

Section 5.16. **Clothes Drying Facilities.** Outside clothes lines or other facilities for drying clothes or airing clothes shall not be erected, placed or maintained on any Lot unless they are concealed in such a manner so as not to be Visible From Neighboring Property or from streets or from access roads.

ARTICLE VI

ARCHITECTURAL CONTROL COMMITTEE

Section 6.1. **Established and Composition.** There is hereby established an Architectural Control Committee (ACC) which shall consist of two (2) members until the initial members cease to serve and, thereafter, three (3) regular members and one (1) alternative member chosen as set out in paragraph 6.5, below.

The following persons are hereby designated as the initial members:

Name	Address
Steve Glasgow	1512 West 38 th Street Cutoff Suite 300 Austin, Texas 78731
Beverly Lawrence	2412 Jones Road Austin, Texas 78745

Members of the ACC shall serve without salary or pay.

Section 6.2. **Quorum.** A majority of the regular members of the ACC present at a meeting shall constitute a Quorum.

Section 6.3. **Voting and Status of Alternate Members.** Except as otherwise provided herein, a vote or written consent of a majority of the quorum at a meeting or otherwise shall constitute the act of the committee. Except as hereinafter provided, alternate members shall not be entitled to vote. In the event of absence or disability of one (1) or more regular members, the remaining member or members, even though less than a Quorum, may designate an alternate member to act or substitute for the absent or disabled regular member for the duration of such absence or disability. The alternate member so designated shall be entitled to vote in place of the regular member for whom he so substitutes. Notwithstanding the foregoing provisions, the ACC is not authorized to act unless at least one regular member is present, or in the event action is taken without a meeting, unless at least one regular member consents in writing thereto.

Section 6.4. **Terms of office.** The terms of office of ACC Members shall expire on the death, resignation or removal of that designated member.

Section 6.5. **Appointment and Removal.** At such time as Declarant no longer owns more than ten (10) undeveloped Lots or at such time that Declarant records a waiver of the rights herein retained, whichever event occurs first, then the Homeowners Association shall appoint all regular and alternate members of the ACC in accordance with the Bylaws of the Association. If any initial member of the ACC resigns or ceases to serve, that member shall appoint his or her successor.

Section 6.6 . **Resignation.** Any regular member or alternate member of the ACC may resign at any time from the Committee by giving written notice thereof to the Declarant or the Association as the situation requires.

Section 6.7. **Vacancy.** Vacancies on the ACC, however, caused , shall be, except as provided in Section 6.5. of this Article, filled by the Declarant. A vacancy shall be deemed to exist in case of death, resignation or removal of any regular or alternative member.

Section 6.8. **Transfer of Authority to the Association.** The duties, rights, powers and authority of the ACC constituted hereby may be assigned at any time, at the sole election of a majority of the regular members of the ACC, to the Homeowner Association, and from and after the date of such assignment, and the acceptance thereof by the Association, the Association shall have full right, authority and powers, and shall be obligated to perform the functions of the ACC as provided herein (and in the Bylaws of the Association).

Section 6.9. **Address.** The address of the ACC shall be 2412 Jones Road, Ausitn, Texas 78745, or such other place as may from time to time be designated by the ACC by written instrument recorded in real estate records of Williamson County, Texas; and the last instrument so recorded shall be deemed the Committee's proper address.

Section 6.10. **Duties.** It shall be the duty of the of ACC to receive, consider, and act upon all proposals, Construction Plans, complaints, requests for determination , or other matters submitted pursuant to the terms of this Declaration, and to carry out other duties imposed on it by this Declaration.

Section 6.11. **Meetings.** The ACC shall meet from time to time s necessary to perform its duties hereunder. Subject to provisions of Section 6.3 above, and except as otherwise provided herein, the vote or written consent of a majority of the regular members at a meeting or otherwise, shall constitute the act of the Committee. The Committee shall keep and maintain records of all actions taken by it at such meetings or otherwise.

