

**DECLARATION OF AGREEMENTS, RESTRICTIONS,
EASEMENTS, CHARGES AND LIENS
OF
HONEOYE LAKE PARK ASSOCIATION, INC.**

THIS DECLARATION, made this ____ day of March, 2004 by **HONEOYE LAKE PARK ASSOCIATION, INC.**, a New York corporation, with offices at PO Box 438, Honeoye, New York 14471 (the "Declarant").

WHEREAS, the Declarant is the association of owners of the real property described in Article II of this Declaration of the Honeoye Lake Park subdivision as the same is shown on a map of said subdivision made for the C.L.B. Development Corporation by Clinton S. Herrick, C.E. of Syracuse, New York, and recorded on August 2, 1924 in the Ontario County Clerk's Office, being Map #378, which has already been developed as a residential community with open spaces and other common facilities for the benefit of said community; and

WHEREAS, Declarant is the owner of certain property within the aforesaid subdivision, which property is more particularly described in a Deed recorded in the Ontario County Clerk's Office in Liber 346 of Deeds at Page 73; and

WHEREAS, Declarant was created for the purposes of owning the above land which consists of shoreline, the lake park, and various roads, all of which are used in common by owners of Lots in the aforesaid subdivision; and

WHEREAS, homeowners within the aforesaid subdivision are already subject to certain covenants, conditions, restrictions, easements, charges and liens imposed on each homeowner within the subdivision pursuant to the provisions of a certain Consent Judgment dated April 8, 1999, Index #85553, dealing with the ability of the predecessor to the Declarant to raise revenues to pay the expenses of the Declarant, including maintenance and repairs to the streets in the subdivision, the open spaces and other common facilities owned by the Declarant for the benefit of the community, including all lakefront property and the park area, to collect assessments from each homeowner to cover such expenses, and to enforce collection of such assessments; and

WHEREAS, the Declarant desires to formalize the provisions of the aforesaid Consent Judgment now that the predecessor to Declarant has converted from a for-profit to a not-for-profit corporation, in order to provide for the preservation of the values and amenities in said community and for the maintenance of said open spaces and other common facilities, and, to this end, desires to subject the real property described above to the covenants, conditions, 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, the Declarant has been formed as the successor organization to the corporation that was party to the aforesaid Consent Judgment in order to create an Association to which should be delegated and assigned the powers of maintaining and administering the property to be used for the benefit of all members of the community and administering and

enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under the Not-for-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions; and

WHEREAS, the formation of Declarant, the merger of the predecessor organization of homeowners into Declarant, the adoption of by-laws for the Declarant, the adoption of the proposed rules and regulations, and the adoption and recordation of this Declaration have all been approved by homeowners within the aforesaid subdivision at a duly called meeting of the shareholders of the predecessor organization held on June 7, 2003 at which a quorum was present and at which two-thirds ($\frac{2}{3}$) of those presents approved the aforesaid action;

NOW THEREFORE, the Declarant, for itself, its successors and assigns, declares the real property described in Article I Section 2.01 hereof, referred to in Map #378 filed in the Ontario County Clerk's Office, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "covenants, conditions and restrictions") hereinafter set forth, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, administrators, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I **DEFINITIONS**

Section 1.01. Definitions. The following words, phrases or terms when used in this Declaration or in any Supplemental Declaration shall, unless the context otherwise prohibits, have the following meanings:

- A. "ASSOCIATION" shall mean and refer to the **HONEOYE LAKE PARK ASSOCIATION, INC.**
- B. "ASSOCIATION PROPERTY" shall mean and refer to all land, improvements and other properties heretofore or hereafter subject to easements for the benefit of all Members, to be owned and maintained by the Association, and more particularly described in a Deed recorded in the Ontario County Clerk's Office in Liber 346 of Deeds at Page 73.
- C. "DECLARATION" shall mean and refer to this document of Covenants, Restrictions, Easements, Charges and Liens as it may from time to time be supplemented, extended or amended in the manner provided for herein.
- D. "LOT" shall mean and refer to any portion of the property (with the exception of that portion of a Lot that is also deemed to be Association Property as heretofore defined) under the scope of this Declaration and: (i)

identified as a separate parcel on the tax records of the Town of Richmond, or (ii) shown as a separate lot upon any recorded or filed subdivision map.

- E. "LOT OWNER'S EXCLUSIVE USE AREA" is that area defined in Section 4.03 of this Declaration adjacent to and serving or providing private open space to the owner's Lot, but not including that portion of a Lot that is also deemed to be Association Property as heretofore defined.
- F. "MEMBER" shall mean and refer to each holder of a membership interest in the Association, as such interests are, set forth in Article III.
- G. "OWNER" shall mean and refer to the holder of record title, whether one (1) or more persons or entities, of the fee interest in any Lot or Residence, whether or not such holder actually resides in such Residence or on such Lot.
- H. "PROPERTY" shall mean and refer, to all properties as are subject to this Declaration, including the Initial Property set forth in Section 2.01 herein.
- I. "DECLARANT" shall mean and refer to Honeoye Lake Park Association, Inc..
- J. "RESIDENCE" shall mean a single family dwelling, and all improvements associated with it, on the Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Initial Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Richmond, County of Ontario and State of New York, and is more particularly described in Schedule A attached hereto and incorporated by reference herein, all of which property shall be hereinafter referred to as "Initial Property."

Section 2.02. Mergers. Upon a merger or consolidation of this Association with another association as provided in its Certificate of Incorporation or By-Laws, 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 this Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Property together with the covenants, conditions and restrictions established upon any other properties. Any such merger or consolidation, however, may not result in the revocation, change or addition to the covenants established by this Declaration within the Property except as hereinafter provided.

