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DECLARATION  
OF  
COVENANTS, EASEMENTS AND RESTRICTIONS  
FOR  
HAWTHORNE COMMONS HOMEOWNERS' ASSOCIATION, INC.  
A PLANNED COMMUNITY



I hereby CERTIFY  
that this document is  
recorded in the  
Recorder's Office  
of Butler County,  
Pennsylvania

  
Michele M. Mustello - Recorder of Deeds

DECLARATION OF  
COVENANTS, EASEMENTS AND RESTRICTIONS  
HAWTHORNE COMMONS HOMEOWNERS ASSOCIATION, INC.  
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DECLARATION OF  
COVENANTS EASEMENTS AND RESTRICTIONS  
HAWTHORNE COMMONS HOMEOWNERS ASSOCIATION, INC.  
A Planned Community

THIS DECLARATION, made effective as of the 23<sup>rd</sup> of May, 1997 by SEVEN FIELDS DEVELOPMENT COMPANY, a Pennsylvania corporation, with a business address of P.O. Box 430 Lawrence , Pa. 15055, (hereinafter referred to as the "Developer"), is made for the specific purposes of (1) subjecting the Real Estate described in Exhibit "A" attached hereto and incorporated herein by this reference to the following Declaration of Covenants, Easements and Restrictions effective and, (2) to the extent permitted by law, subjecting the said Real Estate to the Uniform Planned Community Act ("Act").

WHEREAS, the Developer is the fee simple owner of the real estate described in Exhibit 'A' (hereinafter referred to as the "Real Estate") and desires to develop the Real Estate as a site for individually owned units in quadruplex home configuration; and

WHEREAS, Developer has deemed it desirable, for the effective preservation of the value of the land and properties, to create and properly maintain amenities within the patio home community, and to establish and empower a Homeowners' Association to which shall be delegated and assigned the powers and responsibilities as are hereinafter more specifically set forth including the undertaking of all such acts and activities to enforce the covenants, easements and restrictions as herein provided, including, without limitation, the fixing of; collection and disbursement of Monthly Dues, and charges, for the mutual benefit of the several owners of the Lots comprising the quadruplex homes; and

WHEREAS, this document supersedes and rescinds all prior recorded documents relative to covenants , easements and restrictions on the said real estate, including , but not limited to, those known as the "Hawthorne Commons Homeowners Association, Inc. Rules and Regulations" recorded May 27, 1997, and as amended September 24, 1997 and January 17, 2001.

WHEREAS, Real Estate and the Units comprising the same have been sold and conveyed subject to the covenants, easements, restrictions, charges and liens herein established, and that the same shall be binding upon and run with the land; and, shall further be binding upon and inure to the benefit of all persons having any right, title, or interest in the Real Estate and their respective heirs, legatees, personal representatives, successors and assigns.

## ARTICLE 1 - SUBMISSION

SEVEN FIELDS DEVELOPMENT COMPANY, a Pennsylvania corporation (the "Developer") as the owner in fee simple title to the Real Estate described in Exhibit "A, attached hereto and incorporated herein by this reference, located in Butler County, Pennsylvania, hereby agrees to create HAWTHORNE COMMONS HOMEOWNERS ASSOCIATION, INC., as a planned community in accordance with the Pennsylvania Planned Community Act, and does hereby submit the Real Estate to the following rules, regulations, easements, reservations and restrictions with respect to the Development and ownership of the Units and Lots comprising the Real Estate.

## ARTICLE 2 - Allocation OF PERCENTAGE INTERESTS AND VOTES

Section 2.1 Percentage Interests. Hawthorne Commons will consist of not more than NINETY-SIX (96) Units. Each Unit shall have an undivided ownership interest in the Common Elements ("Percentage Interest"). The Percentage Interest shall determine the share of Common Expense Liability appurtenant to each Unit and each Unit's Percentage Interest shall be equal to each other Unit's Percentage Interest. The Percentage Interest shall be the decimal equivalent of a fraction, the numerator of which shall be one (1) and the denominator shall be the actual number of Units for which the Borough of Seven Fields has issued certificates of occupancy as of the time of determining the Percentage Interests.

Section 2.2 Allocation of Votes. Each Unit shall be entitled to one (1) vote in the affairs of the Association.

### ARTICLE 3- DEFINITIONS

All capitalized terms used throughout this Declaration shall have ascribed to them the following meanings, unless otherwise defined herein.