Section 6.12. **Action Without Formal Meetings.** The ACC, in accordance with Section 6.3 and 6.11 thereof, may take action without formal meeting by unanimously consenting in writing on any matter which they might consider at a formal meeting. Such

unanimous written consent shall constitute the act of the Committee. For the purpose hereof, unanimous written consent shall mean a writing by the three (3) regular members of the ACC except as the provision of Section 6.3 may apply.

Section 6.13. Procedure for Submission and Approval of Construction Plan.

- a) Submission and Approval of a Construction Plan, and any fees or deposits associated therewith, shall be in accordance with the Rules promulgated by the ACC, as authorized by Section 6.15 hereof.
- b) If the ACC fails to approve or disapprove any material of Construction Plan submitted to it hereunder within fifteen (15) days after the date shown on the submittal receipt ("Approval Period") or to give notice of its actions as above required, it shall be conclusively presumed that the Committee has approved such material as submitted. If the Committee requests additional or amended materials of an amended Construction Plan ("Amendments") during the initial Approval Period, the Approval Period shall be automatically extended to fifteen (15) days following the date upon which such Amendments have been submitted. If the Amendments are not submitted on or before the date specified by the ACC (or if no time is specified, within (15) days after the Amendments are requested) (the "Amendment Deadline"), then the Construction Plan shall be automatically disapproved. If the Committee approves a Construction Plan on the condition that certain Amendments be submitted ("Conditional Approval"), such Conditional Approval shall expire if the Amendments are not received by the Amendment Deadline.

Section 6.14. Waiver and Estoppel. The approval of the ACC of any Construction Plan, specifications or drawings or any materials accompanying it for matters requiring approval of the ACC shall not be deemed to constitute a waiver of, or create any right of estoppel against, the Committee's right to withhold approval of any similar Construction Plan, drawing, specification or matter subsequently submitted for approval.

Section 6.15. ACC Rules.

- a) The ACC shall have the authority to adopt, amend, add to, replace and rescind, from time to time, procedural or substantive rules to make more definite and certain, and to carry out the purpose of and intent of the provisions of this Declaration. Any conflict between such rule and provision of this Declaration shall be resolved in favor of the provision of this Declaration. A copy of such rules, as in effect from time to time, shall be provided to any Owner requesting the same in writings.

- b) Unless and until a political subdivision of the State of Texas regulates such matters by law, the rules promulgated by the ACC may include building codes governing all types of construction on the Property, a fire code, a housing code, and other similar codes as the ACC deems necessary and desirable. To the extent possible, these codes shall (i) be performance based, (ii) encourage the use of new technologies, techniques and materials, and (iii) be compatible with the codes of the City of Round Rock or the Uniform Building Code.

Section 6.16. **Decision Conclusive.** All decisions of the ACC shall be final and conclusive, and no Owner or any other person, association or entity shall have any recourse against the refusal to approve all or any portion of a Construction Plan or other request by a Lot or unit Owner or of any materials submitted therewith, or for any other decision rendered under the authority of this Declaration.

Section 6.17. **Liability.** Neither the ACC nor any member thereof shall be liable to any Owner, or any other person, association, or entity, for any damage, loss of prejudice suffered or claimed on account of: (i) the approval or disapproval of any Construction Plan or any materials submitted therewith, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to an approved Construction Plan or request or any materials submitted therewith; (iii) the development of the Property; (iv) the structural capacity of safety features of the proposed Improvement or Structure; (v) whether or not the location of the proposed Improvement or Structure on the building site is free from possible hazards from flooding, or from any other possible hazards whether caused by conditions occurring either upon or off the Property; (vi) compliance with governmental laws, ordinances, and regulations; (vii) any decision made or action taken or not taken under the authority of this Declaration; or (ix) the execution and filing of any estoppel certificate, whether or not the facts therein are correct; provided, however, that with respect to the liability of a member, such member has acted in good faith on the basis of such information as may be possessed by him.