ARTICLE III
THE ASSOCIATION STRUCTURE,
MEMBERSHIP, VOTING RIGHTS AND DIRECTORS

Section 3.01. Formation of the Association. Pursuant to the Not-for-Profit Corporation Law of New York, the Declarant has formed itself as the Association, to operate and maintain the Association Property, to enforce the covenants, conditions and restrictions set forth in this Declaration and to have such other specific rights, obligations, duties and functions as are set forth in this Declaration and in the Certificate of Incorporation and By-Laws of the Association, and as they may be amended from time to time. Subject to the additional limitations provided in this Declaration, the Certificate of Incorporation and the By-Laws, the Association shall have all the powers and be subject to the limitations of a Not-for-Profit Corporation as contained in the Not-for-Profit Corporation Law of New York as it may be amended from time to time.

Section 3.02. Membership. The Association shall have as Members only Owners of Lots located within the Property. All Owners, upon becoming such, shall be deemed automatically to have become Members and there shall be no other qualification for Membership. Membership shall be appurtenant to, and shall not be separated from the ownership of any of the interests described in the definitions of the words "Owner" and "Declarant" as found in Article I of this Declaration.

Section 3.03. Voting. There shall be one (1) class of Membership. All Owners shall be Members, and all Members shall vote equally.

Section 3.04. Interest in More Than One Lot. If any Member owns or holds more than one (1) Lot, such Member shall only be entitled to one (1) vote.

Section 3.05. Lots Owned or Held by More Than One Person or by Corporation. When any Lot is owned or held by more than one (1) person as tenants by the entirety, in joint or common ownership or interest, such owners shall collectively be treated as one (1) Member entitled to only that number of votes prescribed herein for such Lot. If the same multiple persons own multiple Lots, they shall collectively be entitled to only one (1) vote. If such multiple owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Lot(s). In the case of a corporate Owner, votes may be cast by an appropriate officer of such corporation.

Section 3.06. Holder of Security Interest Not a Member. Any person or entity which holds an interest in a Lot only as security for the performance of an obligation shall not be a Member.

Section 3.07. Assigning Right to Vote and Use of Proxies. Any Owner shall be entitled to assign his or her right to vote, by power of attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-Laws of the Association. The By-Laws may require that the assignment specify the meeting or issue to which the assignment applies.

Section 3.08. Meeting and Voting Regulations. The Board of Directors of the Association may make such regulations, consistent with the terms of this Declaration, the Certificate of Incorporation and By-Laws of the Association and the Not-for-Profit Corporation Law of New York as it may deem advisable for any meeting of its Members, in regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem appropriate.

Section 3.09. Selection of Directors. The nomination and election of Directors and the filling of vacancies on the Board of Directors shall be governed by the By-Laws of the Association.

Section 3.10. Powers and Duties of Directors. The powers and duties of the Board of Directors shall be as set forth in the By-Laws of the Association.

Section 3.11. Indemnification of Officers and Directors. Every director and officer of the Association shall be, and is hereby, indemnified by the Association against all expenses and liabilities, including fees of counsel, reasonably incurred by or imposed upon such director or officer in connection with any proceeding to which such officer or director may be a party, or in which such officer or director may become involved, by reason of being or having been a director or officer of the Association, or any settlement thereof, whether or not such person is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of duties; provided, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement as being in the best interests of the Association. The foregoing right of indemnification shall be in addition to, and shall not be exclusive of, all rights to which each director or officer may otherwise be entitled.

ARTICLE IV

PROPERTY RIGHTS AND EASEMENTS

Section 4.01. Right and Easement of Enjoyment in Association Property. Every Member (and such Member's guests, licensees, tenants and invitees) shall have a right and easement of enjoyment in and to all Association Property, subject, however, to the rights of the Association, the Declarant and the Lot Owners as set forth herein. Such easements shall be appurtenant to and shall pass with the interests of an Owner. Every Member also shall have an easement for ingress and egress by vehicle or on foot over Association Property and the common utility and conduit easements described in Section 4.05 hereof. These easements will be subject to the rights of the Association as set forth in Section 4.02 herein.

Section 4.02. Rights of Association. With respect to the Association Property and in accordance with the Certificate of Incorporation and By-Laws of the Association, the Association shall have the right:

- (a) to promulgate rules and regulations relating to the use, operation and maintenance of the Association Property for the safety and convenience of the users thereof or to enhance the preservation of the facilities or which, in the discretion of the Association, shall serve to promote the best interest of the Members;
- (b) to grant easements or rights of way to any public or private utility corporation, governmental agency or political subdivision with or without consideration;
- (c) to charge reasonable fees for the use of Association Property;
- (d) to use water or electricity from outdoor taps or sockets on any Lot, the cost of which shall be paid by the Lot Owner.

Section 4.03. Rights of Individual Lot Owners. Each Lot owner shall have an easement over Association Property and over the property of adjacent Lot Owners for the performance of routine maintenance on a Lot Owner's Residence, provided, however, the right of entry shall be exercised upon reasonable notice to the adjoining Lot owner, except in the case of an emergency, shall be limited to reasonable times, and shall be exercised so as not to impair the enjoyment of the adjacent lot. The easement area shall be limited to that area reasonably necessary to effect repairs and maintenance of the Owner's Residence. The easement area shall be used for actual repairs and maintenance only; the storage of material, supplies and other objects associated with the work to be completed shall not be permitted. The Owner entering upon an adjacent Lot shall perform the contemplated work with dispatch, and shall be responsible for all costs for the repair and restoration of any damage caused to the adjacent Lot, including but not limited to structural repairs, replacement of lawns, bushes and similar objects. An Owner entering upon an adjacent Lot shall indemnify and hold harmless the adjacent Lot Owner against any and all claims which may arise by virtue of the repair or maintenance work performed. Privacy fencing consistent with the overall landscaping plan may be installed by a Lot Owner to separate and screen such Lot from the pedestrian and vehicular circulation elements adjacent to such Lot or from adjacent Lots. The individual Lot Owner will maintain the privacy fencing. Each Lot Owner shall also be entitled to the exclusive use and enjoyment of the Lot Owner's Exclusive Use Area adjacent to and servicing the Lot Owner's Residence. Each individual Lot Owner shall maintain such areas, except that the Association will have an easement over such Exclusive Use Area to maintain any Association Property adjacent thereto.