- (a) "Act" means the Uniform Planned Community Act, 68 Pa. C.S.A. Section 5101, et seq.
- (b) "Association Documents" means the Declaration, By-laws and Rules and Regulations all of which set forth the rights and responsibilities of the Homeowners and Association.
- (c) "Association" means the HAWTHORNE COMMONS HOMEOWNERS ASSOCIATION, INC., (hereinafter referred to as "Association").
- (e) "Board of Directors" or "Board" means the Board of Directors of the Association.
- (f) "Commercial Vehicle" means any vehicle, the primary purpose of which is clearly for business uses rather than for personal use.
- (g) "Common Areas" and "Common Improvements" means all areas identified and designated for common use by Developer, or its successors or assigns, including, without limitation, the Association, without regard as to in whom the fee simple ownership of the area of the Real Estate so designated and identified is vested. Each Unit Owner in accepting ownership of each Unit comprising the Real Estate expressly acknowledges and agrees that the Association shall have the right to designate any and all areas of the Lot as "Common Areas" exclusive of the area upon which the dwelling Unit and permitted improvements are situate but inclusive of all "exterior surfaces, roofs, perimeter walkways, driveways and other fixtures and properties affixed or attached to the exterior of such dwelling Unit, excepting windows, screens, doors, including the hardware therefore, door jambs, garage doors, unit walkways HVAC systems and permitted improvements as specified herein or by the action of the Association
- (g) "Limited Common Areas" shall consist of any and all Real Estate, unit walkways, patios, decks, driveways, and parking places as are designated as such on the Declaration Plan or Plat. All areas so designated are reserved for the exclusive use of the Unit to which they are adjacent or to which they are declared to be appurtenant by appropriate designation. Each such Limited Common Area, however, is subject to and governed by the provisions of the Act, this



Declaration, and the By-Laws and Rules and Regulations of the Association.

(i) "Developer" means the Developer described in Article I above, and all successors and assigns of any of Developer's rights, including, without limitation, the Association.

(j) "Declaration" means this document, as the same is herein constituted and as hereafter amended from time to time.

(k) "Association Documents" shall consist of this Declaration, By-Laws, and Rules and Regulations all as amended from time to time.

(l) "Unit" means the structure, building, fixtures, appurtenances, and other authorized attached properties comprising the dwelling situate upon a Lot comprising the Real Estate designed and included for independent use as a residential unit.

(m) "Plat(s)" means the subdivision plat or plats recorded, or to be recorded, subdividing and re-subdividing the Real Estate and portions thereof; as the same may be supplemented and amended from time to time.

(n) "Real Estate" means the Real Estate described in Exhibit "A."

(o) "Lot" means a Lot as described in the subdivision Plat or Plats of record and to be recorded encompassing the Real Estate.

(p) "Unit Owner" or "Owner" means the owner in fee simple of any Unit or persons purchasing a Unit under contract (until such contract is fully performed and legal title conveyed of record). Homeowners and Unit Owners are one and the same.

(q) "Common Expenses" or "Homeowners' Dues" means all costs, expenses, expenditures, reserves and other funding as so determined, designated and identified by the Association or its successors or assigns, to be used for the purposes of constructing, installing, maintaining, repairing, replacing, operating, managing, insuring and utilizing all properties, improvements, installations and other properties designated and identified as "Common Areas" and "Common Improvements," including management and administrative fees and expenses, and may otherwise be more particularly provided in the Declaration.

(r) "Member" or "Membership" in the Association shall be required of each Unit Owner. Each such Unit Owner shall be required to join said Association and agrees to do so by the acceptance of a deed to any Unit. Each Member shall be fully bound by the provisions hereof the Association Documents and the acts of its Board of

Directors. The Membership of multiple Unit Owners shall be controlled as provided herein.

(s) "Single Family Unit" means husband, wife and minor and adult children or domestic partners and children.

#### ARTICLE 4—PROPERTY RIGHTS

Each Unit Owner acquiring title to any Unit within the subdivision comprising the Real Estate shall acquire such right, title and interest as the deed or instrument of conveyance shall indicate, define and effectuate; subject to, however, the rights, easements, licenses, charges, liens, encumbrances, obligations, covenants, easements and restrictions, all as are more particularly herein set forth. Each such Unit Owner, by the acceptance of said conveyance, agrees that not only shall the Unit be so bound, but said Unit Owner acknowledges and agrees to be personally bound to perform each and every undertaking and obligation as hereinafter provided and further acknowledges and agrees to be bound by, consent to, and permit all actions and undertakings of the Association with respect to the performance and satisfaction of the terms and provisions of the subject Covenants, Easements and Restrictions as the same may impact and affect the Unit of each Unit Owner. Each Unit Owner, for himself/herself/themselves, by his/her/their, heirs, successors and assigns, agrees to be bound by and comply with the acts of the Association, acting through its Board of Directors, with respect to matters impacting or affecting the Unit of Owner and the Common and/or Limited Common Areas, excluding, however, all matters within the exterior walls of the improvements constructed upon the Unit other than as herein otherwise specifically provided.