Section 6.18. Any Owner may submit an application to the ACC requesting a modification or waiver of any requirement contained in Article IV of this Declaration or of the ACC rules applicable to any Improvement is use of any Lot ("Request for Waiver"). Each Request for Waiver shall contain such information as the ACC may prescribe, and shall affirmatively show that the requirement(s) that is the subject of the Request for Waiver would create an unnecessary and undue hardship, and that its modification or waiver would not be detrimental (aesthetically, economically, or otherwise) to the Owner of any other Lot. The ACC may establish any terms and condition, fees, and/or procedures governing the application process for such Requests for Waiver. The ACC may in its sole discretion approve or disapprove (in whole or in part) any Request for Waiver. The ACC may decide the matter upon the Request for Waiver and any materials or written statements accompanying it, or may allow oral presentation in support of, or in opposition to the Request for Waiver prior to the decision, at its

discretion. The ACC shall render a decision in writing, which decision need not contain any reasons, findings, or conclusions for the decision and shall forward one copy to the owner filing the Request for Waiver, and retain one copy in its records. Without limiting the general applications of such section, the provisions of Section 6.16 and 6.17 of this Article shall apply to the actions and the decisions of the ACC and its members under this section.

Section 6.19. Governmental Agency Approval. Nothing in this Declaration shall relieve or be interpreted as purporting to relieve any Owner from also securing such approval(s), certificate(s) or permit(s) of any governmental agency or entity with jurisdiction as may be required by law as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the Committee may require that a copy of such approval(s), certificate(s), or permit(s) be provided to the Committee as a condition for approval of any Construction Plan, or as an additional assurance to the Committee that the improvements and uses of an approved Construction Plan meet governmental requirements, or for both such purposes.

ARTICLE VII

THE WESTCHESTER PARK HOME OWNERS ASSOCIATION

Section 7.1. The Association. The Declarant shall cause the formation and incorporation of the Association as a non-profit corporation organized and existing under the Texas Non-Profit Corporation Act, charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation, Bylaws, and this Declaration. Neither the Article of Incorporation or Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

Section 7.2. Membership. The Owner of each Lot or Unit, whether such Owner one or more persons or entities, shall, upon and by virtue of becoming such owner, automatically become a member of the Association and shall remain a member thereof until his ownership ceases for any reason at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the legal ownership of each Lot or Unit and may not be separated from such ownership. Whenever the legal ownership of any Lot or Unit passes from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Association, and no certificate of membership will be issued. Notwithstanding the above, however, before a Lot or Unit may be conveyed, the Owner must obtain a certificate a good standing from the Association, stating, that the dues for the Lot or Unit are current. The fee for such certificate shall be established by the Association, but initially shall be \$15.00 per certificate (whether for one or more Lots or Units).

Section 7.3. Voting. The Owners shall be entitled to one (1) vote per Unit owned. If more than one person holds an interest in any Unit, all such persons shall be members of the Association; and the vote for such multiply-owned Unit shall be exercised as the Owners among themselves determine, but in no event shall be more than one (1) vote be cast with respect to any Unit. If an Owner owns a Lot which has not been legally divided into two (2) Units, then the Owner of that Lot will be entitled to two (2) votes.

Section 7.4. Quorum for Membership Action. With respect to any annual or special "general" membership meeting of the Association, at the first call of such meeting, the presence at the meeting in person or by proxy of 66% of the total votes of the membership shall constitute a quorum. If the required quorum is not forthcoming, at such meetings, the meeting may be adjourned to a new date not more than seven (7) days from the current date and the required quorum at such meeting shall be one-half (1/2) the required quorum at such meeting immediately proceeding. This procedure shall be continued until a quorum has been obtained; provided, however, that such reduced quorum shall not be applicable at a subsequent meeting held more than sixty (60) days following the originally scheduled meeting.