Section 4.04. Common Utility and Conduit Easement. All pipes, wires, conduits, sewers, and public utility lines located on each Lot shall be owned by the Owner of such Lot. Every Lot owner shall have an easement in common with other Lot Owners to maintain and use all pipes, wires, conduits, sewers, drainage areas and public utility lines located on other Lots or on Association Property and servicing such Owner's Lot. Each Lot shall be subject to an easement in favor of the Owners of other Lots to maintain and use the pipes, wires, conduits,

sewers, drainage areas and public utility lines servicing such other Lot and located on such other lot. The Association shall have the right of access to each Lot and residential dwelling thereon for maintenance, repair or replacement of any pipes, wires, conduits, sewers, drainage areas or public utility lines located on any Lot or within any residential dwelling thereon. The cost of such repair, maintenance or replacement on Association Property shall be a common expense funded from the Maintenance Assessments, except that, if occasioned by a negligent or willful act or omission of a specific Lot Owner or Owners, it shall be considered a special expense allocable to the Lot Owner or Owners responsible and such cost shall be added to the Maintenance Assessment of such Lot Owner or Owners and, as part of that Assessment, shall constitute a lien on the Lot or Lots to secure the payment thereof. The cost of such repair, maintenance or replacement on a Lot or within a residential dwelling shall be considered a special expense allocable to the Lot Owner, and such cost shall be added to the Maintenance Assessment of such Lot Owner and, as part of that Assessment, shall constitute a lien on the Lot to secure the payment thereof.

Section 4.05. Water. The Town of Richmond will own and maintain any fire protection hydrants and the water lines connecting the hydrants. Facilities for domestic supply of potable water including water supply or distribution mains or laterals or associated water meters or other components of such system will be the property of the Town of Richmond. Each Lot Owner shall be separately and individually responsible for charges for metered water delivered to or consumed by such Lot Owner or used by the Association for the maintenance of such Lot.

Section 4.06. Maintenance of Association Property. In order to preserve and enhance the property values and amenities of the Property, the Association shall at all times maintain the Association Property in good repair and condition, as set forth in this Declaration.

Section 4.07. Right of Association to Contract Duties and Functions. The Association may contract with any person, corporation, firm, trust company, bank, or other entity for the performance of its various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with other associations, both within and without the Property. The Association shall be bound by and the Association Property shall be subject to all contracts for service to or care or maintenance of Association Property made or entered into by the Declarant and continuing in force and effect at the time of the formation of the Association.

Section 4.08. Environmental Considerations. In carrying out its responsibilities in enforcing the provisions of this Declaration and in particular the provisions of Articles IX and X herein, the Association and the Board of Directors shall consider the environmental impact of any existing or proposed activities on the Property or any portion thereof and may, in its discretion, establish standards or guidelines aimed at reducing or eliminating any adverse environmental impact of such activities or take affirmative action to improve the quality of the environment.

Section 4.9. Common Access Easement. The Declarant and all owners and their guests, licensees and invitees shall have an easement for ingress and egress in common with one another over all sidewalks and the roadway located on the Association Property and the Association shall have an easement of access to each Lot for the maintenance, repair and replacement of driveways or any property or facilities, the maintenance of which is the responsibility of the Association.

Section 4.10. Distribution of Condemnation Awards. In the event all or part of the Association Property is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the individual Lot Owners in the proportion that the Lot area owned by them bears to the total area of all Lots subject to such award. The Board of Directors shall promptly send written notice of any pending condemnation or eminent domain proceeding to all institutional first mortgagees of Lots whose names appear on the books or records of the Association. In the event of any dispute with respect to the allocation of the award, the matter shall be submitted to arbitration in accordance with the arbitration statutes of New York.

ARTICLE V **ASSESSMENTS**

Section 5.01. Imposition, Personal Obligations, Lien. Each Lot Owner, by becoming an Owner by the acceptance of a deed or otherwise, whether or not such deed or any other instrument pursuant to which title was obtained so provides, shall be deemed to covenant and agree to pay to the Association:

- (a) annual assessments or charges for the maintenance and operation of Association Property ("Maintenance Assessments");
- (b) special assessments for capital improvements ("Special Assessments");

hereinafter collectively referred to as "Assessments." The Assessments shall be fixed, established and collected from time to time as hereinafter provided. Each Assessment (or installment payment thereof) together with such interest thereon and costs of collection as hereinafter provided, including reasonable attorneys' fees, shall be a charge and continuing lien upon the Lot against which the Assessment is made and shall also be the personal obligation of the Owner of such Lot at the time the assessment falls due.

Section 5.02. Purpose of Maintenance Assessment. The purpose of the Maintenance Assessment shall be to fund the maintenance, preservation, operation and improvement of the Association Property and the promotion of the recreation, safety and welfare of the Members of the Association, including but not limited to, the maintenance, repair and replacement of all facilities serving the Members, whether on or off the Lots, such as landscaped areas, the cost of labor, equipment, materials, management and supervision thereof, and for such other needs as may arise but excluding the repair or maintenance of any glass surface, door, patio, stoop, stair or spalling concrete.

Section 5.03. Date of Commencement and Notice of Assessments. The Assessments provided for herein shall commence on the day that this Declaration has been approved by the shareholders of the predecessor organization of Declarant, and shall replace any existing system of assessments through prior by-laws and the Consent Judgment. The Board of Directors of the Association shall fix the amount of the Assessment against each Lot at least thirty (30) days in advance of each annual assessment period. The Assessments shall be due and payable annually unless the Board of Directors establishes other periods for payment. Separate due dates may be established by the Board of Directors for partial annual Assessments as long as said Assessments are established at least thirty (30) days before they are due. Written notice of the annual Assessments shall be sent to every Owner subject thereto.

Section 5.04. Assessments for Specific Lots. The Owner of each Lot subject to this Declaration shall be liable for the payment of full Maintenance Assessments, and Special Assessments, if any.