#### ARTICLE 5— EASEMENTS

Section 5.0 Easements. The Developer hereby reserves, grants and creates the following easements upon the Real Estate.

Section 5.1 Utility Easements The Real Estate shall be, and is hereby, made subject to easements in favor of the Developer, and its successors or assigns, appropriate utility and service companies and governmental agencies or authorities, for the installation, maintenance, repair, relocation and replacement of all such utility and service lines and equipment as may be necessary or desirable to serve any and all portions of the Real Estate. The easements created in this Section 5.1 and as may be hereafter created shall include, without limitation, rights in the Developer and in its successors or assigns, or for utility or service companies, or governmental agencies or authorities to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, telephone and other communication wires and equipment, television equipment and facilities (cable and otherwise), electric wires, conduits and

equipment, and ducts and vents over, under, through, across, along and upon the Lots, street rights-of-way and all other areas comprising the Real Estate.

In addition to the foregoing easement rights, the Developer and the Association, their contractors, subcontractors, agents and employees shall have the right to utilize, free of any requirement for reimbursement, water, electricity and any other utility service in place upon any Lot or situate in any Unit, which may be necessary or convenient to carry out and complete the installation, repair, restoration, maintenance, operation and management of the Common Areas and all plants, fixtures, properties and improvements situate thereon.

Section 5.2 Easement for Access to Real Estate. Developer, for itself, its successors and assigns reserves a nonexclusive perpetual right of access and easement on, over, across and under all portions of the Real Estate , including individual Lots, for the purpose of constructing and installing pedestrian and vehicular ingress, egress and regress to all or any part of the Real Estate, including the right to modify the location of improvements situate upon the Real Estate including individual Lots, so as to facilitate such ingress, egress and regress, and to the grading or regrading of areas comprising a part of the Real Estate.

Section 5.3 Developer's Easement for Drainage Contour and Storm Water Management and Control. The Developer, for itself, its successors and assigns, reserves an easement on, over, across and under all portions of the Real Estate for the purpose of proper drainage of surface and subsurface water, by and through management controls and techniques, in order to effectuate and maintain an appropriate standard of health, safety and appearance within the Development. The easement created by this Section 5.3 expressly includes the right to cut any trees, bushes or shrubbery, to grade the surface and subsurface, or to take any other action reasonably necessary to achieve this purpose of the Developer, or its successors and assigns, subject, however, to the obligation to restore the affected property as closely to its original condition as practicable considering the changes made to effectuate and carry out the purposes hereof.

Section 5.4 Easement for Lawns and Landscaping An easement is hereby reserved and created upon, in, over and under each Lot for the purposes of improving and installing lawns, landscaping, trees, bushes, shrubs, flowers, plantings and all other types of greenery, vegetation, and all types and kind of plants and plantings, as may be designated and identified by the Association, its successors and assigns. Said easement shall include the right to enter upon all areas of the Real Estate for the purposes of installing, planting, improving, maintaining, repairing, replacing,

relocating, removing and otherwise undertaking any act or action incident to the purposes of the foregoing easement. Further, said easement shall include the right to install, maintain, repair, replace, relocate and otherwise deal with irrigation or other watering devices and mechanisms to service said lawns and landscaping and to install or construct any other improvements considered necessary or convenient to the installation, care, and maintenance of all such lawns and landscaping, including without limitation, control of persons, pets, pests and wildlife.

**Section 5.5 Walkways, Fencing, Public Amenities and Other Improvements.** An easement is hereby reserved to the Developer, the Association and their successors and assigns, and created upon, in, over and under each Lot for the purposes of improving and installing walkways, driveways, fencing, shelters, gazebos, benches, activity devices or equipment, recreational facilities, and other properties and improvements for the use and enjoyment of the Common Areas as determined from time to time by the Developer or the Association. Said easement shall include the right to enter upon all areas of the Real Estate for the purposes of installing, improving, maintaining, repairing, replacing, relocating, removing and otherwise undertaking any act or action incident to the purposes of the foregoing easement.