Section 7.5. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officer as the Directors may elect or appoint, in accordance with the Article of Incorporation and Bylaws, as the same may be amended from time to time.

Section 7.6. Powers and Duties of the Association. The Association shall have such rights, powers and duties as set forth in the Articles of Incorporation and Bylaws, as the same may be amended from time to time.

Section 7.7. Personal Liability. No member of the Board of Directors or any Committee of the Association, or any of the Officers of the Association, shall be personally liable to any owner, or any other party including the Association for any act, omission, error or negligence of the Association, the Board of Directors or any other representative or employee of the Association; provided, however that such person has, upon the basis of such information as may be possessed by him, acted in good faith, without willful or intentional misconduct.

Section 7.8 Assessments. The Association shall have the right to make assessments in accordance with his Declaration and subject to the provisions of Section 7.9 (limitation) hereof. The use of assessments levied by the Association shall be limited to those expenses reasonably necessary for the performance of the duties and function of the Association and the Association shall have not right to assess for, nor to create, any recreational activities, Improvements or Structures, including, but not limited to, swimming pools, tennis courts, golf courses, country clubs, and other similar recreational facilities.

Section 7.9. **Limitation on Annual Assessment.** Until changed by the Association in accordance with the Bylaws and this section, the maximum annual assessment each Lot shall be \$300.00 per Unit or \$600.00 per Lot.

- a) On January 2nd of each year, or at such other time as the Board of Directors deems appropriate, the Board of Directors may set the annual assessment for the calendar year at whatever level they deem appropriate within the limitation set forth above.
- b) Until such time as the Board of Directors set the annual assessment for each Unit, the annual assessment shall be \$50.00 per Lot (\$25 per Unit).
- c) Once the annual assessment has reached the maximum level set out in Section 7.9, above, the Board of Directors may increase the annual assessment by a maximum of 20% of the then current assessment in any given year. Further, such percentage increases are not cumulative and may be prospective only.
- d) Any increase in assessment not provided for in this section must be made by the Association as a whole, in the same manner as an amendment to the Articles of incorporation of the Association.

Section 7.10. **Collection of Assessments.** The annual assessments referred to above shall be due within thirty (30) days from the date the amount of such annual assessment is set by the Board of Directors. Said assessment shall be subject to the provisions of Section 8.16 and the other enforcement provisions hereof.

Section 7.11. **Succession in Interest.** At such time as the regular members of the ACC or the Declarant shall elect, in accordance with the provisions of Section 6.8 hereof, the Association shall, when applicable, assume administration of the ACC in accordance with the Article of Incorporation and the Bylaws of the Association.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.1. **Cost of Performance.** Cost and expense in performing any obligation or responsibility in the Declaration shall be borne by the person, association, or entity charged with such performance or responsibility and shall be subject to the provisions of Section 8.16.

Section 8.2. **Extension of Time for Performance.** If the performance of any act or obligation by the Declaration is prevented or hindered by the act of God, war, labor disputes or other cause or causes beyond the control of the person, association or entity responsible for such performance, then the time for performance of such act or obligation

will be extended for the period that such performance was prevented or delayed by such cause; provided, however, this provisions shall not apply to the payment of any fees or assessments.

Section 8.3. **Breach not Ground for Rescission.** No breach or continuing breach of the restrictions, covenants, conditions, duties, or obligations imposed, allowed or granted by this Declaration shall be grounds for cancellation, termination or rescission of the Declaration or of any provision thereof.

Section 8.4. **Notice Before Enforcement.** Except where damage or injury to persons or Property is imminent as a result of the performance, or failure to perform, or the defective performance of any obligation imposed or restricted by this Declaration or where animals are involved, no proceeding for the enforcement of the restrictions, covenants, conditions, right and duties imposed, allowed or granted by this Declaration shall be commenced until ten (10) days written notice of wrongful performance, defective performance or failure of performance, is given to the person, association, or entity responsible for such performance, and the failure of such notice shall be deemed to e given if deposited in the U.S. Mail, mailed postage prepaid, certified, returned receipt requested and said ten (10) days shall commence with the date of posting thereof.

