be assessed for any vacant lots or unoccupied units. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the assessment for any year at a lesser amount. Any amount accumulated in excess of the amounts required for actual expenses and reserves shall be credited to each owner according to the number of months the owner was assessed in that year and shall be applied to their next installments, until exhausted. Any net shortages shall be added, using the same formula, to the installments due in the succeeding six (6) months.

Section 4. Limited Townhome Lot Expenses. Townhome Owners shall pay the cost of maintenance and replacement of common driveways and the sidewalks serving individual buildings or groups of buildings (including snow removal), roofs, gutters and downspouts. These costs shall be pro-rated among the owners of the Units in each Building (or group of Buildings), not as a common charge among all townhome owners. Grass cutting and landscaping shall be pro-rated among all townhome owners as a common expense.

Section 5. Common Expenses. All Lots shall share the following expenses pro-rata: repair, replacement and maintenance of streets not taken over by the township; maintenance (including snow removal) of the sidewalks on the main access roads; repair, replacement and maintenance of recreational areas and facilities, entry islands and monuments, easements, and access roads, entry, directional and informational signs; fire hydrant assessments; insurance; taxes; rubbish pickup; cost of maintaining and operating the sewage treatment plant until it has been taken over by the municipality; maintenance of the tot lot; operating expenses, such as electricity, water etc., relating to any of the foregoing; and similar expenses which may not have been listed.

Section 6. Budget. It shall be the duty of the Board at least thirty (30) days prior to the end of the Association's accounting year to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause a copy of the budget and assessment to be mailed by United States Mail, first class postage prepaid, or otherwise delivered to each Owner at least thirty (30) days prior to the effective date of the increase. The new budget and the new assessment shall become

effective unless disapproved at a special meeting called for that purpose by vote of at least fifty-one (51%) percent of each class of the total Association membership, including Class B members.

In the event the Board is delayed in preparing a new budget, the Owners shall continue to pay the Annual Assessment at the rate established for the previous period until the new rate shall be determined.

No action shall be taken by the Board or the Association which will limit the rights of the members to the use of the Common Property, or cause an increased assessment, without the affirmative vote of a majority of each class of members.

Section 7. Maximum Annual Assessment. Until January 1 of the year following the conveyance of the first Lot to an Owner, the maximum general Annual Assessment and Limited Annual Assessment for each Unit shall be as follows:

UNIT TYPE	GENERAL	LIMITED
Single Family	\$300.00	\$ 0.00
Townhome	\$300.00	\$240.00

Further assessments shall be made proportionately. The Annual Assessment may not thereafter be increased more than fifteen (15%) percent above the maximum assessment for the previous year without a vote of the majority of the membership present in person or by proxy at the annual association meeting or a special meeting called for that purpose. Increases up to that amount may be made by the Board of Directors without the consent of the membership.

Section 8. Special Assessments. In addition to the Annual Assessments authorized above, the Board of Directors may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement provided that any such special assessment shall have the assent of a majority of the votes of each class of members present, in person or by proxy, at a meeting duly called for this purpose.

Provided, however that no charge may be made which does not directly affect a class of owners with the consent of a majority of that class. Thus, for example, Single Family owners may not be charged for Townhome maintenance.

Section 9. Fines and Charges. In addition to the foregoing, the Board may levy assessments against individual Units where there is a particular charge attributable only to that Unit or a fine has been imposed as provided hereinafter. Such assessment

shall be made at a regular meeting of the Board of which the Owner involved has had thirty (30) days' notice to appear. The Board shall establish, from time to time, a schedule of fines which shall be subject to approval by a majority of both classes of membership present at the annual meeting, or at a special meeting called for that purpose.

Section 10. Uniform Rate of Assessment. Annual and Special assessments must be fixed at a uniform rate and may be collected on a monthly, quarterly or annual basis.

Section 11. Late Charges. The Board shall have the right to assess a reasonable late charge on all accounts not paid to a zero balance on the payment date established in the annual budget. The amount of the late charge shall be set by the Board from time to time and shall only be imposed once for each delinquent charge. In addition, at the option of the Board, if the delinquent charge is not paid within thirty (30) days of the due date, it shall also bear interest at the rate of fifteen (15%) percent per annum, or the maximum rate allowed by law, whichever is higher.

Section 12. Notice and Quorum for Action. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5 or 6 herein shall be delivered or mailed to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called the presence of members or of proxies entitled to cast fifty-one (51%) percent 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 requirement, 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.

Section 13. Date of Commencement of Annual Assessments; Due Dates. The Annual Assessment shall commence as to each Lot on the first day of the month following the month in which the Developer conveys title to the Lot, except as set forth in Article IV, Section 3 as to the Developer, and assessments shall be due on the first day of each month thereafter. The first Annual Assessment shall be prorated in relation to the number of months remaining in the calendar year. The due date of any other Assessments shall be fixed in the resolution authorizing such assessment.

Section 14. Effect of Non-payment of Assessments - Remedies of the Association. The Association may bring an action at law against the Owner or person personally obligated to pay the assessment or foreclose the lien against the Property, and there shall be added to the amount of such Assessment the costs of preparing and filing the Complaint in such action, and, in the event a judgment is obtained, such judgment shall include interest on the

assessment as provided and a reasonable attorney's fee, together with the costs of the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Property or abandonment of his Lot or Unit. Notice of the delinquency shall be sent to both the Owner and his mortgagee, if known, prior to the initiation of legal proceedings.

Section 15. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties 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 property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments which become due after acquisition of the property through foreclosure, sale or deed in lieu of foreclosure, nor from the lien of any such subsequent assessment. Sale or transfer of the Lot or Unit shall not affect the assessment lien. Judicial sale pursuant to an action to foreclose the said first mortgage shall extinguish the lien of such assessments which became due prior to such sale but shall not extinguish the personal liability of the Owner. Mortgagees are not required to collect assessments.

Section 16. Reserve for Replacement. The Association may establish and maintain a reserve fund for replacement of any part of the Common Property or the Common Areas as the Board deems appropriate, provided however that separate funds shall be maintained for Townhome and Single Family maintenance. The amount shall be collected by assessment of the Lot owners benefitted thereby and shall be deemed a common expense. The reserve shall be kept in an interest-bearing account and shall only be expended for the purpose of effecting the replacement of Common Property or community facilities and for operating contingencies of a non-recurring nature. The proportionate interest of each Owner shall be considered appurtenant to his Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot or Unit and shall be deemed to be transferred with such Lot or Unit.

Section 17. Working Capital Fund. The Association may establish and maintain a working capital fund for the initial months of the project operation, equal to at least two months' estimated common area charge for each Lot. This is not an advance payment of the monthly assessment but is a one-time contribution which is in addition to all other charges and assessments. The Developer shall collect two months' estimated common area charge at the time of closing and transfer this to the Association within sixty (60) days after the closing. This sum is in addition to and not an advance of regular monthly payments. In the event the Developer has advanced to the Association all or part of said fund, the Developer shall be reimbursed by the Purchaser at the closing on each Lot instead of

payment being made to the Association, or shall be reimbursed by the Association if it collects any sum which has been advanced by Developer.

Section 18. Certificates. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association stating the status of assessments on any Lot or Unit. A properly executed certificate shall be binding upon the Association as of the date of issue.

Section 19. Disputes. In the event of a dispute between Owners with respect to the sharing of costs among the unit owners, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, which shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

## ARTICLE V INSURANCE

Section 1. Owner's Coverage. Each Owner shall keep his Unit insured against loss or damage by fire and such other hazards as are covered under standard extended coverage Provisions and comprehensive public liability insurance, under policies issued by a company or companies approved by the Board of Directors and providing for payment of monies sufficient to cover the full cost of replacing or repairing the same under insurance policies payable, in case of loss or damage, to the Owner or to the Association as their interests may appear, such rights to be evidenced by the standard clause to be attached to each policy. The Owners of Townhome units shall deliver to the Association evidence of such insurance and the renewal thereof from time to time upon request. Further, the Association shall have the right to require the Owner of any Unit or other structure damaged or destroyed by fire or other peril to rebuild, reconstruct, repair, rehabilitate, and/or refurbish the Unit or structure situate upon the Lot in a manner comparable to its prior condition within a reasonable time after such damage or destruction. Each Owner shall be responsible for obtaining insurance on his or her Unit, the additions and improvements thereto, on all personal property wherever situated and personal liability.

