

DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS

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DECLARATION OF COVENANTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS

Declaration made as of this ____ day of _____ 198__ by John Lawrence Real Estate Development Corp., a New York Corporation with offices at Shore Road, West Bay Shore, New York, hereinafter referred to as “Developer.”

W I T N E S S E T H:

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and shown on the filed subdivision map which Declarant desires to develop as a residential community with various permanent open spaces and other common facilities for the benefit of said Community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said Community and for the maintenance of the recreational land, open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; 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 and administering the Community property and improvements and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated Captain’s Walk of West Bay Shore Home Owners Association. Inc, under the not-for-profit corporation laws of the State of New York for the purpose of exercising the aforesaid functions;

NOW THEREFORE, the Developer, for itself, its successors and assigns, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as “covenants and restrictions”) hereinafter set forth.

ARTICLE I. DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration shall, unless the context otherwise prohibits, have the meanings set forth below:

(a) “Association” shall mean and refer to Captain’s Walk of West Bay Shore Home Owners Association, Inc., a New York not-for-profit corporation.

(b) “The Properties” shall mean and refer to all such existing properties as are subject to this Declaration.

(c) “Home” shall mean and refer to all units of residential housing situated upon The Properties.

(d) “Owner” shall mean and refer to the record owner of fee simple title to any home, including the Developer with respect to any unsold home. Every Homeowner shall be treated for all purposes as a single owner for each home held, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, majority vote of such owners shall be necessary to cast any vote to which such owners are entitled.

(e) “Member” shall mean and refer to each holder of membership interest in the Association, as such interest is set forth in Article III.

(f) “Development” shall mean Captain’s Walk of West Bay Shore, a 26 home development being constructed on The Properties.

(g) “Developer” shall mean and refer to John Lawrence Real Estate Development Corp., a corporation and its successors and assigns, if such successors and assigns should acquire an undeveloped portion of the Properties from the Developer for the purpose of development.

(h) “Common Properties” or “Common Areas” shall mean and refer to certain areas of land other than individual lots as shown on the filed subdivision map and intended to be devoted to the common use and enjoyment of the owners of the Properties.

(i) “Party Wall” shall mean and refer to the entire wall, from front to rear, all or a portion of which is used for support and each adjoining property, situate or intended to be situate, on the boundary line between adjoining properties.

(j) "Lot" shall mean and refer to any plot of land intended and subdivided for residential uses shown on the subdivision map of the Properties but shall not include the Common Areas as herein defined.

ARTICLE II. PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Properties. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all that certain plot, piece or parcel of land situate, lying and being in West Bay Shore, Town of Islip, County of Suffolk and State of New York, being more particularly bounded and described in Schedule A annexed hereto.

ARTICLE III. MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

The Association shall have one class of membership interest. The owner of each dwelling unit on The Properties subject to this Declaration shall be a member whether such unit is a detached home, townhouse, or any other type of residential housing.

Each member is entitled to one vote for each Home in which they hold a membership interest. When more than one person or entity holds such interest in any Home, the one vote attributable to such Home shall be exercised as such persons mutually determine but not more than one vote may be cast with respect to any such Home. No member shall split or divide its votes on any motion, resolution or ballot.

ARTICLE IV. PROPERTY RIGHTS IN THE PROPERTIES

Section 1. Members Easement of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Properties and such easement shall be appurtenant to and shall pass with the title to every Home.

Section 2. Title to Common Properties. Prior to conveyance of title to the first Home on the Properties, the Developer shall convey to the Association legal title to the Common Properties subject, however, to the following covenant which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the development, the Common Properties and all facilities now or hereafter built or installed thereon, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Properties shall include, but not be limited to, the repair of damage to roadways, walkways, buildings, pool, pool area, outdoor lighting and fences, landscape maintenance, exterior home and building maintenance to all homes which will include painting exterior and roof repair.