Section 8.5. **Enforcement.** Declarant, ACC, Association or any Owner shall have the right to enforce by proceeding, at law or in equity, for damages or for injunction or both, all restrictions, covenants, conditions, rights and duties imposed, allowed, or granted by the provisions of this Declaration. In any such proceeding, the prevailing parties shall be entitled to recover cost and expenses and shall be subject to the provisions of Section 8.16. Failure by Declarant, ACC, Association or Owner to enforce any restriction, covenant, condition, duty or right herein contained shall in no event be deemed a waiver of the respective right to do so at a later date.

Section 8.6. **Attachment of Covenant on Resale or Remodel.** The Declaration shall attach following the lease or resale of the Property or any Lot or Unit and any remodeling or other alteration of any Improvement must be approved by the ACC through the Construction Plan process.

Section 8.7. **Deviation from Approved Plan.** All Construction Plans approved in writing by the ACC must be complied with and any deviation, change or alteration not in compliance with the said Plan must be further approved in writing by the ACC, violation hereof shall be subject to enforcement in accordance with the provisions of this Declaration.

Section 8.8. **Covenants to Run With the Land.** The restrictions, easements, covenants, conditions, rights and duties of this Declaration shall run with and bind the land within the Property as defined herein, and shall inure to the benefit of the Owner of any Lot therein, their respective legal representatives, heirs, successors and assigns for a term of forty (40) years from the date this Declaration is recorded in the real property

records of Williamson and Travis Counties, Texas, after which time such restrictions, easements, covenants, conditions, rights and duties shall automatically be extended for successive periods of ten (10) years.

Section. 8.9. **Modification or Reveal During Initial Term.** Any of the provisions of this Declaration may be amended or repealed during the initial forty (40) year term by a recorded written instrument, executed and acknowledged by the Declarant and the Owners of not less than 66% of the Units.

Section 8.10. **Modification or Repeal During Extension Terms.** Any of the provisions of this Declaration may be amended or repealed during any extension term (ten years) by recorded written instrument executed and acknowledged by the Declarant and the Owners of not less than 51% of the Units.

Section 8.11. **Severability.** Invalidation of any of the provision hereof by a final judgment or decree of any court shall in no way affect or impair the validity of any other provision hereof.

Section 8.12. **Joint and Several Obligation.** The terms of this Declaration in effect on the day of any lease or recording of a sheriff's deed, trustee's deed, deed in lieu of foreclosure, other deed, other order or decree declaring, settling or confirming title, pursuant to which one or more persons, associations or entities becomes a Lessee or an Owner as hereinafter defined, shall be binding upon such Lessee or new Owner, and such Lessee or new Owner shall be jointly and severally liable with his Lessor or the immediately prior Owner for any continuing performance, failure of performance or defective performance or any act or obligation restricted or imposed hereunder.

Section 8.13. **No Dedication.** Nothing contained in this Declaration shall be deemed or interpreted to intend a gift or dedication of any portion of the Property to the general public or for any public purpose whatsoever, such intent being hereby expressly disavowed.

Section 8.14. **Successors.** Deeds of conveyance of any Lot may contain the provisions, restrictions, covenants and conditions contained herein by reference to this Declaration; however, whether or not such reference is made in any or all said deeds, by becoming an owner, for himself or itself, his or its heirs, personal representatives, successors, transferees and assigns, to all the provisions, restrictions, covenants and conditions now or hereafter imposed by or under the authority of this Declaration and any amendments thereof.

Section 8.15. **Assignment of Rights and Obligations of Declarant.** The rights of Declarant hereunder are fully assignable to any person, association or entity and any and all obligations and duties of Declarant are fully delegable and assignable to any person, association or entity.