**Section 5.6 Easement of Encroachment.** An easement of encroachment is hereby reserved to the Developer, the Association and their successors and assigns for the maintenance and use of any permitted encroachment, between each Unit and the adjacent or adjoining Unit, due to any unintentional placement or settling or shifting of any Unit or improvement constructed, reconstructed or altered thereon to a distance of not more than five feet (5'), as measured from any point on the common boundary along a line perpendicular to such boundary; provided, however, that said easement of encroachment shall not exist if such encroachment incurred due to the willful or knowing conduct of, or with the knowledge and consent of the Unit Owner or occupant. In the latter instances any cost to correct or cure shall be the responsibility of the encroaching party and the failure of the encroaching party to do so upon notice from the Association shall enable either such entity to undertake such cure or correction at the sole cost and expense of the encroaching party.

**Section 5.7 Easement for Right of Entry .**An easement is hereby reserved to the Developer, the Association and their successors and assigns for the right to enter upon any Lot, or any portion of any Lot, to permit the Developer, the Association, its successors or assigns, including, without limitation, to undertake any and all maintenance, repair, replacement, upkeep or other act or action reasonably necessary or convenient to

maintain the improvements constructed upon any Lot within the Real Estate in a manner and to a level in keeping with the general state of repair and condition of all other Units and improvements constructed and installed upon the Real Estate and all Lots comprising the same. Said right of entry upon the Real Estate and all Lots comprising the same shall extend to permit the full compliance and performance by the Developer, the Association, its successors and assigns, of all obligations, responsibilities and undertakings as set forth in this Declaration and all acts, actions and activities reasonably incident thereto and implied thereby. In addition, the subject easement for entry shall include the right, but not the obligation of the Developer, Association, its successors and assigns, to enter upon any Unit for emergency, security and safety reasons and to inspect for purposes of insuring compliance with the Association Documents. The foregoing right of entry may be exercised by any individual designated by the Board of Directors, and its officers, in accordance with the rules and regulations developed by the said Board, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Included within the foregoing right of entry shall be the right to enter and cure any condition which may increase the possibility of fire or any other emergency circumstances affecting health or safety within the community should Unit Owner fail or refuse to cure the same within five (5) day period of time after having been requested in writing to do so by the Association, acting through its Board of Directors. Said notice shall not be required, however, with respect to entry by emergency personnel acting in their official capacity. All costs incurred in effectuating any such cure shall constitute a charge and lien upon the property of the Unit Owner and shall be collected as an assessment.

Section 5.8 Easement for Use of Common Areas and Common Improvements. Each Unit Owner and each person lawfully residing on the Real Estate is hereby granted a nonexclusive perpetual right and easement of access to and enjoyment in common with others in all areas designated and identified as Common Areas and/or Common Improvements; provided, however, the rights and easements of access and enjoyment created hereby shall be subject to the right of the Association, its successors and assigns to adopt Rules and Regulations governing the use of such Common Areas and Common Improvements.

## ARTICLE 6- USE RESTRICTIONS

Section 6.1 Policy and Purpose. The, Developer, by and through the provisions of this Declaration is establishing a general plan for the use and occupancy of the Real Estate so as to establish and protect for the benefit of all Unit Owners a community of residences having aesthetic and environmental properties conducive to a high standard and quality of life and to enhance the economic stability and value of the property interests of the Unit Owners through collective standards of maintenance and use of the Real Estate and homes constructed thereon. Accordingly, this Declaration, and the Rules and Regulations subsequently adopted by the Association, its successors and assigns, establish affirmative and negative covenants, easements and restrictions on the use of the Real Estate and the 96 Units planned to be constructed thereon. All provisions of the Association Documents as adopted shall apply to all Unit Owners, occupants, tenants, guests and invitees to any Unit. Any lease to any Unit shall provided that the lessees and all occupants of the Unit shall be bound by the provisions of the Association Documents. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of the Unit can be affected by the provisions of the Association Documents and that the same may be modified from time to time hereafter as provided in the further provisions of the Association Documents and the Uniform Planned Community Act as amended, where applicable. Each Owner further acknowledges and agrees that the use and occupancy of each Unit shall be limited by the provisions of this Article and of the Association Documents and the Uniform Planned Community Act as amended, where applicable.