This section shall not be amended, as provided for in Article XII, Section 2, to reduce or eliminate the obligation for maintenance and repair of the Common Properties.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, as provided in its By-Laws to suspend the enjoyment rights of any Member for a period during which any assessment remains unpaid and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(b) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties. This right shall not be exercised for a period of two years from the recording of the Declaration and after this period only by a vote of 66-2/3% of the Members.

(c) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members and their mortgagees entitled to cast eighty (80%) percent of the eligible votes has been recorded agreeing to such dedication, transfer, purpose or condition and unless written notice of the action is sent to every Member at least ninety (90) days in advance of any action taken.

(d) The right of the Developer and of the Association to grant and reserve easements and rights-of-way, in, through, under, over and across the Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, cable television and other utilities, and the right of the Developer to grant and reserve easements and rights-of-way, in, through, under, over, upon and across the Properties for the completion of the Developer's work under Section 1 of Article V.

ARTICLE V. DEVELOPMENT OF CAPTAIN'S WALK OF BAYSHORE

Section 1. Captain's Walk of Bay Shore. Developer intends to build 26 Homes on approximately 5.572 acres of land comprising part of the Properties.

Section 2. Easement. Developer does hereby establish and create for the benefit of the Association and for all Owners from time to time of Homes subjected to this Declaration and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges:

(i) Right-of-way for ingress and egress by vehicles or on foot, in, though, over, under and across the streets, roads and walks in the Properties (as shown on the filed map as they may be built or relocated in the future) for all purposes;

(ii) Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of the Properties.

Section 3. Reservation of Easements. Developer reserves the easements, licenses, rights and privileges of a right-of-way in, though, over, under and across The Properties, for the purpose of completing its work under Section 1 above and towards this end, reserves the right to grant and reserve easements and rights-of-way in, though, under, over and across the Properties, for the installation, maintenance anti inspection of lines and appurtenances for public or private water, sewer, drainage, cable television, electric and other utilities and for any other materials or services necessary for the completion of the work. Developer also reserves the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the streets and roads of other areas of The Properties. Finally, Developer reserves the right to continue to use The Properties

and any sales offices, model homes, signs and parking spaces located on The Properties, in its efforts to market homes constructed in the Properties. This paragraph may not be amended without the consent of Developer.

Section 4. Encroachments on Lots. In the event that any portion of any roadway, walkway, parking area, driveway, water lines, sewer lines, utility lines, sprinkler system, building or any other structure as originally constructed by Developer encroaches on any lot or the Common Areas, it shall be deemed that the owner of such lot or the Association has granted a perpetual easement to the owner of the adjoining lot or the Association as the case may be for continuing maintenance and use of such encroaching roadway, walkway, driveway, parking area, water line, sewer line, utility line, sprinkler system, building or structure. The foregoing shall also apply to any replacements of any such roadway, walkway, driveway, parking area, water lines, sewer lines, utility lines, sprinkler system, building or structure if same are constructed in substantial conformance to the original. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

ARTICLE VI. COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation. The Developer, for each Home owned by it within The Properties, hereby covenants and each Owner of any Home by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association such assessments as are fixed by the Association's Board of Directors and assessed to the Members as hereinafter provided. All sums assessed to the Association but unpaid, together with such interest thereon as is hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property owned by such Member against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, as hereinafter provided shall be a personal obligation of the person who was the Owner or such property at the time when the assessment fell due.

Section 2. Purpose of the Assessment. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties as a community and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the Homes situated upon The Properties, including without limiting the foregoing, and payment of taxes (if any) and insurance thereon and repair, replacement and additions thereto, and the cost of labor, equipment, materials, services, management and supervision thereof.

Section 3. Assessments. The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Member prior to assessing the Members thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board. The total annual requirements and any supplemental requirements shall be allocated between, assessed to and paid by the Members as follows:

Each Member shall pay a portion of said requirements the numerator of which shall be one (1) and the denominator of which shall be equal to the number of Homes on the Properties subject to this Declaration (26). The Developer's obligation for such assessments on unsold Homes subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including reserves on the Common Properties and on Homes to which title has been conveyed and the assessments levied on owners who have closed title on their homes. In no event, however, will the Developer be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying assessments on unsold Homes. The sum due the Association from each individual Home Owner shall constitute an assessment of the Board of Directors and unpaid assessments shall constitute liens on the individual Homes, subject to foreclosure as hereinafter provided.