Section 8.16. Enforcement by Lien. There is, to the full extent permitted by law, hereby created a claim of lien, with power of sale, on each and every Lot or Unit within the Subdivision to secure payment of any and all monies charged or levied against any Owner for failure to comply with the restrictions, covenants, conditions, rights and duties imposed, allowed, or granted by the provisions of this Declaration. Such lien shall arise upon the failure of the Owner to pay any monies charged or levied pursuant to this Declaration within thirty (30) days of the date on which the Owner receives written notice of the charge. Each such default or violation shall constitute a separate basis for a demand or claim of lien or a lien, but any number of such defaults may be included within a single demand or number of such defaults may be included within a single demand or claim of lien. The Declarant, the ACC or the Association may elect to file such a claim of lien on behalf of the Declarant, the ACC or the Association against the Lot or Unit of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by an officer of Declarant, regular member of the ACC or officer of the Association, and shall contain substantially the following information:

- a) the name of the delinquent Owner;
- b) the legal description and street address of the Lot or Unit against which the claim of lien is made; and
- c) the total amounts claimed to be due and owing for the unpaid amount, interest thereon, collection cost and reasonable attorney's fees (with any proper offset allowed).

Upon recordation of a duly executed original copy of such claim of lien, and mailing a copy thereof to said Owner, the lien claimed therein shall immediately attach and become effective in favor of the Declarant, the ACC or the Association as lien upon the Lot of Unit against which the charge was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except only tax liens for real property taxes in any Lot, assessment on any Lot in favor of any municipal or governmental assessing unit, and the liens which are specifically described in Section 8.17 hereafter. Any such lien may be enforced and foreclosed by appropriate action in a court or in a manner provided by law for foreclosure of a mortgage or trust deed as set forth by the laws of the State of Texas, as the same may be changed or amended from time to time, including foreclosure sale and deficiency decree. The lien provided for herein shall be in favor of the Declarant and/or the ACC or the Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Lot or Unit. In the event such foreclosure is by action in a court, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a Lot or Unit in the Subdivision, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner.

Section 8.17. **Subordination of Lien to Mortgages.** The lien as provided for in Section 8.16 above, shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot or Unit shall not affect said lien; however, the sale or transfer or any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such sale or transfer; provided, however, that such foreclosure or proceeding in lieu thereof shall not extinguish or in any way affect the personal liability of the then record Owner of any such Lot or Unit. No sale or transfer shall relieve such Lot or Unit from liability for any charges thereafter becoming due or from the lien thereof.

Section 8.18. **Word of Meaning.** The words such as "herein," "hereinafter," "hereof," "hereunder," and "hereinabove" refer to this Declaration as a whole and not merely to a section or paragraph or article in which such words appear unless the context otherwise requires. Singular shall include the plural, and the masculine gender shall include the feminine and neuter and vice versa unless the context otherwise requires.

Section 8.19. **Captions and Section Headings.** The captions and heading of various articles, sections, paragraphs or subparagraphs of this Declaration are for convenience only, and are not to be considered as defining or limiting in any way the intent of the provisions hereof or thereof.

Section 8.20. **Covenants to Pay Assessment and Conditions Creating Lien.** Each Owner of any Lot or Unit, his heirs, executors, successors, administrators and assigns, by acceptance of a deed of thereof, or by entering into a contract of purchase therefor, whether or not it shall be expressed in any such deed, contract of purchase, or other conveyance, hereby covenants and agrees:

- a) That he will pay to the Association the assessment and charges, if applicable, assessed by the Association in each year; and
- b) That the assessment together with the contributing obligation to pay all future assessments, assessed in all future years, shall be and remain a charge against and continuing lien upon the assessable Property.

Section 8.21. **Owner's Liability for Payment of Assessment.** In addition to taking subject to the charge and lien imposed by Section 8.16 hereof, each Owner of each Lot or Unit by the Acceptance of a deed thereof or by entering into a contract of purchase therefor, whether or not it shall be so expressed in such deed or contract for purchase as part of the consideration of said deed, shall be deemed to have covenanted, bargained and agreed to be personally liable for the payment of each assessment, which is assessed by the Association during any year in which Owner hold title to said Lot or Unit.