Section 2. Association Coverage. The Board shall obtain and maintain, to the extent reasonably obtainable, without prejudice to the right of each Unit Owner to insure his own Unit for his own benefit, the following insurance policies:

(a) Insurance on the Common Property in an amount equal to the full replacement value and with a replacement cost endorsement which provides for the Payment of all losses without deduction or allowance for depreciation. Such coverage shall afford protection against, at least, the following:

(1) Loss or damage by fire or other hazards covered by the

standard extended coverage endorsement and additional extended coverage endorsement;

(2) Such other risks as shall customarily be covered with respect to projects similar in construction, location and use, including, but not limited to, vandalism, malicious mischief, and such other insurance as the Board may from time to time determine;

(3) Public liability insurance in such amounts as the Board may from time to time determine is necessary. Said insurance shall cover each member of the Board, its officers and the managing agent or manager, as well as each Owner from liability in connection with the Common Property or facilities or any decision or work performed in connection therewith;

(4) Worker's Compensation insurance to the extent necessary to comply with any applicable law;

(5) Such other policies of insurance, including officers and directors liability insurance and fidelity bonds, as are or shall hereafter be considered appropriate by the Board.

(6) The premiums for the insurance coverage shall be a common expense levied by the Board against the Owners.

(7) The Board, or its designee, shall have the exclusive authority to adjust losses under the said insurance policies.

(b) The Association shall have the right, if the Board determines such coverage to be in the best interest of the Association and economically and practically feasible, to obtain blanket insurance policies to cover individual units and bill the cost of such insurance as a Common Expense.

## ARTICLE VI PARTY WALLS

Section 1. General Rules or Laws to Apply. Each wall which is built as part of the original construction of the townhomes on the Property and placed along the common boundary between two Lots or Units shall constitute a Party wall and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for Property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use, unless the party wall is damaged by the act or omission of one Owner, in which event the Owner causing such damage shall be solely responsible for the entire repair and cost thereof.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it and, if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who, by his negligent or willful acts causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Land and shall pass to such Owner's successor in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved. The rules of the American Arbitration Association shall govern all such proceedings and this shall be a common law arbitration pursuant to the provisions of 42 Pa. C.S.A. §7341 or successor legislation.

## ARTICLE VII

### SEPARATE MORTGAGES, TAXES, UTILITY CHARGES

Section 1. Mortgages. Each Owner shall have the right to mortgage or encumber his own Lot or Unit. No Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Common Property.

Section 2. Taxes. Taxes on the Common Property shall be treated as part of the Common Expenses.

Section 3. Utilities. Each Owner shall pay for his own telephone, electricity, gas, water, sewer, cable television, and/or other utilities which are separately metered or billed to each user by the appropriate Utility Company. Utilities not separately metered or billed shall be treated as part of the Common Expenses.

Section 4. Financial Statements. Any holder, insurer or guarantor of a first mortgage shall be entitled, upon written request, to a financial statement for the immediately preceding year, if one is available, or to have a statement prepared at their expense

if one is not otherwise available.

Section 5. Common Property. The Common Property cannot be mortgaged or conveyed without the consent of the Developer, if it still owns any Lots, and at least two-thirds (2/3) of the other Owners.

ARTICLE VIII  
UTILITY SERVICE CONNECTIONS

The rights and duties of the Owners of Lots or Units within the Property with respect to utility service connections, including sanitary and storm sewer, water, electric, gas and telephone lines and related facilities, shall be governed by the following:

(a) Wherever utility service connections, or any portion thereof, lie in or upon a Lot or Unit owned by other than the Owner of a Lot or Unit served by the connections, or in or upon the Common Property, the Owner of any Lot or Unit served by the connections shall have the right and license from time to time to enter upon the Lots or to have the respective utility companies enter upon the Lots or Common Property in or upon which the connections, or any portion thereof, lie in order to repair, replace and generally maintain said connections to the full extent necessary for such purposes.

(b) Whenever utility service connections serve more than one Lot or Unit, the Owner of each Lot or Unit served by the connections shall be entitled to the full use and enjoyment of such portions of said connections as service his Lot or Unit and shall have the same license and right as are provided immediately hereinabove with respect to portions lying in or upon Lots owned by other Owners.

(c) In the event of a dispute between Owners with respect to the repair, replacement or maintenance of any connections, or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, which shall decide the dispute and the decision of the Board shall be final and conclusive on the parties.

(d) Storm water drainage systems and sanitary sewage systems shall be maintained by the Association as a common expense unless such systems are dedicated to and accepted by a public authority.

~~\*~~(e) Gutters and downspouts in townhomes shall be maintained by the Association as a common expense.

(f) Utility connections to other developments or portions of the Property described in Exhibit "A" as set forth in Article III



hereinabove.

ARTICLE IX  
ENCROACHMENTS

Each Lot within the Property is hereby declared to have an easement over adjacent Lots for the purpose of ingress, egress and regress to and from the Unit erected on said Lot for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement of the structure, roof overhangs, architectural or other appendages, drainage of rain water from roofs or any other cause. This easement shall last so long as the Unit remains on the Lot, including the restoration of the Unit in the event of fire or other casualty. However, in the event of total destruction of the Unit and the Unit is not rebuilt, this encroachment shall terminate.

ARTICLE X  
ARCHITECTURAL CONTROL

All property which is now or may hereafter be subjected to this Declaration is subject to architectural review. This review shall be in accordance with this Article and such procedures as may be adopted by the Board. The Board of Directors shall have the authority and standing on behalf of the Association to enforce in courts of competent jurisdiction decisions of the Architectural Review Committee.

Section 1. New Construction. The Developer shall have complete authority and discretion to control all new construction on the Property until such time as dwelling Units have been constructed on all Lots. The Developer shall not be subject to any review or control by the Association with respect to new construction or modifications by the Developer to completed but unsold Units. The provisions of Section 2 of this Article shall not apply to dwelling Units or other structures constructed by the Developer, or to any successor in interest to the Developer who is engaged in new construction upon the Property, or to a builder who is constructing the initial Unit on a Lot. All new construction shall be subject to the Construction Covenants recorded contemporaneously herewith.

Section 2. Architectural Review Committee. After completion of any new construction by the Developer, or original Builder, no building addition, deck, fence, wall or other structure, addition or alteration of any nature shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the written plans and specifications showing the nature, kind, shape, color, size, 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 the Board of

Directors of the Association. The Board may appoint an Architectural Review Committee to make recommendations to the Board. In the event the Board fails to approve or disapprove such design and location within sixty (60) days after said Plans and specifications have been submitted to it, approval shall not be required and this Article will be deemed to have been fully complied with. This Article shall not apply to new dwelling Units, or unsold Units still owned by the Developer. Nothing contained herein shall limit the right of an Owner to remodel or paint the interior of his Unit.

Section 3. Landscaping. Owners may plant flowers and shrubs on their own Lot provided they assume the responsibility for their maintenance.

#### ARTICLE XI USE RESTRICTIONS

Section 1. General Use Restrictions. The Property is intended to be used for the following purposes, and its use is hereby restricted as follows:

(a) Subdivision. No Lot may be divided or subdivided. Notwithstanding anything contained herein, the Developer has the right to use any Lots owned by it for models and for sales offices and administrative offices.

(b) Use of Common Property. The Common Property may be used by all Owners and/or residents, their families, tenants, guests and invitees, subject to such rules and regulations as may be established by the Association.

(c) Unit Maintenance. Each Owner shall furnish and be responsible, at his own expense, for all of the maintenance, repairs and replacements within his own Lot and Unit and also for all exterior maintenance required in and about their Unit, including snow removal, care of yards and gardens and repair and painting of the Unit, except to the extent that any such maintenance responsibility is assumed by the Association. If any maintenance which affects the health, safety or security of other residents is not performed within twenty (20) days after the Association has given the Owner written notice requiring such maintenance, the Association may, in its discretion, perform such maintenance and charge the Owner for any expense involved, which charge may be enforced as an assessment against said Lot.