Section 4. Due Dates; Duties of the Board of Directors.

All Assessments shall be payable monthly in advance as ordered by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Home and shall prepare a roster of the Homes and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member. Upon the written request of a Member or his mortgagee, the Board shall promptly furnish such Member or his mortgagee with a written statement of the unpaid charges due from such Member.

Section 5. Effect of Non-Payment of Assessment, The Personal Obligation of the Member; The Lien, Remedies of the Association. If an assessment is not paid on the date when due, as fixed by the Board of Directors, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Member's Home which shall bind such

property in the hands of the Member, his heirs, devisees, personal representatives and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens on the Home by the taxing subdivision of any governmental authority, including but not limited to State, County, and School District taxing agencies; and (b) all sums unpaid on any first mortgage of record encumbering the Home. The personal obligation of the Member who was the Owner of the Home when the assessment fell due to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the maximum permissible rate in the State of New York and the Association may bring an action at law against the Member or former Member personally obligated to pay the same or to 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 above provided and reasonable attorney's fees to be fixed by the court together with the cost of the action.

ARTICLE VII. ARCHITECTURAL CONTROL

No building, fence, wall or other structure, or change or alteration to the exterior of the Homes or in the landscaping (except in the areas adjacent to each Home) shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, materials, color and locations 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, or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The provisions of this paragraph shall not apply to Developer. As set forth in Article VIII, Section 7(d) of the Association By-Laws, a two thirds majority of the Board of Directors or Architectural Committee shall be required for approval of any addition, change or alteration.

ARTICLE VIII. PARTY WALLS OR PARTY FENCES

Section 1. General Rules of Law to Apply. To the extent

not inconsistent with the provisions of this Article VIII, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions, shall apply to each party wall or party fence which is built as part of the original construction of the Homes upon The Properties and any replacement thereof.

In the event that any portion of any structure, as originally constructed by Developer, including any party wall or fence, shall protrude over an adjoining lot, such structure, party wall or fence shall not be deemed to be an encroachment upon the adjoining lot or lots, and Owners shall neither maintain any action for the removal of a party wall or fence or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that said Owners have granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection, party wall or fence. The foregoing shall also apply to any replacements of any structures, party walls or fences if same are constructed in conformance with the original structure, party wall or fence constructed by Developer. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or party fence shall be shared equally by the Owners who make use of the wall or fence in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall or party fence is destroyed or damaged by fire or other casualty, any Owner who has used the wall or fence must restore it, and if the other Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners 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 provisions of this Article, an Owner who by his negligent or willful act 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 successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall or party fence, or under the provisions

of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. The decision of the arbitrators shall not, however, be binding and conclusive upon the parties and any party to the dispute shall thereafter have the right to institute any action or proceeding, at law or equity, which he deems necessary or desirable.

ARTICLE IX. EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. In addition to maintenance of the Common Areas, the Association shall provide exterior painting to each Home which is subject to assessment under this Declaration, and maintenance of the roof on such homes. The Association, shall also be responsible for landscape maintenance and snow removal on the Properties (except for patio areas), maintenance of the walks, parking spaces, roadways and facilities comprising the Common Properties and maintenance of any pipes, wires or conduits located outside of any Home. With respect to the sewage system, the Association will be solely responsible for maintenance of all on site sewers in the Development to the point of connection with the Sewer District. The Association will comply with rules and regulations of the Sewer District as they exist or as they may be revised or amended in the future.

