

EXHIBIT A

DECLARATION

OF

COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

ESTABLISHING A PLAN OF FEE OWNERSHIP THROUGH MEMBERSHIP IN A HOMEOWNERS ASSOCIATION, OF PREMISES LOCATED AT ROUTE 117, VILLAGE/TOWN OF MOUNT KISCO, WEST-CHESTER COUNTY, NEW YORK, KNOWN AS

GUARD HILL HOMEOWNERS ASSOCIATION, INC.

SPONSOR: GUARD HILL DEVELOPMENT CORPORATION
Route 6 and Simpson Road
Carmel, New York 10512

DATE OF
DECLARATION: _____

RECORD AND RETURN TO:

GEORGE J. SWANDER, P.C.
Attorney for Declarant
Argonne Road
Post Office Box 379
Brewster, New York 10509

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DECLARATION
OF
GUARD HILL HOMEOWNERS ASSOCIATION, INC.

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DECLARATION

OF

COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

OF

GUARD HILL DEVELOPMENT CORPORATION

THIS DECLARATION, made on the date hereinafter set forth by GUARD HILL DEVELOPMENT CORPORATION, a New York corporation, with offices at Route 6 and Simpson Road, Carmel, New York 10512, hereinafter referred to as the "DECLARANT".

W I T N E S S E T H :

WHEREAS, DECLARANT is the owner of certain real property in the Village/Town of Mount Kisco, County of Westchester and State of New York, shown on the Subdivision Map entitled, "Subdivision Plat of Wayside", filed in the Westchester County Clerk's Office, Division of Land Records, on January 29, 1985 as Map No. 21827; and

WHEREAS, DECLARANT will convey the said real property subject to certain protective covenants, conditions, restrictions and easements as hereinafter set forth.

NOW, THEREFORE, DECLARANT hereby declares that all of the real property described above shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements; all of which are for the purpose of enhancing and protecting the property, and the desirability and attractiveness of the real property. These covenants, conditions, restrictions and easements (hereinafter referred to as "COVENANTS"), shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof. DECLARANT further declares that no lot of the aforescribed subdivision shall be transferred prior to the recording of this DECLARATION in

the Westchester County Clerk's Office, Division of Land Records.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to GUARD HILL HOMEOWNERS ASSOCIATION, INC., a New York Not-For-Profit Corporation, its successors and/or assigns.

Section 2. "Subdivision Map" shall mean and refer to the Subdivision Map entitled, "Subdivision Plat of Wayside", filed in the Westchester County Clerk's Office, Division of Land Records, on January 29, 1985 as Map No. 21827.

Section 3. "Properties" shall mean and refer to the certain real property shown on the Subdivision Map and such additions thereto as may thereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean and refer to all real property owned by the Association for the common use and enjoyment of the members of the Association and other than the individual lots as shown on the Subdivision Map.

Section 5. "Lot" shall mean and refer to the numbered plots of land shown on the Subdivision Map with the exception of the Common Area.

Section 6. "Home" shall mean and refer to a residential unit situated upon a Lot and attached to other Homes and forming a building.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. "Declarant" shall mean and refer to GUARD HILL DEVELOPMENT CORPORATION, for as long as it continues to own any part of the Properties, its successors, assigns and grantees.

Section 10. "Institutional Lender" shall mean and refer to a bank, savings and loan association, insurance company or mortgage corporation which holds a first mortgage on a Lot, together with the improvements thereon.

Section 11. "Board of Directors" shall mean and refer to the governing body of the Association.

ARTICLE II
MEMBERSHIP

Section 1. Qualification. DECLARANT represents that it has heretofore caused the Association to be organized under the laws of the State of New York and every person or entity who is an Owner of a fee or undivided fee interest in any Lot which is subject to these COVENANTS and to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership for each Lot owned. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to an assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

ARTICLE III
VOTING RIGHTS

Section 1. Members Voting. Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article II. When more than one person holds such interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they, among themselves, shall determine but in no event shall more than one (1) vote be cast with respect to any Lot.