(d) Prohibited Use. No articles of personal property belonging to any Owner shall be stored on any portion of the Common Property without the prior written consent of the Board. Nothing shall be done or kept in any Unit or in the Common Property which violates the law.

(e) Exterior Attachments. No awning, canopy, shutter, radio or television antenna (or satellite dish) shall be affixed to or placed upon the exterior walls or roofs without the written consent of the Board of Directors.

(f) Nuisances. No noxious or offensive activity shall be carried on upon any Lot or in any Unit, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

(g) Signs.

(1) No sign of any kind shall be displayed to the public view on any Lot or Unit except one sign of not more than one square foot identifying the residence of a professional. The Board shall have the right to erect entrance signs, directional and traffic signs as it deems appropriate.

(2) The Developer shall have the right to erect signs to advertise all of its property, the sale of Units, and any other signs which the Developer deems necessary for construction and sales of Lots or Units on any part of the property owned by Developer.

(3) During the period of construction and sales, any contractor and Lender approved by the Developer may maintain a sign on any Lot upon which that contractor is constructing a Dwelling, which sign, however, may not be more than twenty (20) square feet in size.

(4) After completion of the Unit a sign of not more than ten (10) square feet advertising the Unit for sale or rent.

(5) An easement for ingress, egress and regress is hereby granted to Developer and to the Association for the purpose of maintaining and replacing any signs, walls or fences which the Developer has constructed on individual Lots which are part of the community signs program (i.e. directional signs, entry signs, etc.). This right shall include the right to plant trees and shrubs and otherwise landscape the area around any such fence, etc. shall not be responsible for maintenance, this being the sole duty of the Association.

(h) Garbage and Refuse Disposal. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in rules and regulations by the Association. Garbage containers must be kept out of public view except on collection days.

(i) Refuse. No lumber, materials, bulk materials, refuse or trash or debris shall be kept, stored, or allowed to accumulate on any Lot except building materials during the course of construction, including, but not limited to food and beverage containers. All

construction sites shall be cleaned regularly.

(j) Laws. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed on the Property by the residents.

(k) Laundry Lines. Laundry poles and lines outside of Units are prohibited where visible from any street.

(l) Temporary Structures. No structure of a temporary character, dog house, fenced dog run, animal pen, trailer, shack, garage, barn or other out-building shall be used on any single family or townhome Lot (except by the Developer in completing the Development).

(m) Pets. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept in any Unit on any Lot or on the Common Property, except that dogs, cats or other household pets may be kept in all Units, subject to the rules and regulations adopted by the Association and applicable laws and ordinances. All household pets must be kept leashed when outside the Unit.

(n) Balconies and Porches. No rugs, clothes, sheets, blankets, laundry of any kind, or other article shall be hung from the balconies and/or porches. Balconies and/or porches and/or patios shall be kept free and clear of rubbish, debris and other unsightly materials.

(o) Residential Use. Lots and Units (except those used by Developer for models or offices) may be used only for residential purposes permitted by the Cecil Township zoning ordinance.

(p) Easements for Pipes, etc. No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground. Easements have been reserved for sewers, drainage and utility installations and maintenance and for such purposes and uses as are shown on the recorded plan. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The Developer, its agents, successors and assigns, shall have the right to enter upon all parts of the easement area of each Lot for any of the purposes for which said easements and rights-of-way are reserved. The Developer shall also have the right at the time of, or after, grading any street, or any part thereof, to enter upon any abutting Lot and grade the portion of such Lot adjacent to such street, but there shall be no obligation on the

Developer to do such grading, unless otherwise properly required to do so by an appropriate governmental authority.

(q) Storage and Parking of Vehicles. Except as provided herein, there shall be no outside storage upon any Lot or Common Property of any truck, tractor, motorcycle, all-terrain-vehicle (ATV), mobile home, boat or other transportation device of any kind, unless approved by the Board in the Rules and Regulations hereinafter adopted. No owners or tenants shall repair or restore any vehicle of any kind upon any Lot or Common Property visible from the street except for normal maintenance or emergency repairs. Vehicles may not be parked overnight on the streets. In addition, the Board shall have the right to adopt further detailed rules and regulations concerning parking and the operation of vehicles on the Property.

(r) Motorcycles. No motorcycles, motorbikes, all terrain vehicles, go-carts, snowmobiles or similar motor-powered vehicles shall be operated on any unpaved portion of the Common Property.

(s) Landscaping. All landscaping shall be performed by the Owners. ~~No trees~~ shall be removed from any Lot or Common Property without the written approval of the Board or the Architectural Review Committee. The Board may, from time to time, promulgate such rules and regulations regarding the preservation of trees, vegetation, wildlife and other natural resources as it deems appropriate. All yards shall be kept reasonably trimmed.

(t) Garages. Garages may not be converted to living space but may only be used for storage of vehicles or personal property. Garage doors shall be kept closed except when automobiles are being moved or the garage is being used.

(u) Swimming Pools and Hot Tubs. Swimming pools and hot tubs are permitted on single family Lots only.

(v) Fences.

(i) No barbed wire, chain link or other non-clad metal, cyclone or fences constructed of similar material shall be permitted on single family or townhome lots.

(ii) Fences may be placed on the side and rear yards but shall not be constructed closer to the street in front of the dwelling than the rear line of the dwelling and shall not exceed five feet in height. No fences may be erected in the areas of the recorded plans marked as "Conservation District" or "Drainage Easements".

(iii) Fences must conform to local laws and ordinances and any non-conforming uses or variances must have prior consent of both the municipality and the Developer or Board. Ornamental walls may be permitted with the prior written approval of the Board.

*OK*

(iv) Developer recommends that all fences be located a sufficient distance inside the property's lot line to permit access to the rear of the lot for installation, maintenance and repair without the need to enter onto an adjacent owner's property.

(w) Wells. No oil or gas well shall be drilled on any lot.

## Section 2 TOWNHOME USE RESTRICTIONS

The following restrictive covenants shall be applicable only to townhome units:

a. No fences or other barriers are to be erected between the side yard lots of any townhome.

b. There shall be no garage or shed erected on any parcel upon which a townhome is erected.

c. Each building must have an integral garage containing space for at least one automobile and sufficient driveway space so that one additional auto can be parked thereon.

Section 3. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Property, including Common Property, Common Areas, and individual Lots and Units, including the imposition of reasonable user fees and limits upon the number of permitted guests for use of any recreational facilities. Copies of the rules and regulations shall be furnished by the Association to all Owners prior to their effective date. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents, until and unless such regulation, rule or requirement be specifically overruled, canceled or modified by the Board, or, in a regular or special meeting, by the vote of the members, including the Class "B" members so long as such membership shall exist. The Board shall have the authority to impose reasonable monetary fines (which shall be collectable as provided in Article IV) and other sanctions or to seek injunctive relief. Such fines shall be deemed to be liquidated damages and their assessment and collection is hereby consented to by each Owner, and all persons claiming title through them.

Section 4. Procedure. The Board shall not impose a fine or infringe upon any other rights of a member or other occupant for violations of rules until the following procedure is followed:

(a) Demand. Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:

(i) The alleged violation;

(ii) The action required to abate the violation; and

(iii) A time period, not less than ten (10) days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any further violation of the same rule may result in the imposition of a sanction after notice and hearing if the violation is not continuing.

(b) Notice. At any time within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same rule is subsequently violated, the Board shall serve the violator with written notice, personally or by regular or certified mail, of a hearing to be held by the Board in executive session. The notice shall contain:

(i) The nature of the alleged violation;

(ii) The time and place of the hearing, which time shall not be less than ten (10) days from the giving of the notice;

(iii) An invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and

(iv) The proposed sanction to be imposed.

(c) Hearing. The hearing shall be held in executive session pursuant to this notice affording the member a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The Minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

ARTICLE XII  
RIGHTS OF ELIGIBLE MORTGAGE HOLDERS AND  
ELIGIBLE INSURERS OR GUARANTORS

Section 1. Eligibility. A holder, insurer or guarantor of a first mortgage on a Lot or Unit shall be required to provide to the Association a statement of its name, address and the Lot or Unit mortgaged, insured or guaranteed in order to be an "eligible" holder, insurer or guarantor and entitled to the rights set forth in this section or elsewhere in this Declaration.