Section 2. Disrepair of Lots. In the event the Owner of any Home in The Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors of the Association, including but not limited, where such maintenance functions are not otherwise directed by the provisions of this Declaration to be performed by the Association, to structural and exterior maintenance of the roof, siding and fascia of the Home or other buildings, structures or improvements constructed on the lot, maintenance of walkways, driveways, parking spaces and roadways (including snow removal), upon direction of the Board of Directors, it shall have the right, through its agents and employees to enter upon the lot upon which said Home is located and to repair, maintain and restore the lot and the buildings and any other improvements erected thereon. The cost of such maintenance shall be added to and become part of the assessments to which such Home is subject.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the maintenance required by this Article the Association, through its duly authorized agent and employees, shall have the right on notice to enter upon any Home Owner's lot at reasonable hours, on any day except Sundays and holidays (except that in an emergency situation such notice need not be given).

ARTICLE X. INSURANCE

Section 1. Common Areas. The Board of Directors shall maintain public liability insurance, to the extent obtainable, covering each association Member, lessee and occupant and the managing agent, if any, against liability for any negligent act of commission or omission attributable to them which occurs on or in the Common Properties. To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance: (a) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities on the Common Properties, in an amount equal to their full replacement values and (b) workmen's compensation insurance. All insurance premiums for such coverage shall be paid for by the Association.

Section 2. Homes. Each Owner of lots 1 through 26 inclusive shall be required to obtain and maintain adequate insurance of his home which shall insure the property for its full replacement value with no deductions for depreciation against loss by fire or other hazards. Such insurance shall be sufficient to cover the full replacement value, or for necessary repair or reconstruction work. Such insurance shall be written in the manner designated by the Association. Each Owner shall be required to supply the Board of Directors with evidence of insurance coverage on his home which complies with the provisions of this Section.

A. If the insurance provided under this Section has not otherwise been adequately obtained by each owner, as determined by the Board of Directors, then the Board shall obtain such insurance coverage. Such insurance shall be sufficient to cover the full replacement cost or necessary repair or reconstruction work. The purpose of such insurance will be to protect, preserve and provide for the continued maintenance and support of separately owned homes which shall include common party walls, connected exterior roofs and other parts of the overall structure. Insurance obtained by the Board of Directors shall be written in the name of the Association as Trustee for the benefit of each homeowner.

B. Payment of Premiums. Premiums for insurance obtained by the Board of Directors, as provided hereinabove, shall not be a part of the common assessment or expense but shall be an individual assessment payable in accordance with the provisions of Article VI of this Declaration.

C. Repair or Replacement of Damaged or Destroyed Property. Each Owner shall be required to reconstruct or repair any home destroyed by fire or other casualty, covered by insurance written in the name of the Association as trustee. The insurance proceeds shall be deposited in a bank or other financial institution, subject to withdrawal only by the signature of an agent duly authorized

by the Board of Directors. If no repair or rebuilding has been contracted for, or otherwise substantially started by the owner, with the cooperation of the Board of Directors within thirty (30) days of the receipt of the insurance proceeds, the Board of Directors shall itself initiate the repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the unit, in a good and workmanlike manner in conformance with the original plans and specifications. The Board of Directors may advertise for sealed bids from any licensed contractors and may then negotiate with said contracts. The contractor or contractors selected to perform the work shall provide full performance and payment bonds for such repair or rebuilding. In the event the insurance proceeds are insufficient to fully pay the costs of repairing and/or rebuilding the damaged or destroyed portions in a good and workmanlike manner, the Board of Directors shall levy a special assessment against the owner in whatever amount sufficient to make up the deficiency. If the insurance proceeds exceed the cost of repairing and/or rebuilding, such excess shall be paid over to the respective owner and/or owner's mortgagee in such portions as shall be independently determined by those parties.