Notwithstanding the above, as long as DECLARANT owns twenty-five (25) Lots or more, or for a period not to exceed four (4) years from the date the Declaration is recorded, whichever first occurs, only the DECLARANT may vote or appoint members of the Board of Directors.

ARTICLE IV
PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment.
Every Member and his immediate family shall have a right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the transfer of title to every Lot, subject to the following provisions:

- A. The right of the Association to limit the number of guests of Members permitted to use the Common Area or recreational facilities;
- B. The right of the Association to permit non-members to use the Common Area and recreational facilities and to pass rules and regulations and amendments thereto, to control such use, including appropriate fees;
- C. The right of the Association, in accordance with its Certificate of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Area and recreational facilities and in aid thereof, to mortgage said property; and the rights of such mortgagee in said property shall be subordinate to the rights of the Owners hereunder;
- D. The right of the Association to suspend the right to use the recreational facilities by a Member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- E. The right of the Association to dedicate or transfer the water and sewer lines located on the Common Area 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 Owners entitled to cast two-thirds (2/3rds) of the votes, and unless written notice of the proposed action is sent to every Member not less than thirty (30) days nor more than sixty (60) days in advance, as long as the DECLARANT owns twenty-five (25) Lots it must consent to the transfer;
- F. The By-Laws of the Association, as the same are amended from time to time.

Section 2. Delegation of Use. Any Member may delegate in accordance with the By-Laws, his right of enjoyment of the Common Area and recreational facilities to the members of his immediate family and his tenants, provided such persons reside on the Properties.

Section 3. Title to the Common Area. The DECLARANT hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of mortgages, liens and encumbrances, except such encumbrances and conditions as are set forth on the Subdivision Map and such other encumbrances and conditions as are set forth on Schedule A annexed hereto; except that DECLARANT expressly reserves the right to grant easements to public authorities and/or to utilities both public and private, and easements for adjacent property owners for drainage and/or right of way. In addition, Declarant has set aside an easement for future installation of an underground water storage tank for the Village/Town of Mount Kisco.

DECLARANT hereby further covenants that it will convey title to the aforesaid property to the Association prior to conveyance of title to the first Lot.

DECLARANT hereby reserves the right, for so long as it owns one or more Lots in the Properties, to use part or all of the Common Area to permit inspection of the Common Area by prospective purchasers and hereby grants easements and rights-of-way through, over, upon and across the Common Area, to itself for the completion of construction of the Common Area and the Homes.

DECLARANT further reserves the right to file an amended Subdivision Map for purposes of conforming lots to the "as-built" conditions.

ARTICLE V
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The DECLARANT, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association:

A. Annual assessments or charges ("Association Charge"); and

B. Special assessments for capital improvements; such assessments to be fixed, established and collected from time to time as hereinafter provided.

The Association Charges and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made, and shall bind such property in the name(s) of an Owner, his or her heirs, devisees, personal representatives and/or assigns. Each such assessment, together with such interest, costs and reasonable attorneys' fees, in addition to being a lien upon the land, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment came due. The personal obligation shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments; Responsibilities of the Association. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the Properties, and, in particular, for the improvement and maintenance of the Properties, taxes, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, the recreational facilities and the Homes situated on the Properties. The Association shall be responsible for the management of, repairs and replacements to, and maintenance of, the Common Area. The Association shall be responsible for the siding and roofs of the exterior of the buildings. In addition, the Association shall maintain the grass areas within the Lot lines in front, at the sides and in the rear of each Home as well as the driveways and walkways. The Association shall have the option to maintain landscaping changes and modifications made by the Owner with approval (See Article VII). The Association shall also be responsible for shoveling snow from pathways to the front door of the Homes when a daily snowfall exceeds two (2") inches (but excluding patios).