Section 2. Notice of Action. Upon written request to the Owners Association, identifying the name and address of the holder, insurer or guarantor and the unit or lot number or address, any such

eligible mortgage holder or eligible insurer or guarantor shall be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the project or any unit estate on which there is a first mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;

(b) Any delinquency in the payment of assessments or charges owed by an owner of a unit estate subject to a first mortgage held, insured or guaranteed by such eligible holder or eligible insurer or guarantor, which remains uncured for a period of sixty (60) days;

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Owners Association;

(d) Any proposed action which would require the consent of a specified percentage of eligible mortgage holders as specified below or in Article XVII, Section 2.

Section 3. Other Provisions for Eligible Mortgage Holders.

To the extent permitted by applicable law, eligible mortgage holders which have registered with the Association shall also be afforded the following rights:

(a) Any restoration or repair of the project, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original Plans and specifications, unless other action is approved by eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.

(b) Any election to terminate the legal status of the project after substantial destruction or a substantial taking in condemnation of the project property must require the approval of eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.

(c) Unless the formula for reallocation of interests in the common areas after a partial condemnation or partial destruction of a condominium project is fixed in advance by the constituent documents or by applicable law, no reallocation of interests in the common areas resulting from a partial condemnation or partial destruction of such a project may be effected without the prior approval of eligible holders holding mortgages on all remaining unit estates, whether existing in whole or in part, and which have at



least fifty-one (51%) per cent of the votes of such remaining unit estates subject to eligible holder mortgages.

(d) If the Development has been professionally managed, or if professional management has been previously required by any eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to terminate Professional management by the Owners Association shall require the prior consent of owners of unit estates to which sixty-seven (67%) per cent of the votes in the Owners Association are allocated and the approval of eligible holders holding mortgages on unit estates which have at least fifty-one (51%) per cent of the votes of unit estates subject to eligible holder mortgages.

Section 4. Limitations on Actions of Association. Unless at least two-thirds ( $\frac{2}{3}$ ) of the eligible mortgagees of unit owners give their consent, the Association is not entitled to take any of the following actions:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property owned, directly or indirectly, by the Association. The granting of easements for Public utilities or other Public purposes consistent with the intended use of the Common Property is not a transfer within the meaning of this clause.

(b) Change the method of determining the obligations, assessments dues or other charges that may be levied against an Owner.

(c) By act or omission change, waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Units, the exterior maintenance of Units, the maintenance of the Common Property, party walls, common fences and driveways, and the upkeep of lawns and Plantings in the Development.

(d) Fail to maintain fire and extended coverage insurance on Common Property on a current replacement cost basis in an amount at least 100% of the insurable value (based on current replacement cost).

(e) Use hazard insurance proceeds for losses to any Common Property for other than the repair, replacement or reconstruction of the Common Property.

ARTICLE XIII  
LEASING AND REALES

Section 1. Leasing. Units may be rented or leased only by written leases. All tenants shall be subject to the terms and

conditions of this Declaration, the By-Laws, the Articles of Incorporation, and the Rules and Regulations promulgated thereunder as though such tenant were an Owner. No Unit may be leased for a period of less than six (6) months, except by the Developer in connection with longer term leases or the lease purchase of Lots or Units.

Each Owner agrees to cause his lessee, occupant, or persons living with such Owner or with his lessee to comply with the Declaration, By-Laws, and the Rules and Regulations promulgated thereunder, and is responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such occupants of the unit are fully liable for any violation of the documents and regulations; failure to comply shall be, at the Board's option, considered a default in the lease, and all leases shall contain Provisions to this effect. Copies of all leases shall be submitted to the Board to insure compliance with this Article.

Section 2. Resales. Upon the sale by an Owner of his Unit or Lot, the selling Owner shall furnish a certificate issued by the Association containing the following information:

- (a) a statement of the amount of the annual charges payable monthly and any unpaid annual charge or other assessment currently due and payable from the selling Owner;
- (b) a statement of any other fees payable by Owners;
- (c) a statement of any capital expenditures currently proposed or adopted by the Association for the current and two next succeeding fiscal years;
- (d) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the Association for any specified project;
- (e) a copy of the most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;
- (f) a copy of the current operating budget of the Association; and
- (g) a statement describing any insurance coverage which may be provided for the benefit of Owners.

The Association shall fully cooperate in the preparation and provision of such certificate and information to a selling Owner within fifteen (15) days after same is requested in writing by such Owner. An Owner providing such a certificate to a purchaser is not

liable to the purchaser for any erroneous information provided by the Association and included in the certificate. A Purchaser shall not be liable for any unpaid assessment or fee greater than that set forth in such certificate. The Association shall have the power to assess the reasonable cost of the preparation of such certificate to the selling Owner and require payment thereof prior to the delivery of such certificate to the Owner.

#### ARTICLE XIV CONDEMNATION

If any part of the Common Property is taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of all Owners) by any authority having the power of condemnation or eminent domain, the Association shall represent all Owners but each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as Trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking all of the Class "B" members (if such membership shall then exist) and at least seventy-five (75%) percent of the Class "A" members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the above provisions in Article V hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Property, or if there is a decision made not to repair or restore, or if there are not funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors of the Association shall determine.

#### ARTICLE XV PHASED DEVELOPMENT

The Developer may, at any time and from time to time, [within seven (7) years from the date of recording of this Declaration], and solely at Developer's discretion, submit additional parts of the land described in Exhibit "A" or any adjacent property which may subsequently be purchased by Developer, to the provisions of this Declaration to be used as Lots, Common Property or Common Areas and cause them to be subjected to the covenants, conditions, easements, restrictions, charges and liens herein provided without the consent of the Members. This will be accomplished by recording

a Supplementary Declaration (or similar instrument) subjecting such land to the provisions of this Declaration. Title to any Common Property in any successive Phase shall be conveyed to the Association, subject to all prior grants and reservations of coal, oil, gas, mining rights, rights of way, building lines, building and use restrictions, all exceptions, easements, and conditions as the same may be and appear in prior instruments of record, including those set forth in this Declaration. Additional phases shall be added at the discretion of the Developer, provided that if any of the units are insured by the Veterans Administration or Federal Housing Administration, FHA/VA approval may be required if development is not completed within seven (7) years of recording of this Declaration. Construction of buildings and improvements may not be consistent with the initial phases of the Development in terms of quality of construction and may be altered to meet marketing requirements and changes in construction technology. Assessments and voting rights shall be assigned to the Owners of Lots in the additional phases in accordance with the terms of this Declaration.

ARTICLE XVI  
EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area and Common Property, the Association shall provide the following exterior maintenance upon each Lot with the cost assessed as provided in Article IV:

- a. Single Family - none;
- b. Townhomes - roof, gutter, downspouts, landscaping, grass cutting, snow removal, repairs and maintenance of common driveways and sidewalks.

Provided, however, that if damage to the Common Area or Common Property is caused by the willful or negligent acts of an Owner, or the willful or negligent acts of the family, guests or invitees of an Owner, the cost shall be assessed against the Owner's Lot as a special assessment.