Section 5.05. Basis for Maintenance Assessment. The annual Maintenance Assessment chargeable to each Lot for which Assessments have commenced pursuant to this Declaration shall be apportioned by dividing the total annual Maintenance Assessment by the total number of Members subject to this Declaration, thereby assuring that each member bears an equal share of the Association expenses.

Section 5.06. Change in Basis of Assessments. The Association may change the basis of determining the Maintenance Assessment provided for above by obtaining the consent of not less than the majority of the total votes of Members voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all voting Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. A written certification of any such change shall be executed by the Board of Directors and recorded in the Office of the Clerk of the County of Ontario.

Section 5.07. Special Assessments for Capital Improvements. In addition to the annual Maintenance Assessment, the Association may levy in any assessment year a Special Assessment, payable in that year and/or the following year only, for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction or replacement of, or repair of a capital nature to, the Association Property, including the necessary fixtures and personal property related thereto, provided that for any Special Assessment for the construction (rather than the reconstruction or replacement) of any capital improvement, and for any Special Assessment amounting to more than twenty percent (20%) of the then current amount of annual Maintenance Assessments, the consent is obtained of the majority of the total votes of Lot Owners voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Lot Owners at least thirty (30) days in advance, setting forth the purpose of the meeting. The Association shall establish one (1) or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner thereof in writing, at least thirty (30) days prior to the first such due date.

Section 5.08. Non-Payment of Assessment. If an Assessment, or installment thereof, is not paid on the due date, established pursuant to Section 5.03 hereof, then such Assessment payment shall be deemed delinquent. Any delinquent Assessment payment, together with such interest thereon, accelerated installments, if any, and cost of collection thereof as herein provided, shall thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner and such Owner's heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such Assessment shall remain such Owner's personal obligation and shall not pass to such Owner's successors in title unless expressly assumed by them. If the Assessment or any installment thereof is not paid within ten (10) days after the due date, the Association may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed ten percent (10%) of the amount of such overdue Assessment or installment thereof, provided such late charges are equitably and uniformly applied. If the Assessment or any installment thereof is not paid within thirty (30) days after the due date, (i) the Association may impose a late charge or charges in such amount or amounts as the Board of Directors deems reasonable, not to exceed ten percent (10%) of the amount of such overdue Assessment or installment thereof, and, if not paid within thirty (30) days after the due date, (ii) the Assessment shall bear interest from the due date at such rate as may be fixed by the Board of Directors from time to time, such rate not to exceed ten percent (10%) per annum, (iii) the Board of Directors may accelerate the remaining installments, if any, of such Assessment upon notice thereof to the owner, and (iv) the Association may bring legal action against the Owner personally obligated to pay the same or foreclose the lien against the property, and the cost of such proceedings, including reasonable attorneys' fees, shall be added to the amount of such Assessments, accelerated installments, if any, late charges and interest. Once an Assessment is deemed delinquent as described above, any payments received from the Owner shall be applied in the following order: attorneys' fees, other costs of collection, late charges, interest, and then the delinquent Assessment or installments thereof beginning with the amounts past due for the longest period. Dissatisfaction with the quantity or quality of maintenance services furnished by the Association shall, under no circumstances, entitle any Lot Owner to withhold or fail to pay the Assessments due to the Association for the Lot or Lots owned by such Owner. The Board of Directors, when giving notice to a Lot Owner of a default in paying Assessments, may, at its option, or shall, at the request of a mortgagee, send a copy of such notice to the mortgagee whose name and address appears on the Board's records for the particular Lot. The mortgagee shall have the right to cure the Lot owner's default with respect to the payment of said Assessments.

Section 5.09. Right to Maintain Surplus. The Association shall not be obligated in any calendar year to spend all the sums collected in such year by way of Maintenance Assessments or otherwise, and may carry forward as surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of the amount of the Maintenance Assessments in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Association.

Section 5.10. Assessment Certificates. Upon written demand of an owner or lessee with respect to a Lot which he or she owns or leases, (or any prospective purchaser, lessee, occupant, mortgagee or title insurer of such Lot), the Association shall, within a reasonable period of time, issue and furnish a certificate in writing signed by an officer or designee of the Association setting forth with respect to such Lot, as of the date of such certificate: (i) whether the Assessments, if any, have been paid, (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date, and (iii) whether any other amounts or charges are owing to the Association, e.g. for the cost of extinguishing a violation of this Declaration. A reasonable charge, as determined by the Board of Directors, may be made for the issuance of these certificates. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser or lessee of; or lender on, or title insurer of, the property in question.

Section 5.11. Subordination of Assessment Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any purchase money first mortgage of record now or hereafter placed upon any Lot subject to such Assessments; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any Assessments thereafter becoming due, nor from the lien of any such subsequent Assessment.

Section 5.12. Right to Borrow and Mortgage. In order to fulfill the purposes set forth herein, the Association may borrow funds from any recognized lending institution. The amount, terms, rate or rates of all borrowing and the provisions of all agreements with note holders shall be subject to the approval of the Board of Directors.

Section 5.13. Repayment of Monies Borrowed. In order to secure the repayment of any and all sums borrowed from time to time, the Association is hereby granted the right and power:

- (a) to assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the Maintenance Assessment hereunder;
- (b) to enter into agreements with note holders with respect to the collection and disbursements of funds, including, but not limited to, agreements wherein the Association covenants to:
 - (1) assess the Maintenance Assessment on a given day in each year and, subject to the limitation on amount specified in Section 5.04 hereunder, to assess the same at a particular rate or rates;
 - (2) establish such collection, payment and lien enforcement procedures as may be required by the note holders;
 - (3) provide for the custody and safeguarding of all funds received by it;

- (4) establish sinking funds and/or other security deposits;
- (5) apply all funds received by it first to the payment: of all principal and interest on such loans, when due, or to apply the same to such purpose after providing for costs of collection.