Section 3. Annual Assessments. After consideration of current maintenance costs, taxes and future needs of the Association, the Board of Directors shall fix the annual assessment to be paid by each Owner to the Association. The Board of Directors shall prepare a budget upon which the annual assessments for the ensuing year will be based and a copy of such budget, along with the monthly Association Charge for each Lot, shall

be submitted to each Owner at least thirty (30) days prior to the commencement of the effective date of such budget. The Association Charge shall be paid in advance on the first day of every month by each Owner.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, and including the roof or siding of a building. The Board of Directors is empowered to vote on any capital improvement expenditure not to exceed THIRTY THOUSAND (\$30,000.00) DOLLARS. Any expenditure in excess of THIRTY THOUSAND (\$30,000.00) DOLLARS shall require a majority vote of the Members of the Association at a meeting duly called for such purpose.

So long as the DECLARANT shall continue to own twenty-five (25) or more Lots, the Association may not, without the prior written consent of the DECLARANT:

- A. Levy annual special assessments for capital improvements greater than FIVE HUNDRED (\$500.00) DOLLARS per Lot or make any addition or alteration to the Common Area;
- B. Create any reserve or contingency funds or add unreasonable sums to existing reserve or contingency funds; or
- C. Borrow money, the annual debt service for which exceeds thirty (30%) percent of the total expense budget of the Association.

Section 5. Rate of Assessment. Annual and special assessments for all fees, charges and expenses of the Association shall be fixed at a uniform rate for all Lots. At the discretion of the Board of Directors, special assessments may be collected on a monthly basis as part of the Association Charges.

Section 6. Declarant's Obligation. The DECLARANT covenants and accepts its obligation to pay Association Charges and special assessments (except as limited herein) for each Lot it owns.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments payable month-

ly as Association Charges provided for herein shall commence as to all Lots when determined by the Board of Directors. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments; Remedies of the Association. Any assessments that are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum rate of interest allowed under the laws of the State of New York, and the Association shall take prompt action to collect the unpaid assessments to include bringing action at law against the Owner personally obligated to pay the same, or foreclosing the lien against the property; and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area and its facilities or by abandonment of his or her Lot. The Board of Directors, acting on behalf of all Owners, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same. A suit to recover a money judgment for unpaid assessment(s) shall be maintainable without foreclosing or waiving the lien securing the same.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage, pursuant to a decree of foreclosure under such mortgage, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No

sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

The Board of Directors may not commence foreclosure proceedings until thirty (30) days after the first mortgagee of the delinquent Lot, if any, has received written notice of the Board's intention to commence foreclosure proceedings for failure to pay assessments. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid assessments, the unpaid balance shall be charged to all Owners as a common expense. Where the holder of an institutional first mortgage of record obtains title to the Lot as a result of foreclosure, or by conveyance in lieu of foreclosure, such acquirer of title, his successors or assigns, shall not be liable and the Lot shall not be subject to a lien for the payment of assessments chargeable to such Lot which were assessed and became due prior to the acquisition of title to such Lot by such acquirer if the Board of Directors was made a party to the foreclosure action. In such event, the unpaid balance of assessments may be charged to all other Owners as a common expense when the Board determines it to be uncollectible from the previous title holder. The term "institutional mortgage" herein used shall mean a non-participational mortgage granted by a bank, savings and loan association, life insurance company, pension fund, trust company or other similar lender.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created therein:

- A. All properties dedicated to and accepted by a local public authority; and
- B. The Common Area.

However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI MORTGAGES

Section 1. Notice to Association. An Owner who mortgages his Lot with an Institutional Lender shall notify the Board of Directors of the Association in writing of the name and address of such Institutional Lender and shall file a conformed copy of the Note and Mortgage with the Board of Directors; and the Board of

Directors shall maintain such information in a book entitled, "Mortgages of Lots".

Section 2. Notice of Unpaid Assessments. The Board of Directors, whenever so requested in writing by an Institutional Lender of a Lot, shall promptly report any unpaid assessments due from, or any other default by, an Owner of the mortgaged Lot.