ARTICLE XVII  
GENERAL PROVISIONS

Section 1. Enforcement. The Association, the Developer, or any Owner shall have the right to enforce this Declaration. Enforcement of these covenants and restrictions, and the administrative rules and regulations adopted pursuant thereto, shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition, or restriction imposed by this Declaration, either to restrain violations, recover damages, or collect any liens or charges imposed pursuant to this Declaration, and against the land to enforce any lien created by these covenants. Failure to enforce any covenant or

restriction herein contained shall not be deemed a waiver of the right to do so thereafter. The Association may also impose fines or other sanctions, collection of which shall be as provided in Article IV hereof. The expense of enforcement by the Association (including reasonable attorney's fees) shall be chargeable to the Owner violating these covenants and restrictions, and shall constitute a lien on the Lot, collectible in the same manner as assessments hereunder. Before an individual Owner may act to enforce any provisions of this Declaration, written notice must be given to the Board of Directors of the Association and the Association given a reasonable opportunity to take appropriate action. The cost of enforcement including reasonable attorneys fees, shall be paid by the offending Owner if found to be guilty of a willful violation of this Declaration.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment. This Declaration may be amended by an instrument signed by the Owners of at least sixty-seven (67%) percent of the Lots, except as to the following:

- (a) The consent of sixty-seven (67%) per cent of the Owners and eligible mortgage holders shall be required to terminate the legal status of the project;
- (b) The consent of sixty-seven (67%) per cent of the Owners and fifty-one (51%) per cent of the eligible holders holding mortgages on lots shall be required to add or amend any material provisions of the constituent documents of the project, which establish, provide for, govern or regulate any of the following:
  - (1) Voting;
  - (2) Assessments, assessment liens or subordination of such liens;
  - (3) Reserves for maintenance, repair and replacement of the common areas;
  - (4) Insurance or Fidelity bonds;
  - (5) Rights to use of the Common Property;
  - (6) Responsibility for maintenance and repair of the several portions of the Common Property;
  - (7) Expansion or contraction of the project or the addition, annexation or withdrawal of property

to or from the Project other than as permitted by Article XV hereinabove ("Phased Development");

- (8) Boundaries of any Lot or Unit;
  - (9) The reallocation of interests in the Common Property or rights to its use;
  - (10) Convertibility of units into common areas or of common areas into units;
  - (11) Leasing of Dwelling Units;
  - (12) Imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey his or her Dwelling Unit or Lot;
  - (13) Any provisions which are for the express benefit of mortgage holders, eligible mortgage holders or eligible insurers or guarantors or first mortgages on Dwelling Units or Lots.
- (c) Implied approval shall be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided notice was delivered by certified or registered mail, with a "return receipt" requested.
- (d) Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting in which it is to be discussed, or in the mail ballot to be signed.
- (e) An amendment may be proposed by the Board or by twenty (20%) per cent of the Unit Owners.
- (f) Any rights reserved or granted to Developer under this Declaration may not be amended, revoked or modified in any way by the Association without the express written consent of the Developer so long as Developer owns any Lot or Unit on the Property, any of the land described in Exhibit "A", or any other land adjacent to the development. Such consent must be included in any recorded amendment to be effective.
- (g) Developer, its successors and/or assigns, reserves the right, without the consent of the Association or any Owners, to amend and re-record the Declaration Plan for any reason, including, but not limited to, the

addition of phases to the development, the correction of errors or the making of any changes required by any governmental body or agency or mortgagee. After sale of all property in or adjacent to the Development by the Developer, this right shall pass to the Association.

- (h) Any such amendment shall be effective upon recordation in the Office of the Recorder of Deeds of Washington County. The recital in any such amendment that it has been executed and acknowledged by the specified percentage of Owners shall be conclusive and binding on all persons.
- (i) An addition or amendment of the Association documents shall be considered material if it is for the purpose of correcting technical errors, or for clarification only. An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or Post to the requesting Party a negative response within thirty (30) days shall be deemed to have approved such request.
- (j) A modification of these covenants or a re-recording of the Declaration Plan to reflect construction changes shall not be deemed to be an amendment under this Section.

Section 4. Maintenance of the Common Property. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Property and all improvements thereon (including furnishings and equipment related thereto), and shall keep it in good, clean, attractive and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

Section 5. Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof and any other personnel as the Association's Board of Directors shall determine to be necessary or desirable for the proper operation of the Property. Such personnel may be furnished or employed directly by the Association or by any Person or entity with whom or with which it contracts. If the Association enters into a management agreement, it shall be by written contract cancelable upon no more than ninety (90) days' written notice. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property or the enforcement of this Declaration. The Association may, but shall not be required to, arrange as an Association expense with others to furnish water, trash collection, sewer service and other common services to each Unit.

Section 6. Personal Property and Real Property for Common Use. The Association through action of its Board of Directors may acquire, hold, and dispose of tangible and intangible personal property and real property.

Section 7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 8. Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases or mortgages the Owner's property, the Owner will be required to give to the Association, in writing, the name and address of the purchaser, lessee or mortgagee of the property, and all leases shall be subject to this Declaration and to the authority of the Board of Directors to regulate the conduct of any person on the Property.

Section 9. Captions. Captions are for convenience and reference only and are in no way to be construed as defining, limiting or modifying the scope or intent of the various provisions of this Declaration.

Section 10. Gender. As used in this Declaration, the word person shall mean and include where appropriate, an individual, corporation, partnership or other entity; the plural shall be substituted for singular and the singular for the plural where appropriate and words of any gender shall mean to include any other gender.

Section 11. Matters of Dispute. Matters of dispute or disagreement between Association members or with respect to interpretation or application of the provisions of this Declaration or the By-Laws shall be determined by the Board of Directors, which determination shall be binding on all Association members.

Section 12. Liability of the Board. The Members of the Board and its officers shall not be personally liable to the Owners or others for any mistake of judgment or for any acts or omissions made in good faith. The Owners shall indemnify and hold harmless each of the members of the Board and each of the Officers against all expenses or liability to others arising out of their position as an officer or member of the Board or arising out of contracts made by them or any of them on behalf of the Owners unless any such contract shall have been made in bad faith or contrary to the provisions of this Declaration. They shall not be liable for any mistake of judgment or negligence except for their own willful malfeasance, misfeasance, misconduct or bad faith. The Association may obtain as a common expense the type of insurance commonly known as Directors and Officers Liability coverage in order to encourage service on the



Board of Directors and to fund this obligation.

Section 13. 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, postage prepaid, 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 14. FHA/VA Approval. So long as there is a Class B membership and any mortgages are issued pursuant to the requirements of the Veterans Administration or the Federal Housing Authority, and/or the overall plan of development has been approved by the Federal Housing authority and the Veterans Administration, the following actions will require the approval of the Federal Housing Administration and/or the Veterans Administration and/or the Federal National Mortgage Association, depending on which may be applicable at that time due to current regulations and mortgages placed on Lots: Annexation of additional property (other than that described in Exhibit "A"), dedication of Common Areas or Common Property and amendment of this Declaration. Implied approval shall be assumed when any such agency fails to submit a response to any written proposal within thirty (30) days after it receives proper notice of the proposal, provided, the notice was delivered by certified or registered mail, with a "return receipt" requested.

Section 15. Pennsylvania Municipalities Planning Code. This Declaration shall be construed to grant Cecil Township all of the rights, duties, and responsibilities provided for by the Pennsylvania Municipalities Planning Code (53 P.S. §10101, et seq.) as amended, and the Cecil Township Zoning Ordinance, as they may refer to the Common Property and any right of access.

Section 16. Term and Perpetuities. 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. The Declaration may be terminated during the first twenty (20) year period by an instrument signed by not less than ninety (90%) percent of all Owners, and thereafter by an instrument signed by not less than seventy-five (75%) percent of all Owners. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of William Clinton, President of the United States, subject to prior amendment or termination as set forth hereinabove.

Section 17. Amendment Resulting From Requirement of Government Agencies. If, in order to obtain the approval of the Federal Housing Administration and/or the Department of Housing and

Urban Development and/or the Veterans Administration and/or the Federal National Mortgage Association to the terms and conditions of this Declaration of Covenants, Conditions and Restrictions, Developer is required to amend any terms of this Declaration, Developer may do so without any further consent or approval of any Owners. Written notice shall be given to all Owners of any such proposed changes and the reason for such change.

Section 18. Effective Date. Amendments shall be effective upon recording in the office of Recorder of Deeds of Washington County and shall be executed by the Developer or the president and secretary of the Association.

Section 19. List of Exhibits. The following Exhibits are attached to and made part of this Declaration:

- A - Total site description
- B - Land submitted to Declaration as Phase I
- C - Common Property for Phase I

WITNESS the execution hereof the day and year first above written.

ATTEST:

CHERRY BROOK JOINT VENTURE  
BY: ELM REALTY SERVICES, INC.

*Fern Collier*  
(Seal) ASSISTANT SECRETARY

BY: *E. J. Moore, pres*

*Eric M. Kramer*  
(Seal) ASSISTANT SECRETARY

BY: DEAUVILLE MANAGEMENT  
COMPANY, INC.