Notwithstanding the foregoing, however, it is expressly understood that the Developer, the Association or their successors or assigns shall not adopt any Rules or Regulations, or otherwise create any restrictions which would impede or restrict any Owner or occupant of any Unit with respect to the following:

- (a) The interference with activities carried on within the confines of any Unit, except matters hereinafter specifically identified in connection with the general use of the Unit and Real Estate, or which may be otherwise unlawful or create a danger to the health or safety of other occupants of other Units, or which generate excessive traffic or noise, or create obnoxious or unsightly conditions visible outside the Unit, or which create an unreasonable source of annoyance or are otherwise disruptive of the quiet enjoyment of other Owners or occupants of Units within the bounds of the Real Estate;
- (b) Interfere with the number of residents within the Unit or which prohibit or require specific relationships between the

- (c) residents of a Unit, except the requirement that all residents of any Unit shall be members of a single family unit and that the total number of occupants permitted in any Unit comply with applicable ordinances and reasonably relate to the size of the Unit and not result in an unreasonable burden upon the use of the Common Areas and Common Improvements; or
- (d) Interfere with the free alienation and use of the Unit or the lease thereof, with the exception of requiring that all tenancies shall be subject to the following condition and restrictions regarding the leasing restrictions set forth in section 6.1 below:

#### Section 6.2 Leasing Conditions.

- (1) No one Unit Owner shall lease more than one Unit at any point in time. A husband and wife shall be deemed one Unit Owner for the purpose of this Article.
- (2) No Unit, when acquired by a new Owner may be leased before two years have elapsed from the date of its purchase unless the tenant is a member of the Owner's immediate family which shall be limited to children, parents or siblings of the Owner.
- (3) The maximum number of Units that may be leased or at any time shall not exceed eight. The procedure for determining whether an individual Unit owner is eligible to rent or lease his Unit shall be developed by the Board of Directors and published as regulations.
- (4) Upon petition by the affected Unit Owner, the Board of Directors shall have the sole discretion to waive Section 2, in writing, in case of hardship conditions, which shall include military service, death, job-related relocations, separation or divorce of the Unit Owner, or other situations the Board determines to constitute hardship. Such written waivers shall not exceed two consecutive years in length, unless extended by the Board in writing after its review.
- (5) All leases must be in writing. Units shall not be leased for less than twelve (12) month periods. The Board or its agent shall be provided with copies of such leases within 10 days of their execution. In addition, Unit Owners shall supply to the Board or its agent the names and telephone numbers of the tenants. Unit Owners are responsible for providing copies of the Association documents to their tenants. In no case shall a



tenant be permitted to sublease a rental Unit. All leases must be accompanied by proof that the tenant has secured a renters' policy with at least \$100,000 in liability coverage.

(6) Owners shall be responsible for the behavior of their tenants. However, the Board shall have the authority, as attorney in fact for the Unit Owner, to initiate and prosecute eviction proceedings against tenants upon the occurrence of three violations of the Association's Declaration, By-laws or Rules and Regulations within twelve (12) consecutive months., or in the event of any criminal activity, whether or not prosecuted, in accordance with the procedures set forth in the Association's Rules and Regulations. Such procedures shall include written notification to the lessor Unit Owner and tenant at the last known address of each, of the violation committed by the tenant. These provisions shall be deemed to be a part of any lease agreement. All costs associated with enforcement of this provision including attorney's fees shall be the responsibility of the Unit Owner and or tenant.

(7) Notwithstanding the above provisions, no landlord-tenant relationship shall exist between the Association and Unit lessor.

(8)The Board of Directors may adopt Rules and Regulations to implement and enforce the foregoing provisions.

**Section 6.3 Residential Use.** All lots comprising the Real Estate, and any Unit constructed thereon shall be used for residential purposes only. No Unit Owner shall permit his Lot or Unit to be used or occupied for any prohibited purposes or uses as more particularly specified hereinafter and in Rules and Regulations adopted by the Board.

**Section 6.4 Prohibition of Commercial Activities.** No industry, business, trade, occupation or profession of any kind, commercial, religious, education or otherwise, designed for profit, altruism, exploration or otherwise, as defined by regulations, shall be conducted, maintained or permitted on any part of the Real Estate or any Lot comprising the same or Unit constructed thereon; provided, however, that nothing contained in this subsection shall be construed to prevent or prohibit the use of a Unit for a limited and restricted business or professional purpose, as defined in rules and regulations, unless said use adversely affects and impacts the residential character of the community and adversely imposes undue burdens upon the streets, parking and other common facilities within the community. Said determination of such adverse effects shall be made by the Association's Board of Directors pursuant to Rules and Regulations adopted by it relating thereto.

Section 6.5 Pets. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot or in any Unit, except customary household pets in reasonable type and numbers kept solely for the pleasure of the occupants, subject to Pennsylvania law and Rules and Regulations adopted by the Association,.