Section 3. Notice of Default. The Board of Directors, when giving notice to an Owner of a default in paying assessments, shall, if such default shall continue for sixty (60) days, send a copy of such notice to the Institutional Lender holding a mortgage covering such Lot whose name and address is theretofore furnished to the Board of Directors.

Section 4. Right to Contest Assessments Against Common Area. Any Institutional Lender shall have the right to contest and seek reduction of real estate taxes and municipal assessments levied against the Common Area. The Association shall cooperate with such Institutional Lender by providing the data necessary to commence such contest and to execute such documents reasonably requested by the Institutional Lender. If the Institutional Lender's contest is successful so that there is a reduction of real estate taxes or municipal assessments, the Institutional Lender shall be entitled to be reimbursed for its reasonable expenses, including attorneys' fees, in connection with such contest. If the Institutional Lender is not successful, all costs and expenses in connection with the contest shall be the sole cost and expense of the Institutional Lender. The Institutional Lender shall agree to indemnify and hold harmless the Association for any damages, costs and expenses, including reasonable attorneys' fees, resulting from such contest commenced by an Institutional Lender.

Section 5. Notice of Condemnation. The Association shall send notice to any Institutional Lender holding mortgages on twenty-five (25%) percent or more of the Lots in the event of a taking in condemnation or by eminent domain of part or all of the Common Area. Such Institutional Lenders shall have the right to contest any condemnation awards on behalf of the Association. If the Institutional Lender is successful and obtains an increase in the condemnation award as a result of its contest, the Institutional Lender shall be entitled to be reimbursed out of such award for its reasonable expenses, including attorneys' fees, for such contest. If the Institutional Lender is not successful in increasing the condemnation award, the contest shall be

at the sole cost and expense of the Institutional Lender so contesting.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 1. Exterior Alterations to Buildings; Additional Construction. From and after the construction by the DECLARANT or its successors and/or assigns of any buildings or other improvements upon the Properties, except as herein provided, no building, canopy, deck, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties; nor shall any exterior modifications or additions be made to, or change or alteration of any kind be made to the improvements, including, but not limited to, changes of color or material; until the plans and specifications showing the nature, kind, shape, dimensions, materials, color 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 or by an architectural committee comprised of three (3) or more representatives appointed by the Board. In the event said Board or its designated committee fails to approve or disapprove such design or location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article shall be deemed to have been fully complied with.

Section 2. Modification of Landscaping. The landscaping in front of, at the sides of, or in the rear of any Home cannot be altered or modified without first obtaining the approval, in writing, of the Board of Directors of the Association, or by an architectural committee as described above. Any proposed landscaping alterations or modifications must be in harmony with the external design and location in relation to surrounding landscaping and topography. In the event said Board or its designated committee fails to approve or disapprove changes or modifications within sixty (60) days after the request therefor, approval will not be required and this Article shall be deemed to have been fully complied with. The Association shall have the option to maintain landscaping changes and modifications made by an Owner with the Board or committee approval. In the event the Association does not elect to maintain such approved changes and modifications, the Owner shall be required, at the Owner's sole cost and expense, to provide such maintenance.

Section 3. Installation of Fencing. Fencing, other than that originally installed by DECLARANT, shall not be permitted unless approved by the Board of Directors.

ARTICLE VIII
EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. The Association shall be required to have the exterior of the buildings (excluding repair of exterior glass and doors), and the roofs repaired as well as the driveways and walkways at such times as the Board of Directors deems necessary. The cost of such repairs shall be part of the assessments and reserves set forth in Article V, Section 4 herein. In addition, in the event an individual Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3rds) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the Home and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and shall become part of the assessment to which such Lot is subject.

Section 2. Right of Entry. For the purpose solely of performing the exterior maintenance required hereunder, the Association, through its duly authorized agents and employees, shall have the right to enter upon any Lot at reasonable hours on any day.