BY: *Wynne Bove*

Exhibit A  
Total Site Description

ALL that certain lot or piece of ground situate in the Township of Cecil, County of Washington and Commonwealth of Pennsylvania, being bounded and described in accordance with the survey dated February 5, 1985, by J.R. Gales & Associates, Inc., Consulting Engineers; as follows:

BEGINNING at a point in the public highway formerly known as Washington Pike and now designated as Pennsylvania State Highway Traffic Route No. 519, said beginning point being on the dividing line between the property herein conveyed and in part by property now or formerly of G. Rowley and in part by property now or formerly of C. Harmuth; thence along said dividing line South  $26^{\circ} 59' 27''$  East, a distance of 1353.00 feet to a stone monument; thence by line dividing the property herein conveyed from property now or formerly of C. Harmuth the following six courses and distances, viz: South  $63^{\circ} 17' 26''$  West, 83.10 feet to a stone monument; South  $25^{\circ} 45' 21''$  East, 617.98 feet to a point; North  $63^{\circ} 28' 25''$  East, 379.38 feet to a stone monument; South  $25^{\circ} 37' 27''$  East, 780.80 feet to a point; North  $77^{\circ} 24' 58''$  East, 478.50 feet to a point, and South  $29^{\circ} 08' 22''$  East, 793 feet to a point on the dividing line between property herein conveyed and property now or formerly of L.B. Brock; thence along the last said dividing line, South  $84^{\circ} 53' 14''$  West, a distance of 567.60 feet to an iron pin on the dividing line between the property herein conveyed and property now or formerly of A.C. Dellovade; thence along the last said dividing line, North  $24^{\circ} 03' 23''$  West, a distance of 549.62 feet to a stone monument on the dividing line between the property herein conveyed and in part by property now or formerly of A.C. Dellovade and in part by property now or formerly of D.V. Wauthier; thence

along the last said dividing line, South  $89^{\circ} 34' 09''$  West, a distance of 845.52 feet to a point on the dividing line between the property herein conveyed and property now or formerly of J. Porta; thence along the last said dividing line the following 3 courses and distances, viz: North  $25^{\circ} 34' 00''$  West, 959.73 feet to a point; South  $53^{\circ} 17' 58''$  West, 230 feet to a point, and North  $36^{\circ} 42' 02''$  West, 195 feet to a point on the dividing line between the property herein conveyed and a 50 foot private right-of-way; thence along the last said dividing line the following 7 courses and distances, viz: North  $53^{\circ} 17' 58''$  East, 451.80 feet to a point; North  $40^{\circ} 24' 17''$  West, 94.34 feet to a point; North  $70^{\circ} 58' 17''$  West, 240.82 feet to a point; North  $82^{\circ} 50' 47''$  West, 280.70 feet to a point; North  $82^{\circ} 18' 07''$  West, 49.54 feet to a point; North  $51^{\circ} 18' 02''$  West, 89.39 feet to a point, and North  $36^{\circ} 42' 02''$  West, 272.40 feet to a point in the aforesaid public highway formerly known as Washington Pike and now designated as Pennsylvania State Highway Traffic Route No. 519; thence by said highway the following 3 courses and distances, viz: North  $16^{\circ} 56' 03''$  East, 199.78 feet to a point; North  $31^{\circ} 00' 46''$  East, 661.37 feet to a point, and North  $45^{\circ} 07' 40''$  East, 139.97 feet to a point, being the place of beginning.

Exhibit A  
Total Site Description CONTINUED

CONTAINING an area of 45.432 Acres.

TOGETHER WITH all of Grantor's right, title and interest in and to any oil and gas leases, oil and/or gas or other wells, mineral rights, and all other rights of whatsoever nature in connection with said property.

SUBJECT, ALSO, to such right-of-way, easements or conditions, if any, affecting said property as appear in recorded instruments in the chain of title or as the public to use the public road or roads which traverse or border the property herein described.

BEING the same property which J.K. Lewis, et ux., et al., conveyed to Glencannon Heights Joint Venture by deed dated January 14, 1993, and recorded in the Recorder's Office of Washington County, Pennsylvania, in Deed Book Volume 2521, page 127.

Exhibit B  
Land Submitted to Declaration

Exhibit C  
Common Property  
(Phase I)

N O N E

ACKNOWLEDGEMENT

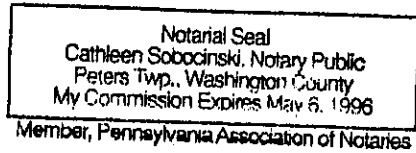
COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF WASHINGTON )

On this, 15<sup>th</sup> day of April, 1994, before me, a notary public, the undersigned officer, personally appeared E. L. Moore, who acknowledged herself to be the President of ELM REALTY SERVICES, INC., a Pennsylvania corporation, and, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as President. And also acknowledged herself to be a Principal of Cherrybrook Joint Venture and as such Principal, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as Principal.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Cathleen Sobocinski*  
Notary Public

My Commission Expires:



**ACKNOWLEDGEMENT**

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF WASHINGTON )

On this, 15th day of April, 1994, before me, a notary public, the undersigned officer, personally appeared Terry F. Bove, who acknowledged herself to be the President of DEAUVILLE MANAGEMENT COMPANY, INC., a Pennsylvania corporation, and, as such President, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President. And also acknowledged himself to be a Principal of Cherrybrook Joint Venture and as such Principal, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as Principal.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Cathleen Sobocinski*  
Notary Public

My Commission Expires:

Notarial Seal  
Cathleen Sobocinski, Notary Public  
Peters Twp., Washington County  
My Commission Expires May 6, 1996  
Member, Pennsylvania Association of Notaries

RECORDED  
WASHINGTON COUNTY

94 MAY -9 PM 2:03

*Kathleen Sobocinski*  
RECORDER OF DEEDS

184111



BYLAWS  
OF  
CHERRY BROOK HOMEOWNERS ASSOCIATION

LOCATED IN CECIL TOWNSHIP, WASHINGTON COUNTY

ARTICLE I  
NAME AND LOCATION

The name of this corporation is CHERRY BROOK HOMEOWNERS' ASSOCIATION, hereinafter called the "Association". The principal office of the Association shall be located in Washington County, Pennsylvania but meetings of members and directors may be held at such other places as may be designated by the Board of Directors.

ARTICLE II  
DEFINITIONS

The defined terms used in these By-Laws shall have the definitions given to them in the Cherry Brook Declaration of Covenants, Conditions and Restrictions unless the context clearly indicates otherwise.

ARTICLE III  
MEMBERSHIP

The members shall consist of all the Owners of the Property. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Association shall have two classes of voting membership, Class A and Class B, as more fully set forth in the Cherry Brook Homeowners Association Covenants.

ARTICLE IV  
MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the membership may be held within one year after the first house in the development is occupied. Thereafter, an annual meeting of the members shall be held on a date, as set by the Board, in each

0-1483

succeeding year, which is not more than twelve (12) months following the preceding annual meeting.

Section 2. Special Meetings. Special Meetings of the members may be called at any time by the President or the Board of Directors, or on written request of the members who are entitled to vote twenty-five (25%) percent of all the votes of the Class A membership.

Section 3. Notice of Meeting. Written notice of each meeting of the members shall be given by or at the direction of the Secretary. Such notice may be given by personal delivery, by publication, or by mailing a copy of such notice, postage prepaid, not less than ten (10) nor more than fifty (50) days before such meeting to each member entitled to vote, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and time of the meeting and, in the case of a special meeting, the purpose of the meeting. A written waiver of notice shall be deemed equivalent to the giving of notice. The attendance of a member in person or by Proxy at the meeting shall constitute a waiver of notice by such member.

Section 4. Proxies. At all meetings of members each voting member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary prior to the commencement of the meeting. Every proxy shall be revocable and shall automatically cease upon sale by the member of his Lot.