ARTICLE IX

EASEMENTS

Section 9.1. **Exiting Easements.** The Subdivision Plat will dedicate for use as such, subject to the limitation set forth therein, and herein, certain streets, rights-of-way and easements shown thereon, and such Subdivision Plat will establish dedications, limitations, reservations and restrictions applicable to the Property. Furthermore, Declarant and Declarant's predecessors in title may, prior to the Property becoming subject to this Declaration, grant, create and dedicate by recorded instrument(s) certain other easements, restrictions, right-of-way and related rights affecting the Property. All dedications, limitations, restrictions and reservations shown on the Subdivision Plan and all grants and dedications of easements, right-of-way and restrictions, related rights made by the Declarant or Declarant's predecessors in title, prior to the Property becoming subject to the Declaration, are incorporated herein by reference and made part of this Declaration for all purposes, as if fully set forth herein, and shall be construed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property.

Section 9.2. **Changes and Additions.** Declarant reserves the right to make changes in and additions to the above easements and rights-of-way for the purpose of most efficiently and economically installing the Improvements. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purpose, including without limitations, gas, water, electricity, telephone and drainage, in favor of any person or entity, along and on either or both sides of any Lot line, which such easement shall have maximum width of 7.5 feet on each side of such Lot line.

Section 9.3. **Easement for Access by Declarant, Homeowners' Association, or ACC.** The Declarant, the ACC and the Association shall have the right and permanent easement to enter upon any and all Lots in the Subdivision for mowing and landscape maintenance, and maintenance, repair, removal of drainage obstructions and for inspections as to compliance of these covenants. The Declarant, the ACC and the Association shall have the right to enter any Lot for the Purpose of correcting any violation of any covenant herein.

Section 9.4. **Surface Areas.** The surface of easement areas for underground utility services may be used for planting or shrubbery, trees, lawn or flowers. However, neither the Declarant nor any supplier of any utility service using the easement area shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

Westchester Park Town Homes

RESTRICTIONS

Section 5.1. Animals, Household Pets. No animals, including pigs, hogs, swine, poultry, fowl, wild animals, horses, cattle, sheep, goats, or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on the Property. No animal shall be allowed to make an unreasonable amount of noise, or to become a nuisance, and no domestic pets, except cats, will be allowed on the Property other than the lot of its owner unless confined to a leash or under voice control. Upon written request of any Owner, the Homeowners Association shall conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether an animal is being allowed to run at large or whether an animal is a nuisance. The decision of the Homeowners Association is final, conclusive and shall be enforced as other restrictions contained herein. No animal may be stabled, maintained, kept, cared for or boarded for hire or remuneration on the Property and no kennels or breeding operation will be allowed.

Section 5.2. Hunting/Trapping/Firearms. Hunting, trapping and discharge of firearms are expressly prohibited within the subdivision.

Section 5.3. Dumping. Dumping of ashes, trash, rubbish, sawdust, garbage, land fill, solid waste and any type of refuse and other unsightly or offensive material is expressly prohibited within the Subdivision. Composting shall be permitted only of vegetation matter and only if such composting is: (i) Confined to an area to the rear of the house and in a receptacle approved by the ACC, (ii) not visible from Neighboring Property or from any street, and (iii) maintained in an unoffensive manner.

Section 5.4. Waste. The commission of waste is expressly prohibited within the Subdivision.

Section 5.5. Mineral Exploration. No mining, quarrying, tunneling, excavation or drilling for exploration or removal of any minerals including oil, gas, gravel, rocks, earth or earth substances of any kind shall be permitted within the Subdivision.

Section 5.6. Business Activities. No business or commercial activity to which the general public is invited shall be conducted within the Subdivision.