Section 5.14. Assignment of Rents by Non-Occupying Owner. A non-occupying Owner of a Lot, in the event of their failure to pay any annual or special Assessment and late charges, within sixty (60) days after the expiration of any grace period contained in this Declaration for the payment of Assessments, hereby consents to the assignment of the rents to be paid to the Owner, upon written notice to the Owner and the Tenant, as well as any known mortgage. Immediately following such notice, the Tenant is directed to make the rental payments directly to the Association, and shall continue to do so, until such time as all payments for the Assessments and late charges are brought current, upon which notice of such fact shall be given within three (3) days thereof by the Association to the Owner and Tenant, whereupon rental payments would resume being paid to the Owner. Payment by the Tenant to the Association made pursuant to this provision shall relieve the Tenant from the obligation to pay such rent to the Owner, and shall be an absolute defense in any non-payment proceeding commenced by such Owner against the Tenant for such rent. If the amount due for Assessments and late charges from the Owner is less than the amount to be paid for rent by the Tenant, the Association shall notify Tenant accordingly, and Tenant shall pay the remainder to the Owner. The provisions of this Section shall at all times be subordinate to the lien of any first mortgage on the premises.

ARTICLE VI

MAINTENANCE BY THE ASSOCIATION

Section 6.01. Maintenance and Repairs by the Association. All maintenance and repair of and replacements to the improvements on Association Property, the maintenance, repair and replacement of the roadways and all driveways and sidewalks on the Association Property, snow removal from the roadway, and the maintenance of all Park Lawn areas shall be the responsibility of, and at the cost and expense of the Association. Maintenance, repair and replacement of pipes, wires, conduits and public utility lines and for which a utility company or other entity is not responsible (on Association Property) shall also be the responsibility of, and an expense of the Association. Such cost shall be funded from the Maintenance Assessments.

- (a) **Maintenance of Association Property.** With respect to Association Property, the Association shall maintain, repair and replace all improvements, including driveways, roadway, sidewalks, signs and landscaped areas on Association Property (including Association Property subject to exclusive use by any Owner). The Association shall also be responsible for snow removal from the roadways.

(b) **Maintenance of Lots.** With respect to the improvements on a Residence Lot, the Association shall stain, repair and replace fences or railings initially installed by the Declarant, but shall not repair or replace spalling concrete walks, stoops, porches, patios or stairs.

The Board of Directors of the Association may, upon the affirmative vote of not less than three-fourths (3/4) of the entire Board of Directors, provide for additional maintenance with respect to the Lots to be undertaken by the Association or to discontinue the performance of some or all of the maintenance responsibilities of the Association with respect to the Lots.

The cost of all maintenance performed by the Association shall be funded from Maintenance Assessments.

Section 6.02. Repairs and Maintenance Which Are Not the Responsibility of the Association. Except as provided in Section 6.01 above, the Association shall not be responsible for: (i) the maintenance, repair or replacement of any buildings or structures owned by the individual Lot Owners, or (ii) the maintenance, repair or replacement of any sewer lines, water lines or other utility lines which are maintained, repaired and replaced by a municipality, public authority or utility company. Any maintenance, repair or replacement necessary to preserve the appearance and value of the Property made pursuant to Section 6.01 above, but which is occasioned by a negligent or willful act or omission of a Lot Owner or the Declarant shall be made at the cost and expense of such Lot Owner or the Declarant, as the case may be. If such maintenance, repair or replacement is performed by the Association, it shall not be regarded as a common expense, but shall rather be considered a special expense allocable to the specific Lot and such cost shall be added to that Lot Owner's Maintenance Assessment and, as part of that Assessment, shall constitute a lien on the lot to secure the payment thereof.

Section 6.03. Quality and Frequency of Maintenance and Repairs. All maintenance, repair and replacement, whether or not performed by the Association, shall be of a quality and appearance consistent with the enhancement and preservation of the appearance and value of the Property. The Association may establish reasonable schedules and regulations for maintenance, repair and replacement, which schedules and regulations shall take into account the useful life of any painting or staining and exterior materials and the enhancement and preservation of the appearance and value of the Property.

Section 6.04. Access for Repairs. The Association (and its employees, contractors and agents) shall, upon reasonable notice to the Owner(s), have the right to enter upon any portion of the Property and upon any Lot at any reasonable hour to carry out its functions as provided for in this Article, except that in an emergency, the Association shall have the right, without notice, to enter upon any portion of the Property to make necessary repairs or to prevent damage to any Lot or any portion of the Property. The repair of any damage caused in gaining access shall be at the expense of the Association.

ARTICLE VII
ENCROACHMENTS

Section 7.01. Encroachments and Projections. If any Residence and all improvements associated with it, including but not limited to patios, porches, decks, and privacy fencing, encroaches or projects upon any portion of the Association Property as a result of the construction of such Residence, or if any such encroachment or projection shall occur as a result of settling or shifting of such Residence or portion thereof, there shall be an easement for such encroachment or projection and for the maintenance of same so long as such encroaching or projecting Residence or portion thereof shall stand. In the event one (1) or more Residences or portions thereof are partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, or proceedings of similar import and effect, and such Residence or portions thereof are thereafter rebuilt, inadvertent encroachments or projections by such Residence or portions thereof upon any portion of the Association Property, which existed as a result of initial construction, due to such rebuilding, shall be permitted, and valid easements for such encroachments or projection and the maintenance thereof shall exist so long as such improvements shall stand; provided, however, that such encroachment or projection shall not be greater than two (2) feet.