Section 6.6 Signs. No signs of any character shall be erected, placed, permitted, maintained or displayed upon any Unit except standard "For Rent" or "For Sale" signs referring only to the Unit on which displayed and limited to one sign per Unit. All such signs shall be displayed from the interior of the Unit. The Board may designate, through Rules and Regulations, additional locations at which such "For Rent" and "For Sale" signs may be placed.

Section 6.7 Commercial, Recreational and Other Vehicles. No commercial or recreational vehicles, or like equipment, mobile or stationary trailers, boats, boat trailers, or any motorized unit without a current inspection sticker or license plate of any kind, or inoperable vehicle shall be stored or parked on any Lot in the Real Estate, except those permitted in Rules and Regulations adopted by the Board of Directors (unless parked in a garage completely enclosed) nor parked on any residential street in the Real Estate except while engaged in transporting persons or property to or from a residence in the Real Estate. No passenger vehicle shall be parked in any one location for more than a two (2) week continuous period, (such continuous period may not be interrupted by movement of the vehicle to any other location upon the real estate). No recreational vehicles or trailers may be parked in any location for more than three (3) days' and no parking whatsoever shall be permitted on lawns or landscaped areas. No repair or service work shall be performed in open view on any vehicle, boat, mobile equipment or recreational vehicle.

Section 6.8 Nuisances. Residents and Unit Owners may not place statues or decorative accessories outside of their respective Unit or suspend such items from patios or decks, except as permitted by Rules and Regulations, promulgated by the Board of Directors, which shall define "nuisances". No swing sets, playhouses, storage sheds, outbuildings or similar structures are permitted in or on Unit Lots, Common Areas, or Limited Common Areas. No fences, other than so-called "Animal Training" or "Invisible" electric fences and privacy fences supplied originally by the Developer may be erected or maintained on any Lot.

The Board shall promulgate regulations concerning other additional activities that may constitute nuisances.

Section 6.9 Obstruction of Easements. No Unit Owner shall undertake any work or do any other act that would impair any easement created in this Declaration without the consent of the Association's Board of Directors.

**Section 6.9.1 Improvements. Fixtures and Attachments to Units.** Unit Owners may not make any alteration, removal, addition or improvements to the exterior of their Units nor to any Common Area or Limited Common Area without prior written consent of the Association's Board of Director, in accordance with rules and regulations developed by the said Board.

- (a) No permanent fixtures or other property may be attached to the outside walls or roof of the Unit.
- (b) **Foundation Plantings** The Board of Directors will develop Rules and Regulation setting forth the permissible planting of shrubs and flowers around the Units. Limited foundation plantings of annual flowers will be permitted within the confines of a Unit Owner's deeded Lot parcel in existing mulched areas . Window treatment All windows shall have installed drapes/ curtains/ blinds/shades, of a neutral design and color consistent with the architecture of the Units when viewed from the outside.
- (c) **Removal of Minerals, etc** No activity, equipment or structure designed for the removal of oil, coal, natural gas or any other mineral or substance shall be undertaken, erected, placed or permitted upon any part of the Real Estate.
- (d) **Use of the Common Facilities** The Board of Directors shall develop Rules and Regulations relative to the use of the Clubhouse, the Swimming Pool, the pavilion and open spaces.

## ARTICLE 7- ARCHITECTURAL CONTROL

**Section 7.1.Policy and Purpose.** This architectural policy and purpose is intended to serve as a general, overall plan to assure aesthetic consistency and property value protection for all Unit Owners of the Hawthorne Commons Homeowners Association. The community is one in which all structures follow a common architectural theme. While there may be some design differences among units and interior unit designs may vary considerably, the exterior of all structures is within the same architectural appearance in terms of general shape, rooflines, roof materials, exterior siding, brick trim, dormers, patios, decks, windows, doors, exterior paint color selections and complementary landscaping. All units are constructed with the same or compatible materials and provide Hawthorne Commons with a consistent community look and consistent base for maintenance and repairs carried out by the Association on behalf of all Unit Owners. This plan

includes all buildings, each comprised of four single family units as well as the Hawthorne Commons clubhouse, pavilion, gazebo and any future structures and/or structural changes contemplated by the Association

The Association is responsible for the maintenance, upkeep and repair of all Hawthorne Commons' structures, except for those set forth in this Declaration, and Unit Owners shall follow the Association's Architectural policy that clearly states, here, the following restrictions: No alterations shall be made to the exterior of any structure and its surrounding or to the Limited Common Area without proper approvals by the HCHA Board of Directors. Approvals, variances, enforcement and other items are outlined in subsequent sections of this Article 7.