Section 5. Quorum. The presence, either in person or by proxy, of the members entitled to cast ten percent (10%) of all the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If a quorum is not in attendance, those members who are present may adjourn the meeting to a new date or dates, without notice other than announcement at the meeting, until a quorum as above defined shall be present or represented. Unless a different vote is required by express provision of the Declaration, the Articles of Incorporation, or these By-Laws, each question presented at a meeting shall be determined by a majority vote of those present.

Section 6. Place of Meeting. Any annual or special meeting of members may be held at such place within or without the Commonwealth of Pennsylvania as the Board of Directors may fix from time to time. In the event the Board of Directors shall fail to fix such place or time, or in the event members are entitled to call or convene a special meeting in accordance with law, then, in such event, such meeting shall be held at the principal office of the Association.

Section 7. Membership List. At every meeting of members, there shall be presented a list or record of members as of the record date, certified by the officer responsible for its preparation and, upon request therefor, any member who has given written notice to the Association, which request shall be made at least ten (10) days prior to such meeting, shall have the right to inspect such list or record at the meeting. Such list shall be evidence of the right of the persons to vote at such meeting, and all persons who appear on such list or record to be members may vote at such meeting.

Section 8. Inspectors of Election. The Directors may, but need not, appoint one or more inspectors to act at any meeting or any adjournment thereof. If inspectors are not appointed, the presiding officer of the meeting may, but need not, appoint inspectors. Each appointed inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his ability. The inspectors shall determine the number of memberships outstanding, the voting power of each, the number of memberships represented at the meeting, the existence of a quorum, and the validity and effect of proxies. The inspectors shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the result and do such acts as are proper to conduct the election or vote of all members. The inspectors shall make a report in writing of all matters determined by them with respect to such meeting.

Section 9. Voting. Each member shall be entitled to the number of votes set forth in the Declaration as follows:

Class A -- One (1) vote per Lot owned;

Class B -- Three (3) votes per Lot on the Plan.

Section 10. Action by Consent. Whenever the vote of members is required or permitted, such action may be taken without a meeting on the written consent setting forth the action taken signed by a majority of the members entitled to vote.

ARTICLE V  
BOARD OF DIRECTORS

Section 1. Number. The affairs of the Association shall initially be managed by a three-member Board of Directors. The Board may be expanded at any annual meeting to five (5) members upon resolution of the Board. So long as there are Class B members in the association, members need not be Owners of Lots. Thereafter, Board members shall be either Lot owners or the spouse of a Lot owner. A majority of the members (i.e. 2/3 or 3/5) shall be elected by the

homeowners and the minority in the single family owners. The initial Board of Directors shall have 3 members and shall be appointed by the Developer and may be replaced at will by the Developer. They shall hold office until their successors have been elected at the first annual meeting. At the first annual meeting and at each annual meeting thereafter, the Board of Directors shall be appointed or elected in the manner herein provided.

Section 2. Term of Office. At the first annual meeting, the members shall fill a majority of the available positions for a term of two (2) years; a minority for a term of one (1) year, the purpose being to elect a staggered Board. At the expiration of the initial term of office of each respective Board member, his successor shall be elected to serve a term of two (2) years. The Board members shall hold office until their successors have been elected and qualified.

Section 3. Removal or Vacancy. A director may be removed from the Board, with or without cause, by majority vote of each class of members at any special meeting called for the purpose. Any Director may be removed by a vote of the remaining directors upon missing three (3) consecutive meetings without cause. In the event of death, resignation or removal of a Director, a successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for his services as a Director. However, Directors may be reimbursed for any expenses incurred in the performance of their duties.

Section 5. Effect of Presence. Any member of the Board present at such meeting shall be deemed to have assented to any action taken at such meeting unless his dissent is entered on the minutes or unless his written dissent is filed with the Secretary at or immediately following the adjournment thereof, provided that no member may dissent from any action for which he voted at the meeting.

Section 6. Eligibility. To be eligible to vote or to run for office, the Owner must be current in payment of their assessments.

#### ARTICLE VI NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nominations. Nominations for election to the Board of Directors may be made from the floor at the annual meeting or by nominating petition signed by 5 unit owners delivered to the Board at least 30 days prior to the election.

Section 2. Election. Election to the Board of Directors may be by secret written ballot, or such other appropriate voting method as may be selected by the Board, at the annual meeting of the Association. At such election, the voting members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number or votes shall be elected to the longest term of office then open. Cumulative voting is not permitted. Elections may also be held by mail-in ballot with the ballots counted at the time of the annual meeting.

ARTICLE VII  
MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the elected Board of Directors shall be at least twice each year, without notice, at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association or by any two (2) Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. At all meetings of the Board of Directors, a majority of the Board members shall constitute a quorum for the transaction of business, and any action taken by the majority of those present shall be regarded as the act of the Board.

Section 4. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors. They may also act if all directors are connected by conference telephone or other electronic means whereby all directors can hear each other at all times.

Section 5. Waiver of Notice. Whenever any notice whatever is required to be given under the provisions of the Nonprofit Corporation Law of 1988, the Articles of Incorporation of this Corporation, or these Bylaws, a waiver of the notice in writing signed by the person or persons entitled to notice, whether before or after the time stated in the waiver, will be deemed equivalent to the giving of the notice.

ARTICLE VIII  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

to: Section 1. Powers. The Board of Directors shall have power

- (a) Adopt and publish rules and regulations governing the use of the Common Property, and the personal conduct of the members and their guests thereon, and to establish penalties for the infractions thereof;
- (b) Exercise for the Association all powers, duties, and authority vested in or delegated to Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (c) Employ such contractors, or employees as they deem necessary and to prescribe their duties.
- (d) Open bank accounts and designate the signature required;
- (e) Collect assessments;
- (f) Enforce by legal means the provisions of the Declaration, these By-Laws and any rules and regulations and bring any proceeding which may be instituted on behalf of the Owners concerning the Association;
- (g) To borrow money for the purpose of the repair or restoration of the Common Property.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members;
- (b) Supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;
- (c) Cause the Common Property to be maintained;
- (d) Issue or cause an appropriate officer to issue, or demand, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be

made for the insurance of these certificates;

- (e) Carry out any other duties imposed by the Declaration.

ARTICLE IX  
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of the Association shall be a President, who shall at all times be a member of the Board of Directors, a Secretary, and a Treasurer.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the membership.

Section 3. Term. The officers of the Association shall be elected annually by the Board, and each shall hold office for one (1) year unless they shall sooner resign, be removed or otherwise disqualified to serve.

Section 4. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Vacancies. A vacancy in any office may be filled by appointments by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 6. Compensation. The President shall not receive any compensation except reimbursement for out-of-pocket expenses. The Secretary and Treasurer may be compensated for their services if the Board of Directors determines that such compensation is appropriate.

Section 7. Duties. The duties of the officers are as follows:

- (a) The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments.
- (b) The Secretary shall record the votes and keep the

minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association, together with their addresses; and shall Perform such other duties as required by the Board.

- (c) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at the regular annual meeting.

#### ARTICLE X CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words "Cherry Brook Homeowners Association".

#### ARTICLE XI AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the membership, by vote of a majority of the membership of the Association, whether present in person or by Proxy, or by written consent of a majority of the membership, except that any By-Laws affecting the rights or interests of the Developer shall not be amended or modified without the written consent of the Developer. In addition, the Federal Housing Administration and/or the Veterans Administration (depending on which, if either, has issued insured mortgages in the project) shall have the right to veto amendments while there is Class B membership; provided, however, that the consent of the agency shall be implied if it fails to submit a response to any written proposal for amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail, with a "return receipt" requested.



ARTICLE XII  
LIMITATION OF LIABILITY AND INDEMNIFICATION

Section 1. Limited Liability of the Board. The Board, and its members in their capacity as members and officers:

- (a) Shall not be liable to the members as a result of the performance of the Board members' duties for any mistake of judgment, negligence or otherwise, except for the Board members' own willful misconduct or gross negligence;
- (b) Shall have no personal liability in contract to a member or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Board or the Association in the performance of the Board members' duties;
- (c) Shall have no personal liability in tort to a member or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Board members' own willful misconduct or gross negligence in the performance of their duties; and
- (d) Shall have no personal liability arising out of the use, misuse or condition of the property and equipment of the Association, or which might in any other way be assessed against or imputed to the Board members as a result of or by virtue of their performance of their duties, except for the Board members' own willful misconduct or gross negligence.