ARTICLE IX
RESTRICTIONS ON USE OF LOTS AND HOMES

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

Section 1. Residential Purposes. The Lots may be used for residential purposes as defined in the applicable Zoning Ordinances for single family dwellings, as the same may be amended from time to time, and such other accessory uses as permitted by such Zoning Ordinances.

Section 2. Roads and Streets. No title in and to the bed of any road or street is to be conveyed to the purchaser of any Lot. DECLARANT retains the said title and the right to convey the said title to the Association. However, the land in the bed of the roads and streets shown on the Subdivision Map shall be subject to easements of ingress and egress and to provide for the installation and maintenance of all utilities and drainage facilities now or hereafter installed to provide service for the Owners, whether installed on the surface of, or above or below the ground.

Section 3. Vehicles. No commercial vehicles, recreational vehicles, trailers, campers, or boats of any kind shall be kept on any Lot or on the Common Area except with the approval of the DECLARANT or the Board of Directors of the Association and in conformity with the Rules and Regulations that are part of the By-Laws of the Association.

Section 4. Livestock, Household Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept in any Home or on any Lot, except that dogs, cats, or other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that not more than two (2) pets in the aggregate may be kept upon the Lot. No unleashed or unattended animals shall be permitted upon the Common Area. The Association may, in its Rules and Regulations, set conditions for walking animals in the Common Area.

Section 5. Clothes Lines. Exterior clothes lines shall not be installed anywhere on the Properties.

Section 6. Noise, Nuisances, Rubbish. No nuisance or noise of any kind which is unwholesome and offensive to the neighborhood, or which is in violation of any local noise ordinances, shall be permitted to exist on any Lot; nor shall any accumulation of rubbish, garbage, junk or materials of any kind be permitted to remain on any Lot.

Section 7. Signs. No advertising signs, billboards, or other sign devices shall be permitted on any of said Lots except by DECLARANT during such period of time that DECLARANT is selling Homes. An Owner may maintain a "professional office" sign on his Lot with written permission of the Board of Directors of the Association and in accordance with the By-Laws and Rules and Regulations of the Association, and local Zoning Ordinances.

Section 8. Excavation. No sand, earth or sod shall be removed from a Lot or excavation be allowed to remain open thereon, except as may be necessary during building construction periods, or except as may be approved by DECLARANT or the Board of Directors of the Association. After construction, lawn and landscaping shall be installed and maintained thereafter in an attractive manner.

Section 9. Antennae. No radio, television or similar towers shall be erected on any Lot, or attached to the exterior of any Home.

Section 10. Obstructions. There shall be no obstruction of the Common Area nor shall anything be stored in the Common Area without the prior written consent of the Board of Directors.

Section 11. Business Office; Sales Office. Notwithstanding any provision herein contained to the contrary, it shall be expressly permissible for the DECLARANT, its successors and/or assigns, to maintain during the period of construction and sales of Homes, upon such portion of the Properties or Common Area as DECLARANT deems necessary, and to install such facilities as in the sole opinion of the DECLARANT may be reasonably required, convenient, or incidental to the construction and sales of said Homes, and improvements to the Common Area, but without limitation, a business office, storage area, construction trailers, construction yards, signs, model homes and sales office. DECLARANT shall use a reasonable effort during such period of construction and sales not to substantially interfere with the use and enjoyment of the Common Area by the Owners.

Section 12. Lease or Sale of Home. An Owner who intends to lease, mortgage or transfer an ownership interest in his Lot shall notify the Board of Directors in advance in writing, providing the name and address of his prospective lessee, mortgagee, or new owner. No lease may take effect without the prior written consent of the Board of Directors, which consent may not be withheld unless said lease would be in violation of any local or state ordinance, and if and until the payment of all assessments levied against an Owner with respect to such Lot shall have been received by the Association. No interest in a Lot may be sold, mortgaged or transferred without the prior written consent of the Board of Directors, which consent shall be withheld only if and until the payment of all assessments levied against an Owner with respect to such Lot shall have been received by the Association.