Section 5.7. Obnoxious Activities. No nuisance, obnoxious or offensive activities shall be carried on on any Lot or Unit, nor shall any rubbish or debris of any kind be placed or

permitted to accumulate on or adjacent to any of the Property within the Subdivision, and no odors shall be permitted to arise therefrom, so as to render any such Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no exterior speakers, horns, whistles, bells or any other devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Property which are audible from neighboring Property.

Section 5.8. Garbage. No garbage or trash shall be placed or kept on any Lot except in covered containers of standard type. In no event shall such containers be maintained so as to be Visible from Neighboring Property. All rubbish, trash, and garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No incinerator shall be kept or maintained on any Lot. No garbage or trash shall be permitted to be buried on any Lot at any time.

Section 5.9. Vehicles and Equipment. No bus, truck larger than 3/4 ton pickup, semi-trailer, tractor, machinery or equipment shall be kept, placed, maintained, constructed, reconstructed, or repaired on the Property (except during the course of making deliveries for the purpose of loading and unloading). No motor vehicle or trailer of any type shall be constructed, reconstructed, or repaired on the Property in such a manner as will be visible from Neighboring Property. Motor homes, recreational house trailers, horse trailers, truck campers, boats, boat trailers and recreational vehicles of any sort or type which are intended to be kept on the Property by the Owner must be placed in such a manner that they will not be Visible From Neighboring Property or from streets or access roads. No motorized vehicle of any kind may be operated in any manner which is dangerous, noisy or which creates a nuisance.

Section 5.10. No Overnight Parking. No vehicle of any kind shall be allowed to park overnight on any street within the subdivision.

Section 5.11. Emergency or Temporary Maintenance Vehicles. The provisions of this Declaration shall not prevent any emergency vehicle repairs or operation of emergency vehicles, including but not limited to ambulances, fire engines, police cars, within the Subdivision. The provisions of this Declaration shall also not prevent the operation or temporary use of construction trailers, vans, or other trucks, machinery/equipment, construction shelters or facilities maintained during and used exclusively in connection with the construction of any Improvement approved in writing by the ACC.

Section 5.12. Motorcycles. The use of motorcycles and any motorized vehicles shall be limited to those which: have been approved; that are legal for street use; have mufflers installed in good condition; and which limit the exhaust noise to not more than 80 decibels, ten (10) feet from the end of the exhaust pipe. Such use shall be limited to the public streets. No off-road use of any motorcycles shall be allowed within the Subdivision..

Section 5.13. Continuing Adequacy of Repair or Maintenance. No building or structure upon the Property within the Subdivision shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and

adequately painted or otherwise finished. Such duty to repair shall include the maintenance of any exterior Structures and finish which was included in the Construction Plan and approved in writing by the ACC.

Section 5.14. Service Yards and Storage Yards. Any wood pile shall be located so as not to be Visible from Neighboring Property or streets or access roads. Any Structure of a permanent nature is to be built with regard and approved in writing by the ACC.

Section 5.15. Maintenance of Lawns and Plantings. Each Owner shall keep all shrubs, trees, grass and plantings of every kind on his Lot or Unit including setback areas, utility easements, drainage easements, right-of-way or other Property, public or private, on which such Owner's Property abuts properly cultivated, pruned, free of trash and other unsightly material. Declarant, the Association and the ACC shall have the right at any reasonable time to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located therein, at cost to Owner.

The Homeowners Association shall mow, trim and maintain all front yards for all Units on the Property landscaping and signs in common areas. The Homeowners' Association shall pay for same from the funds of the Homeowners' Association. Maintenance shall not include watering, seeding or planting of grass.

Section 5.16. Clothes Drying Facilities. Outside clothes lines or other facilities for drying clothes or airing clothes shall not be erected, placed or maintained on any Lot unless they are concealed in such a manner so as not to be Visible From Neighboring Property or from streets or form access roads.