Section 2. Indemnification. Each member of the Board, in his capacity as a Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Board, or any settlement of any such proceeding, which or not he is a Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Board (with the affected member abstaining if he is then a Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Board member and/or officer had

no reasonable cause to believe his conduct was unlawful. The indemnification by the Association set forth in this Section shall be paid by the Association on behalf of the Association. Such right of indemnification shall not be deemed exclusive of any other rights to which such Board member and/or officer may be entitled as a matter of law, agreement, by vote of the members, or otherwise.

Section 3. Insurance. The Board shall have the right to obtain insurance to satisfy the indemnification obligation of the Association set forth above, to the extent reasonably available.

ARTICLE XIII  
MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall be fixed by the Board of Directors from time to time, subject to applicable law.

Section 2. Books and Records. The Association shall keep records and books of accounts and minutes of meetings as well as a list or record of all members. Current copies of the Declaration, By-Laws, Rules and Regulations, books and records and financial statements of the Association shall be available at reasonable times for inspection by any member of the Association, or any lender, holder, insurer or guarantor of any first mortgage, at the Association's principal office, and copies made available at a reasonable cost.

Section 3. Inspection of Books and Records. All books and records of this Corporation may be inspected by any Board Member, or his agent or attorney, for any proper purpose at any reasonable time on written demand under oath stating the purpose of the inspection.

Section 4. Nonprofit Operations. This Corporation will not have or issue shares of stock. No dividend will be paid, and no part of the income of this Corporation will be distributed to its Directors or Officers. However, the Corporation may pay compensation in a reasonable amount to Officers or Directors for services rendered.

Section 5. Conflicts. In the case of any conflicts between the Articles of Incorporation and these By-Laws, the Articles of Incorporation shall control; in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

\* \* \* \* \*

CERTIFICATION

I, the undersigned, hereby certify that:

1. I am the duly elected and acting Secretary of the Cherry Brook Homeowners Association, a Pennsylvania corporation.

2. That the foregoing By-Laws, are the original By-Laws of the Association, having been duly adopted at a meeting of the Board of Directors thereof held on April 15, 1994.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this 6 day of May, 1994.

(SEAL)

Kathleen B. Cooper  
Secretary

**ACKNOWLEDGEMENT**

COMMONWEALTH OF PENNSYLVANIA )  
 ) SS:  
COUNTY OF WASHINGTON )

On this, 15<sup>th</sup> day of April, 1994, before me, a notary public, the undersigned officer, personally appeared Kathleen B. Cooper, who acknowledged herself to be the Secretary of the CherryBrook Homeowners Association, a Pennsylvania corporation, and, as such Secretary, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by herself as Secretary.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

*Cathleen Sobocinski*  
Notary Public

My Commission Expires:

Notarial Seal  
Cathleen Sobocinski, Notary Public  
Peters Twp., Washington County  
My Commission Expires May 6, 1996  
Member, Pennsylvania Association of Notaries

RECORDED  
WASHINGTON COUNTY, PA

94 MAY -9 PM 2:07

*Kathleen Sobocinski*  
RECORDER OF DEEDS



011483

*CherryBrook Homeowners Association*

*P.O. Box 794*

*Bridgeville, PA 15017*

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**New rules, clarifications (from September 1996 to November 1996)**

1. Residents in written, notified violation of the by-laws, covenants, rules and regulations will be charged a \$100 fine after 30 days plus \$10 each day thereafter the violation is not abated. The homeowner has 15 days from receipt of the letter to correct or dispute the infraction. Fines will not be charged for ongoing, **responsible** debate of the infraction.
2. Each townhome resident is responsible for changing the light bulbs in lampposts in their buildings. In the event the bulbs are not changed and the homeowners are notified as such by the board, each resident will be fined, as per the fine structure. Electrical problems in the lamp posts must be brought to the board's attention to be addressed.
3. All residents are only permitted to use a natural wood stain on their decks and a white satin only on the deck railing. Decks may also remain with the natural wood, without a stain.
4. The homeowner's association is only responsible for dead trees within the maintained boundary of the community and not those outside the conservation zone.
5. Association dues are due on the 1st of each month. After 15 days, the monthly fee is increase by 25 percent. After 30 days, an additional 15 percent interest will be added to the full amount.
6. Tie-outs for pets must be either clear cables or brought inside when not in use. The stake must be hidden behind shrubbery so it is not visible from the street. The clear runs should not be visible from the street when not in use, instead it should be coiled and hidden by shrubbery. The runs are not to be left in the grass or across sidewalks. Those tying out their pets should also clean up after their animal.



RULES AND REGULATIONS OF  
CHERRY BROOK

HOME OWNERS ASSOCIATION

LOCATED IN CECIL TOWNSHIP, WASHINGTON COUNTY

The terms herein shall have the same meanings as defined in the Declaration of Covenants, Conditions and Restrictions for Cherry Brook, Deed Book Volume 2578, Page 52. All present and future owners, mortgagees, lessees and occupants of the Units and Lots and their agents, employees and invitees and any other person or entity who or which may use the Property are subject to and bound by these rules, and all amendments thereof.

A. GENERAL

1. The Units and Lots shall be used only for residential purposes.

2. The sidewalks and entrances shall be used only for access to and from the Units and shall not be obstructed.

3. All personal property shall be stored within the Units.

4. Nothing shall be placed on, in or projected from the doors (other than interior doors entirely with a Unit), windows or window sills, including without limitation awnings, aerials, signs, air conditioners, ventilators, or fans, except as approved by the Board. All shades, blinds, drapes, or linings thereof, which may be visible from the exterior of the building shall be a style and color which has been approved by the Board.

5. Nothing shall be done (such as causing noise or odors) which shall unreasonably disturb or interfere with the rights, comfort or convenience of other occupants of the building or adjacent buildings.

6. Garbage and refuse shall be deposited only in the containers specified by the Board and only at such times and in such manner as the Board shall direct.

7. No Owner shall keep any explosive or flammable material or substance in his Unit without the prior written consent of the Board.

8. Damage to any portion of the Property caused by employees, invitees, visitors or licensees of the Owners shall be repaired at the expense of the responsible Owner.

9. No Owner shall make, or permit his employees, visitors or licensees to make, any noise or activity that will interfere with the rights, comfort, or convenience of other occupants.

10. The Board reserves the right to amend these Rules and Regulations as may be required from time to time.

B. PARKING

1. No occupant of any Unit shall abandon any automobile or other vehicle in any parking area or other part of the Common Property or block the access to any parking spaces.

2. No unattended vehicles shall be left at any time in such a manner as to impede access to parking spaces or to impede traffic.

3. Traffic regulations adopted by Board shall be strictly obeyed by the Owners, their agents, servants and employees.

4. All Owners shall observe and abide by all parking and traffic regulations as posted by the Association or by municipal authorities. Vehicles parking in violation of any such regulations may be towed away at the Owner's sole risk and expense.

C. PETS

1. No animals, livestock or poultry of any kind, shall be raised, bred or kept on any lot in the Plan, except that dogs, cats or other household pets may be kept, provided they are not raised, bred or kept for any commercial purpose.

2. Any pet causing or creating a nuisance or unreasonable disturbance or noise shall be permanently removed from the Property subject to these restrictions upon three (3) days' written notice from the Board.

3. In no event shall any dog or cat be permitted on or in any portion of the Common Property unless carried or on a leash. No dogs or cats shall be curbed close to any building or patio, except in the special areas designated by the Board.



4. The owner shall compensate any person hurt or bitten by any pet, and shall hold the Association harmless from any claim resulting from any action of his or her pet.

Adopted this 15<sup>th</sup> day of April, 1994.

ATTEST:

CHERRY BROOK  
HOMEOWNERS ASSOCIATION

*E. L. Moore*

BY: *Terry Bove*

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WASHINGTON COUNTY

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*Kathy...*  
RECORDER OF DEEDS

**ACKNOWLEDGEMENT**

COMMONWEALTH OF PENNSYLVANIA )

) SS:

COUNTY OF WASHINGTON

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