ARTICLE VIII
INSURANCE AND RECONSTRUCTION

Section 8.01. Insurance to be Carried. The Board of Directors shall be required to obtain and maintain, to the extent obtainable, the following insurance: fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring all of the Association Property, covering the interest of the Association, the Board of Directors and all Owners and their mortgagees, as their interest may appear, in an amount equal to the full replacement value of the Association Property. Each of such policies shall be payable to the Association or any mortgagee, if any, as its interest may appear, subject, however, to the loss payment provisions in favor of the Board of Directors and the Insurance Trustee hereinafter set forth. The cost of all such insurance shall be paid by the Board of Directors and shall constitute a common expense. The Association may also obtain and maintain such other insurance as the Board of Directors may determine. All such policies shall provide that adjustment of loss shall be made by the Board of Directors with the approval of the Insurance Trustee, and that the net proceeds thereof, if \$50,000.00 or less, shall be payable to the Association, and if more than \$50,000.00, shall be payable to the Insurance Trustee.

All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro rata liability of the insurer as a result of any insurance carried by Owners or of the invalidity arising from any acts of the insured or any Owner, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insureds, including all mortgagees of Lots. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board of Directors shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the Association Property for the purpose of determining the amount of fire insurance to be effected pursuant to this Section.

The Board of Directors may also require, to the extent obtainable, public liability insurance in such limits as the Board of Directors may from time to time determine, covering each member of the Board of Directors, the managing agent and each Owner. Such public liability coverage shall also cover cross liability claims of one insured against another.

Notwithstanding the foregoing, the Association has no obligation to procure or maintain any form of insurance, including but not limited to, personal liability, casualty, fire or property damage, providing insurance coverage to the Owners for their own Lot or Residence. Furthermore, the Association is neither liable nor required to defend or indemnify any Owner with respect to any such personal liability, casualty, fire or property damage occurring within an Owner's Lot or Residence.

Under no circumstances shall an Owner permit or suffer anything to be done or left in their Lot or storage area which will increase insurance rates on such Lot or on any other Lot or on the Association Property. The penalty for violation shall be an Assessment against the Owner violating the provision in an amount equal to the increased rate(s).

The deductible, if any, on any insurance policy purchased by the Board of Directors shall be a common expense, provided, however, that the Board of Directors of the Association may assess any deductible amount necessitated by the gross negligence or wantonly malicious act of an owner against such Owner. The Association may pay the deductible portion for which such Owner is responsible, and the amount so paid, together with interest and costs of collection, including attorneys' fees, shall be a charge and continuing lien upon the Lot involved, shall constitute a personal obligation of such Owner, and shall be collectible in the same manner as assessments under Article V of this Declaration.

Section 8.02. Insurance Carried by Owners. Owners of Residences shall not be prohibited from carrying other insurance for their own benefit, provided that such policies contain waivers of subrogation, and further provided, that the liability of the carriers issuing insurance procured by the Board of Directors shall not be affected or diminished by reason of any such additional insurance carried by the Owner. Owners are encouraged to obtain insurance for the replacement value of the Residence and the personal property of the Owner and occupants.

Section 8.03. Restoration or Reconstruction After Fire or other Casualty. In the event of damage to, or destruction of, any Residence, insured through insurance obtained by such Lot Owner, as a result of fire or other casualty, the Lot Owner shall arrange for the prompt repair and restoration of the damaged property. If the Owners of 75% or more of all Residences vote to not require the Lot Owner to proceed with repair or restoration, the net proceeds of insurance policies, if any, shall be used by the Lot Owner as he or she sees fit; provided, however, that there has first been paid out of such Lot Owner's share of such funds all liens on such Owner's Residence. In the event that insurance proceeds are, for any reason, insufficient to pay all of the costs of restoring or repairing the property to the same condition as formerly existed, the Board of Directors may levy a Special Assessment to make up the deficiency against all owners of the damaged Residences in such proportions as the Board of Directors deems fair and equitable taking into account the damage sustained to each Residence and any negligence which, in the opinion of the Board, contributed to the damage and loss. In the event that insurance proceeds

exceed the cost of repair and reconstruction, such expenses shall be paid over to the respective mortgagees and Lot Owners in such proportions as the Board of Directors deems fair and equitable taking into account the damage sustained to each Residence and Lot, provided, however, that a distribution that results from an Assessment paid by a Lot Owner, shall be made to the Lot Owners and their mortgagees as their interest may appear.

Section 8.04. Subrogation and Proof of Coverage. All policies obtained by Lot Owners must contain waivers of subrogation and the liability of carriers issuing insurance procured by the Board of Directors must not be affected or diminished by reason of any insurance obtained by a Lot Owner.

ARTICLE IX

GENERAL AGREEMENT AND RESTRICTIONS

Section 9.01. Advertising and Signs. Except for signs erected by or with the permission of the Declarant in connection with the initial development, lease or sale of Lots, no additional sign or other advertising device of any nature shall be placed for display to the public view on any Lot or other portion of Property, including but not limited to temporary signs advertising property for sale or rent except with the consent of the Board of Directors.

Section 9.02. Animals, Birds and Insects. No Owner, resident, tenant or guest shall keep or maintain any animals except an approved domestic household pet as defined by the Richmond Town Board. The Board of Directors may, from time to time, publish other rules and regulations relating to animals. All approved domestic household pets must be kept leashed or otherwise restrained. The Board of Directors shall have the right to require any Owner, resident, tenant or guest, to remove any pet from the Lot, or the property, if, in the opinion of the Board of Directors, acting in its sole discretion, determines such pet possesses a threat to the safety or health of other occupants of the Lots, or that such pet is not kept under leash or restraint, upon three (3) days written notice. Any animal found on the Association Property which is not on a leash may be summarily removed by the Board of Directors or the Managing Agent, or their employees, and delivered to the custody of any local or municipal authority with power to impound the same, without any liability on the part of the Board of Directors, its agent or employees for such removal. Owner, resident, tenant, or any guest thereof, shall be responsible for picking up after their pet. A kennel or outdoor enclosure for retaining a pet out-of-doors may not be constructed without the consent of the Board of Directors.

Section 9.03. Garbage and Refuse Disposal. Except for building materials during the course of construction or repair of any approved improvements, no lumber, metals, bulk materials, rubbish, refuse, garbage, trash or other waste material (referred to hereinafter as "Trash") shall be kept, stored, or allowed to accumulate outdoors on any portion of the Property, except in sanitary containers and screened from adjacent and surrounding property. Such containers may be placed in the open within 24 hours of a scheduled pick-up, at such place on the lot or other portion of the Property designated by the Association so as to provide access to persons making such pick-up.