Section 7.2 Approval Procedure. Prior to the commencement of the construction or installation of any improvement and/or alteration to be made to or placed upon any Unit and/or Lot, the Owner shall submit to the Board of Directors, plans and specifications as may be prescribed from time to time by the Association. Said submission shall be in accordance with Rules and Regulations adopted by the Board.

Section 7.3. Variance. The Board of Directors may authorize variances from compliance with the provisions hereof and as hereafter established, when circumstances reasonably necessitate the same in the sole discretion of the Board of Directors, in accordance with Rules and Regulations. It is expressly understood and agreed by all Unit Owners and occupants of any Unit that the cost, maintenance, care and upkeep of any variance so approved shall be the sole responsibility of the Unit Owner or occupant and that the Association shall not be obligated to care for or maintain the same. In the event appropriate care and maintenance is not provided by the Unit Owner or occupant, all costs incident to the removal thereof and restoration of the effected area(s) shall be the sole liability of such Unit Owner and enforceable pursuant to Article 7 hereof.

Section 7.4. Binding Effect and Waiver. The approval of any plans and specifications for any work proposed to be done under the provisions of this Article shall be fully binding upon the heirs, successors and assigns of the Unit Owner submitting the same. Any approval so granted shall not constitute a waiver of the right of the Association, its successors and assigns, from withholding approval as to any other submission which may include similar proposals, plans and specifications whether submitted by the same or other Owners.

Section 7.5. Procedures to Enforce The Association, its successors and assigns, shall have the right to seek all legal and equitable relief to enforce the provisions of this Article. Any Units, structure, site improvement or other development matter subject to the control of this Declaration and the provisions of this Article, unless constructed, installed, and completed in

strict compliance and adherence with the provisions hereof; shall be deemed to be in violation of the provisions hereof and shall be promptly removed and the land restored to its original condition as existing prior to the undertaking of such nonconforming work. In the event the Unit Owner fails or refuses to remove the same and to restore the Unit or Lot as above provided, the Association, its successors and assigns, shall have the right to enter upon the property to remove the same and to restore the Unit and/or Lot as herein above provided, all at the cost and expense of the Unit Owner. All such costs and expenses shall be reimbursed by the Unit Owner upon demand of the Association and shall constitute a lien or charge against the Unit and Unit Owner until fully paid, and shall be collectible as a Common Expense.

The exercise of the rights and powers herein created shall not constitute the basis for any claim, demand, action or cause of action by any Unit Owner against the Association, its successors or assigns. The latter parties shall further have the right to recover any and all costs and expenses, including reasonable counsel fees and costs, incurred in the exercise of the above rights, powers and responsibilities and in the defense of the exercise thereof.

Section 7.6. No Warranty or Liability . The approval of any plans or specifications granted pursuant to the provisions of this Article shall not constitute nor create a representation, warranty or guaranty by the Association, its successors or assigns, as to the architectural or engineering adequacy of any matters represented in said plans and specifications, nor create the basis for any claims, demands, actions or causes of action by the Unit Owner or any other persons or entities whatsoever, against the Association, its successors or assigns. Neither the structural integrity, habitability, usability, fitness for a particular purpose, merchantability, or any other matter shall, as a result of the approval of said plans and specifications or the granting of any variance thereto, be deemed to be warranted, guaranteed or otherwise represented as adequate or sufficient as a result of any such approval of the plans or any easements or other matters required by the Association, its successors or assigns. The Unit Owner requesting approval of plans and specifications hereby agrees to indemnify and hold the Association, its successors and assigns, from any and all claims, demands, actions or causes of action which may directly or indirectly result from the procedure or granting of approval of any construction or modification of any Unit, structure, improvement or other development matter within or upon the Real Estate or any variance, or resulting directly or indirectly from any construction, installation or completion of matters encompassed within said plans and specifications, including costs of suit and reasonable counsel fees and costs, should any claim, demand, action or cause of action be commenced against the

Association, its successors or assigns, as a result of any injury, damage, loss, death or other claim whether in contract, tort, and/or at equity.