Section 13. Unlawful Use Prohibited. No improper, offensive or unlawful use shall be made of the Properties or any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 14. Rules and Regulations. Regulations concerning the use of the Properties and the recreational facilities pursuant to the By-Laws shall be observed by the Owners, guests, occupants, tenants and lessees, provided, however, that copies of such Regulations shall be furnished to each Owner prior to the time that said Regulations become effective.

ARTICLE X
PARTY WALLS OR PARTY FENCES

Section 1. General Rules of Law Apply. To the extent not inconsistent with the provisions of this Article X, 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 and/or party fence which is built as part of the original construction of the Homes upon the Properties, and any replacement thereof and those thereafter constructed by an Owner as provided herein.

Section 2. Encroachment. In the event that any portion of any structure, as originally constructed by DECLARANT, including any party wall, fence, roadway, parking area or utilities systems, shall protrude over an adjoining Lot, such structure, party wall or fence, roadway, parking area or utilities system, 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, roadway, parking area or utilities system, 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, roadway, parking area or utilities system. The foregoing shall also apply to any replacements of any structures, party walls or fences, roadways, parking areas or utilities systems if same are constructed in conformance with the original structure, party wall or fence, roadway, parking area or utilities system constructed by the DECLARANT. The foregoing conditions shall be perpetual in duration and shall not be subject to amendment of these covenants and restrictions.

Section 3. Sharing Repairs and Maintenance. The cost of reasonable repairs and maintenance of a party wall or party fence shall be shared by the Owners who make use of the wall or fence, in proportion to such use.

Section 4. 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 may 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 or law regarding liability for negligent or willful acts or omissions.

Section 5. 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 6. 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 lot and shall pass to such Owner's successors in title.

Section 7. Disputes. In the event any dispute arises concerning a party wall or party fence, under the provisions of this Article, said dispute shall be decided by the Board of Directors of the Association. A vote of two-thirds (2/3rds) of the members of the Board of Directors shall be necessary to decide the dispute and said vote shall be binding upon the parties.

ARTICLE XI INSURANCE AND CONDEMNATION

Section 1. Common Area. The Board of Directors shall maintain public liability insurance, to the extent obtainable, covering each 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 Area or relating to the maintenance by the Association of other parts of the Properties. In addition, fire insurance with extended coverage will be obtained for the Common Area, buildings and improvements. To

the extent obtainable and required, the Board of Directors shall also be required to obtain workers' compensation and disability insurance. All insurance premiums for such coverage shall be paid by the Association.

Section 2. Homes. Each Owner shall be required to obtain and maintain adequate insurance covering his or her Home which shall insure the property for its full replacement value, with no deductions for appreciation, 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. The Board of Directors shall have the right to require written notice from each Member, from time to time, of the amount of insurance coverage of such Member to include copies of such policies, and to require modification of the coverage if the Board of Directors deems the amount thereof to be inadequate, taking into account the amount of coverage for all members. The purpose of such insurance shall be to protect, preserve and provide for the continued maintenance and support of the separately owned Homes which shall include common party walls, connected exterior roofs, and other parts of the overall structure.

Section 3. Insurance Trustee. Such policies obtained by each Owner, or by the Association on behalf of an Owner as herein provided, shall provide that the net insurance proceeds shall be payable to the Board of Directors as Trustee for each of the Owners and/or their mortgagees, as their respective interests may appear, if such net insurance proceeds are TEN THOUSAND (\$10,000.00) DOLLARS or more; and to the Owner if less than TEN THOUSAND (\$10,000.00) DOLLARS. Notwithstanding the foregoing, however, the Board of Directors may at any time and from time to time by a majority vote or upon request of mortgagees holding mortgages on over twenty-five (25%) percent of the Lots, have the insurance proceeds paid over to an Insurance Trustee. Such insurance proceeds shall be applied to the repair and restoration of the Properties as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled without first giving the Board of Directors ten (10) days written notice of such cancellation. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any Owner, members of the families of Owners, and the Association, its officers, agents and employees. Such policies shall also contain waivers of any reduction of pro-rata liability of the insurer.