Section 9.04. No Above Surface Utilities without Approval. No facilities, including without limitation, water, gas, sanitary and storm sewer drainage pipes and conduits shall be placed or maintained above the surface of the ground on any portion of the Property without the prior written approval of the Association.

Section 9.05. Noxious or Offensive Activities. No noxious or offensive activity shall be carried out upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the area or to the residents or Owners thereof. The emission of smoke, soot, fly ash, dust, fumes, herbicides, insecticides, and other types of air pollution or radioactive emissions or electro-magnetic radiation disturbances, shall be controlled so as not to be detrimental to or endanger the public health, safety, comfort or welfare, be injurious to property, vegetation or animals, adversely affect property values or otherwise produce a public nuisance or hazard or violate any applicable zoning regulations or governmental law, ordinance or code.

Section 9.06. Oil and Mining Operations. No portion of the Property shall be used for the purpose of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth, except soil borings in connection with the improvement of said portion of the Property, and no derrick or other structure designed for use in boring for oil, natural gas or any other mineral shall be erected, maintained or permitted on any portion of the Property, except with the consent of the Association.

Section 9.07. Dwelling in Other Than Residential Residence. No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a dwelling on any Lot or other portion of the Property, except with the consent of the Association.

Section 9.08. Use and Maintenance of Slope Control Areas. Within any slope control area shown on any filed map or plat, no improvements, planting or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, change the direction or flow of drainage channels. The slope control areas of any Lot or other portion of the Property and all improvements thereon shall be maintained continuously by the Owner of said Lot or other portion of the Property, except in those cases where a governmental agent or other public entity or utility company is responsible for such maintenance.

Section 9.09. Snowmobiles. No snowmobile or similar motor vehicle shall be operated on any portion of the Property except with those machines that are registered and licensed.

Section 9.10. Commercial and Professional Activity on Property. No wholesale or retail business or service occupation in conflict with applicable municipal laws and ordinances shall be conducted in or on any Lot or other portion of the Property without the consent of the Association.

Section 9.11. Outdoor Repair Work. With respect to a Lot or other portion of the Property to which title has been transferred by the Declarant, no work on any motor vehicles, boats or machines of any kind, other than minor servicing and maintenance, shall be permitted outdoors on such Lot or portion thereof, except with the consent of the Association.

Section 9.12. Oversized, Commercial and Unlicensed Vehicles. Unless used in connection with the construction or maintenance of the Property, the following shall not be permitted to remain overnight on the Property:

- (a) commercial vehicles of a weight of ten (10) tons or more, unless garaged;
- (b) unlicensed motor vehicles of any type, unless garaged.

Section 9.13. Shoreline Area. The shoreline area is under the supervision of the Board of Directors. No Owner shall place upon this area any structure, temporary or permanent. There shall be no parking anywhere along the shoreline or roadways. Any structure existing thereon, as of the date of the Declaration, is subject to the directives, rules and regulations of the Board of Directors.

Section 9.14. Docks. Only Owners in GOOD STANDING have the right to slip space. Owner must have all assessments, fines and penalties paid, and liens by the Association must be satisfied. All dock sections and hoists stored on Association Property must be removed from such property by June 30th of each year; otherwise, the Owner of such docks and hoists may be subject to a fine or penalty, and the Association shall be entitled to remove such property from Association Property and separately assess the Owner for the cost of removal as a Special Assessment against such Owner. The above will also be applicable to the removal of docks and hoists from the water if the slip owner is not in GOOD STANDING.

Section 9.15. Beach Area. The beach area shall remain open and free of all vehicles, land or water, and no structure shall be placed to limit the enjoyment and use of said area by the Owners, except as determined by the Board of Directors.

Section 9.16. Recreational Equipment. No recreational equipment, including jet skis, paddle boats, other transportable water craft, or any other kind of transportable water or recreational equipment, excluding boats on hoist, shall be stored on Association Property, except that hoists and docks may be stored on Association Property from Labor Day to June 1st of each year (for winter storage), unless the Board of Directors otherwise states due to reasons of safety and/or aesthetics.

ARTICLE X
ENFORCEMENT, AMENDMENT AND DURATION OF DECLARATION

Section 10.01. Declaration Runs With the Land. Each person or entity acquiring an interest in a Lot or other portion of the Property or otherwise occupying any portion of the Property, whether or not the deed, lease or any other instrument incorporates or refers to the Declaration, covenants and agrees for him, her, or itself, and for his, her or its heirs, successors and assigns, to observe, perform and be bound by the provisions of the Declaration, including personal responsibility for the payment of all charges which may become liens against his property and which become due while he is the owner thereof, and also covenants to incorporate this Declaration by reference in any deed, lease or other instrument further transferring an interest in such Lot other portion of the Property.

Section 10.02. Enforceability. The provisions of the Declaration shall bind the Property, shall be construed as running with the land and shall inure to the benefit of the Association, which shall be deemed the agent for all of its Members, and may be enforced by any Member or Owner, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity. As it may be impossible to measure monetarily the damages which may accrue to the beneficiaries hereof by reason of a violation of the Declaration, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

Section 10.03. No Waiver by Failure to Enforce. The failure of any beneficiary hereof to enforce any provision of the Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation occurring prior to or subsequent thereto. No liability shall attach to the Declarant, the Association, or any officer, director, employee, Member, agent, committee or committee member thereof, or to any other person or organization for failure to enforce the provisions of the Declaration.

Section 10.04. Obligation and Lien for Cost of Enforcement Association. If the Association or any other party successfully brings an action to extinguish a violation or otherwise enforce the provisions of the Declaration, or the rules and regulations promulgated hereto, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is (i) the Owner, (ii) any family member, tenant, guest or invitee of the Owner, (iii) a family member or guest or invitee of the tenant of the Owner, or (iv) a guest or invitee of (1) any member of such Owner's family or (2) any family member of the tenant of such Owner, such costs shall also be a lien upon the Lot or other portion of the Property owned by such Owner, if any.