ARTICLE XI. USE OF PROPERTY

The use of a Home by a Member or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the By-Laws and Rules and Regulations of the Board of Directors and the following covenants and restrictions:

- (a) The Home and areas restricted to the Member's use shall be maintained in good repair and overall appearance.
- (b) Any Member who mortgages or sells his Home shall notify the Board of Directors providing the name and address of his mortgagee or new owner.
- (c) The Board of Directors shall, at the request of the mortgagee of the Home, report any delinquent assessments due from the Owner of such Home.
- (d) No nuisances shall be allowed upon the property nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of the property by its residents.
- (e) No improper, offensive or unlawful use shall be made of the property nor any part thereof and all valid laws, zoning ordinances, the regulations of all governmental bodies having jurisdiction

thereof, shall be observed.

(f) Regulations promulgated by the Board of Directors concerning the use of the property shall be observed by the Members, provided however, that copies of such regulations are furnished to each Member prior to the time the said regulations become effective.

(g) The maintenance assessments shall be paid when due.

(h) All dogs must be leashed and shall not be permitted to run loose.

(i) No resident of the Community shall post any advertisement or posters of any kind in or on the Properties except as authorized by the Board of Directors. This paragraph shall not apply to Developer.

(k) No fence or gate shall be erected on the Properties without the prior written consent of the Board of Directors. This paragraph shall not apply to Developer.

(l) No television or radio antenna or any other type of receiving or transmitting antenna or structure shall be erected on the exterior of Homes or on any lot without the prior written consent of the Board of Directors.

(m) No Home Owner shall move, remove, add or otherwise change the landscaping on the Properties except that each Home Owner may landscape or garden in the restricted rear yard patio area, provided that no unsightly uses or vegetation may be grown in such areas.

(n) No Home Owner shall paint the exterior surfaces of windows, walls or doors opening out of his Home.

(o) No person shall park a vehicle or otherwise obstruct any resident's use of ingress or egress to any parking space or garage.

(p) The restricted patio area shall not be used for storage of furniture or otherwise for storage purposes. These areas shall not contain excessive furniture nor shall the Homeowner erect or construct any locker or storage cabinets thereon.

(q) No Homeowner shall install or permit to be installed any window mounted or through the wall mounted air conditioning unit in his Home.

(r) No repair of motor vehicles shall be made in any of the roadways, driveways or parking areas to the Development nor shall such areas be used for storage parking of any boat, trailer, camper, bus, truck or commercial vehicle.

(s) No person shall be permitted to use the recreational facilities of the Association except in accordance with the rules and regulations established by the Association's Board of Directors.

(t) No Home Owner shall make or permit any disturbing noises in any building or do or permit anything to be done therein, which will interfere with the rights, comforts or conveniences of other Home Owners.

(u) No privacy area shall be enclosed, decorated or covered by any awning or otherwise without the consent, in writing, of the Board of Directors.

(v) Garbage cans must be stored in each Home or the garage of each Home and may only be put outside the night before into the proper located dumpsters.

ARTICLE XII. GENERAL PROVISIONS

Section 1. Beneficiaries of Easements, Rights and Privileges. The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to the Association and the Owners of Homes constructed on The Properties; and any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject in the case of the Common Properties to the Rules and Regulations of the Board of Directors, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

Section 2. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable to the Association, any Member, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until December 31, 2011, unless otherwise expressly

limited herein, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by eighty percent (80%) of the Home Owners has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded two (2) years in advance of the effective date of such change and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. Notwithstanding the foregoing, the easements, licenses, rights and privileges established and created *with* respect to the Properties by Section 2 of Article V shall be perpetual, run with the land and shall survive any destruction, reconstruction and relocation of the physical structures, unless said provision is abrogated by the unanimous written consent of all the Home Owners. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Members holding not less than sixty-six and two-thirds percent (66 2/3%) of the votes of the membership. Any amendment must be properly recorded to be effective.

Section 3. Disposition of Assets Upon Dissolution of Association. Upon dissolution of the Association, its real and personal assets, including the Common Properties, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of the Association properties shall be effective to divest or diminish any right or title to any Member vested in him under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants, deeds or other documents applicable to the properties, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

Section 4. 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, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 5. Administration. The administration of the Association shall be in accordance with the provisions of the Association By-Laws which are made a part of this Declaration and attached hereto as Exhibit "A".