In the event an Owner does not modify coverage in accordance with the Board of Directors' requirements, the Board may obtain such insurance coverage and the

cost of the premium therefor shall not be part of the Common Expense but shall be an individual assessment against the Owner who has not complied with the Board's requirements. Such assessment shall be paid within twenty (20) days after notice of such debt and shall be collected by any lawful procedure permitted by the laws of the State of New York. If such debt is not paid within twenty (20) days after notice, such amount shall automatically become a lien upon such Owner's Lot and shall continue to be a lien until fully paid. Such lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as the lien created by failure to pay assessments. Insurance obtained by the Board of Directors shall be written in the name of the Association in trust for the benefit of each such Owner.

The Insurance Trustee, if one is chosen pursuant to Section 3 of this Article XI, shall be a bank or trust company located in the State of New York as designated by the Board of Directors. All fees and disbursements of any Insurance Trustee shall constitute an expense of the Association and shall be paid by the Board of Directors. The Insurance Trustee shall not be liable for the payment of premiums, for failure to renew policies, for the sufficiency of policies, or for the failure to collect any proceeds as are paid and to hold them in trust for the benefit of the Owners and their mortgagees.

Section 4. Repair or Reconstruction After Fire or Other Casualty. In the event of damage or destruction by fire or other casualty to any Lot or the improvements thereon, the Owner of such Lot shall, with the concurrence of the Owner's mortgagee, if any, and the Board of Directors, be required to reconstruct or repair the Home so destroyed by fire or other casualty. If the proceeds of loss are less than TEN THOUSAND (\$10,000.00) DOLLARS, they shall be held by the insured Owner in trust for the benefit of said Owner and such other Owners whose Homes are affected by the casualty resulting in the loss. If the proceeds are TEN THOUSAND (\$10,000.00) DOLLARS or more, they shall be held by the Board of Directors or the Insurance Trustee. Repair or reconstruction of the damaged Homes must commence within a reasonable time after occurrence of the loss but in any event not later than thirty (30) days after receipt of the insurance proceeds. Any repair or reconstruction of the exterior of any Home must be performed in a good and workmanlike manner and shall conform as nearly as possible with the original plans and specifications. The plans and specifications for repair or reconstruction to the exterior of any Home must be submitted to and approved in writing by the

Board of Directors of the Association or by an architectural committee as provided in Article VII hereof. The Owner, Board of Directors, or the Insurance Trustee, as the case may be, shall disburse the proceeds of insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

If any Owner refuses or fails to so repair or rebuild as so provided, then the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair or rebuild such damaged or destroyed portions of the Home. The Association shall have a lien against any insurance proceeds being held by the Owner or the Board of Directors as Trustee, or the Insurance Trustee, in trust as herein provided. Such Owner shall immediately turn over any trust funds being held by him or her to the Board of Directors or Insurance Trustee to be used to make the repairs required. In the event such proceeds are not adequate to repair such damage, the Board of Directors may levy a special assessment against the Owner in whatever amount is necessary to adequately cover any 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 the Owner's mortgagee in such portions as shall be independently determined by those parties.

Section 5. Condemnation Proceeds. In the event of a taking in condemnation or by eminent domain of all or part of the Common Area, the award made for such taking shall be payable to the Association. The Board of Directors shall arrange for the repair and restoration of such Common Area, and the Board or the Insurance Trustee, as the case may be, shall disburse the proceeds of such award to the contractors engaged in such repair and restoration in appropriate progress payments. If there shall be a surplus of such proceeds, or if the Members shall elect not to repair or restore the Common Area, or if the Common Area cannot be repaired or restored, such surplus or the net proceeds of such award shall be utilized by the Association or disbursed to the Members at the discretion of the Board of Directors, subject to the rights of any mortgagees holding mortgages on the Common Area and/or Lots.