Section 10.05. Amending or Rescinding. Unless otherwise specifically provided for herein, this Declaration may be amended or rescinded upon the consent in writing of the Owners of not less than three-fourths (3/4) of all Lots which are subject to this Declaration. In addition, until three (3) years from the date of recording of this Declaration, or so long as the Declarant owns any of the Lots subject to this Declaration, the written consent of the Declarant will be required for any amendment which adversely affects the interest of the Declarant. In voting for such amendment or rescission, the Members' voting rights shall be as set forth in Article III

hereof. The Owners of every Lot shall receive written notice of every proposed amendment or rescission at least thirty (30) days prior to the date set for voting on said proposed amendment or rescission.

Section 10.06. When Amendment or Rescission Become Effective. Any amendment or rescission to this Declaration shall not become effective until the instrument evidencing such change has been duly recorded in the office of the Ontario County Clerk. Such instrument need not contain the written consent of the required number of Owners, but shall contain a certification by the Board of Directors of the Association that the consents required for such amendment have been received and filed with the Board.

Section 10.07. Duration. The provisions of this Declaration shall, unless amended or rescinded as hereinbefore provided, continue with full force and effect against both the Property and the Owners thereof for a period of thirty (30) years from the date it is recorded and shall, as then in force, be automatically, and without further notice, extended for successive periods of ten (10) years, except as otherwise set forth herein.

Section 10.08. Construction and Interpretation. The Association shall have the right to construe and interpret the provisions of this Declaration and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions. Any conflict in construction or interpretation between the Association and any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Association. The Association may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and making-and finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners and other residents of the Property to the end that the Property shall be preserved and maintained as a high quality community. In granting any permit, authorization or approval, as herein provided, the Association may impose any conditions or limitations thereon as they shall deem advisable under the circumstances in each case in light of the consideration set forth in the immediately preceding paragraph hereof.

Section 10.09. Conflict with Municipal Laws. The protective covenants, conditions and restrictions set forth herein shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease.

Section 10.10. Change of Conditions. No change of conditions or circumstances shall operate to amend any of the provisions of this Declaration, and the same may be amended only in the manner provided herein.

Section 10.11. Invalidity of Agreement or Declaration. The determination by any court of competent jurisdiction that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

ARTICLE XI **TENANCIES**

Section 11.01. Right to Lease. An Owner intending to lease their Lot for greater than six(6) months shall be required to inform the Association of their intent. A written lease will be required. The Owner shall be obligated to provide to the Association the name(s) of the lessee(s), as well as the current address (a post office box is not acceptable) for the Owner during the term of the lease, and any renewal periods.

Section 11.02. Contents of Lease. The lease (referred to in Section 11.01) must contain language that the Lessee acknowledges the receipt and review of a copy of the Declaration of Covenants, Restrictions, Easements, Charges and Liens, and all Rules and Regulations as published by the Association, together with any amendments thereto, and agrees to be bound by the terms and conditions contained therein, most specifically the section relating to tenancies and the assignment of rents contained therein.

ARTICLE XII **GENERAL**

Section 12.01. Headings and Captions. The headings and captions contained in this Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 12.02. Notice. Any notice required to be sent to the Declarant, Owner or mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as the Declarant, Owner or mortgagee on the records of the Association at the time of such mailing.

Section 12.03. Right of Association to Transfer Interest. Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Declaration to any successor not-for-profit corporation or trust, and upon such assignment the successor corporation or trust shall have all the rights and be subject to all the duties of said Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation or trust had been an original party and all references herein to the Board of Directors or Trustees of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the Successor corporation or trust expressly assumes all the duties and obligations of the Association. If the Association, for any reason, shall cease to exist without having first assigned its rights hereunder to a successor corporation or trust, the covenants, easements, charges and liens imposed hereunder shall nevertheless continue and any Owner may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation or trust to take over the duties and responsibilities of the entity to exist, subject to the conditions provided for herein with respect to an assignment and delegation to a successor corporation or trust.

Section 12.04. Right of Association To Transfer Functions. Unless otherwise specifically prohibited herein or within the Certificate of Incorporation or By-Laws of the Association, any and all functions of the Association shall be fully transferable in whole or in part to any other homeowners or residents association or similar entity.

(SEAL)

HONEOYE LAKE PARK ASSOCIATION, INC.

By:

DANIEL BARNHART, President

STATE OF NEW YORK)
COUNTY OF MONROE) SS:

On the _____ day of August in the year 2003, before me, the undersigned, a notary public in and for said state, personally appeared **DANIEL BARNHART**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A
INITIAL PROPERTY SUBJECT TO DECLARATION

ALL THAT TRACT AND PARCEL of property situate in the Town of Richmond, County of Ontario and State of New York, known as Honeoye Lake Park subdivision, as set forth in a map of Honeoye Lake Park made for the C.L.B. Development Corporation by Clinton S. Herrick, C.E., of Syracuse, New York, and filed in the Office of the Ontario County Clerk on August 2, 1924, being Map #378, and such additions thereto as may hereafter be brought within the jurisdiction of this subdivision, along with all structures, fixtures and improvements thereon, and community facilities and rights, privileges and easements benefiting such property (the "Property"), which is divided into approximately one thousand six hundred (1,600) lots, including all lots on both sides of Rochester Avenue, Buckingham Street, Berkeley Street, Charmouth Street, Sedgwick Street, Arlington Street, Bellevue Street, Clairmonte Street, Sherbrooke Street, Rugby Street, New York Street, Cambridge Street, Columbia Street, Hobart Street, Hamilton Street, Princeton Street, Cornell Street, Harvard Street, Dartmouth Street, Amherst Street, Colgate Street, Oxford Street and any street which is commonly owned by the HLP, inc.