ARTICLE XII AMENDMENT OF DECLARATION

Section 1. Amendment. The Covenants of this Declaration shall run with and bind the Properties, and

shall inure to the benefit of, and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and/or assigns; for a term of fifty (50) years from the date this Declaration is recorded, after which time said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by sixty-six and two-thirds (66-2/3rds) percent of the Owners has been recorded, agreeing to change said Covenants in whole or in part. Notwithstanding the foregoing, the easements, licenses, rights and privileges established and created with respect to the Properties by Article XIV 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 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 (66-2/3rds) percent of the votes of the membership.

Notwithstanding anything to the contrary contained herein, there shall be no amendments to this Declaration which would adversely affect any rights of DECLARANT reserved or provided herein without first obtaining DECLARANT'S written consent, provided, however, that DECLARANT, at the time of such amendment, is the Owner of one or more Lots.

ARTICLE XIII MERGERS

Section 1. Mergers. Upon a merger or consolidation of the Association with another association, its Properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or alternatively, the Properties, rights and obligations of another association may, by operation of law, be added to the Properties, rights and obligations of the Association as a surviving corporation pursuant to a merger.

The surviving or consolidated association may administer the Covenants established by this Declaration within the Properties, together with covenants, conditions and easements established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the Covenants established by this Declaration with the Properties, except as herein provided.

ARTICLE XIV
ADDITIONAL EASEMENTS

Section 1. Additional Easements. The DECLARANT hereby gives, conveys, grants and reserves for the benefit of the DECLARANT, the Association and of the respective Owners and occupants of all or any part of the Properties; their guests, tenants, licensees and invitees, the following:

A. An easement and right-of-way for ingress and egress, by vehicle or on foot, in, to, upon and across the streets and roads now or hereafter constructed on the Properties; and

B. An easement, right, license and privilege to connect to and make use of, and maintain, repair, and replace utility lines, wires, pipes, conduits, cable television lines, sewers, water and drainage pipes and lines and appurtenances thereto, now or hereafter installed in all or any part of the Properties, subject to the requirements of governmental bodies and public utility companies and their ownership of such utilities.

The aforementioned easements, rights and privileges are hereby established and created by the DECLARANT and the DECLARANT does hereby grant them to each individual, business or other entity hereafter owning any portion of the Properties, including DECLARANT itself; which easements DECLARANT reserves unto itself for the completion of construction of the Properties. These rights created for DECLARANT may not be changed by any amendment to this DECLARATION so long as DECLARANT owns one (1) Lot. Said easements shall also be for the benefit of the Association, its Members, guests, licensees, invitees and employees. The granting of the aforementioned easements, rights and privileges is perpetual and such easements, rights and privileges shall run with the land. Any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests for the duration of their tenancies or visits, subject 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.

ARTICLE XV

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all Covenants now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any Covenants herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

Section 3. Disposition of Assets Upon Dissolution of Association. Upon dissolution of the Association whether by operation of law, a vote of the Members, or allowed by Statute, its real and personal assets, including the Common Area, shall be dedicated to the 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 Covenants 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 Schedule "B".

IN WITNESS WHEREOF, the undersigned being the DECLARANT herein, has hereunto set its hand and seal by its authorized officer this _____ day of _____, 198__.

GUARD HILL DEVELOPMENT CORPORATION

By: _____

ACKNOWLEDGMENT

STATE OF NEW YORK)
COUNTY OF PUTNAM) ss:

On this _____ day of October, 1985, before me personally appeared _____, who being by me duly sworn, did depose and say that he resides at _____; that he is the _____ GUARD HILL DEVELOPMENT CORPORATION, the corporation described in and which executed the foregoing Declaration; that he knows the seal of said Corporation; that the seal affixed to said document is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

Notary Public