## ARTICLE 8- MAINTENANCE

**Section 8.1 Maintenance Responsibility.** At the cost and expense of the Unit Owners through Monthly Dues and special assessments, as hereinafter provided, the Association, its successors and assigns, shall maintain and keep in good order and repair all Common and Limited Common Areas which shall include without limitation:

- (a) All exterior finishes and surfaces of all Units, including all fixtures, attachments, appurtenances, including, without limitation, any brick, siding, or other exterior faces or facades, all roof and roofing materials, or roof decking, all trim, soffits, gutters, and downspouts, shutters, and all perimeter sidewalks and driveways. Included in said maintenance shall be the painting or staining of all exterior surfaces.
- (b) Expressly excluded from said maintenance, shall be repair or replacement of windows, screens and doors, including the frames, sashes, glass, and jambs and the hardware thereto, skylights, the cleaning and /or replacement of light bulbs and outdoor electric or gas light fixtures, glass and mantels, garage doors, HVAC, and decks and patios, all of which shall be the sole responsibility of the Unit Owner or occupant. The Unit Owner or occupant shall be responsible for keeping all sidewalks, driveways, patios and decks in a neat, safe and orderly condition with respect to all housekeeping matters
- (c) All plantings and landscaping or other flora, open space, structures, developments and improvements, including without limitation, any walls or fences, entry monuments, sidewalks, parking areas, Unit number signs, mailboxes, benches, gazebos, grass and planted areas, and other amenities situate upon the Real Estate; excepting and excluding, however, the maintenance of any landscaping installed by Unit Owner or occupant with the consent of the Board of Directors of the Association, and those plantings immediately adjacent to the Unit walls, patios and decks. Such landscaping shall be the responsibility of the Unit Owner.

- (d) The Unit Owner shall be responsible for the maintenance, repair and replacement of all utility lines within and to the Unit, located within the Unit and/or on or under the Lot.
- (e) All other elements, materials, objects, fixtures, appurtenances, and other properties situate upon, attached to, or in any way appended to the exterior of any Unit or otherwise situate upon the Real Estate unless otherwise specifically excluded herein.
- (f) Unit owners shall be responsible for insuring that the post mounted gas or electric lights are lit from dawn to dusk.

Section 8.2 Snow Removal . Consistent with Borough of Seven field's ordinances, Unit Owners shall be responsible for the removal of accumulated snow and ice on all sidewalks and entrances to their respective Units. The Association will arrange for snow removal in Unit driveways to within two (2) feet of garage doors or any parked automobile and on all Common Area (perimeter) sidewalks, in accordance with snow accumulation specifications developed by the Board of Directors and set forth in the Rules and Regulations.

Section 8.3 Unit Owner's or Occupant's Responsibility. All Unit Owners, tenants or other occupants, as the agents and representatives of the Unit Owner, shall be responsible for and obligated to undertake proper and timely housekeeping responsibilities with respect to the Unit and any fixtures, appliances, appurtenances or other properties attached thereto, all sidewalks and driveways situate upon the Unit Lot so as to maintain the same in a neat and orderly condition at all times. All such Owners and occupants shall maintain all areas within the interior of the Units when visible from the exterior in accordance with Association Documents adopted by the Association, and/or its successors or assigns. Said Association Documents (e.g. Rules and Regulations) may address window treatments and materials, entry doors and attachments, furniture and properties upon decks and patios and related areas visible from the streets and sidewalks, and all similar appurtenances, objects and properties. The maintenance of any Unit or Lot not expressly addressed in Association Documents adopted pursuant hereto, shall be the obligation and responsibility of the Unit Owner as to all properties and improvements situate upon the Unit Lot. The failure or refusal of the Unit Owner to timely and fully fulfill said obligation and responsibility shall not create any liability on the part of the Association, its successors or assigns. Each Unit Owner hereby agrees to indemnify and hold the Association, harmless, therefrom, including costs of suit and reasonable counsel fees and costs. Any sums due as indemnification hereunder shall constitute a lien and charge upon the Unit of any such Unit Owner until fully paid and may be collected as a Common Expense i.e. Homeowner's Dues.

If, due to the negligent act or omission of a Unit Owner, or of a member of his family or housekeeping unit, or household pet, or guest or visitor, or other authorized occupant, of such Unit, damage shall be caused to the Common and/or Limited Common Areas or for which repairs are required which would otherwise be at the Common Expense, then such Unit Owner shall pay for such damage and such maintenance, repairs, and replacements, as may be determined by the Board of Directors. Maintenance, repairs, and replacements to the Common Areas and the Units shall be subject to the Association Documents.

## ARTICLE 9 - HOMEOWNERS' ASSOCIATION

**Section 9.1 Membership.** Each Unit Owner shall be a Member of the HAWTHORNE COMMONS HOMEOWNERS ASSOCIATION, INC. The Owner or Owners of each Unit shall have not more than one (1) vote in total with respect to each Unit. If a Unit is owned by more than one person, all co-owners shall be entitled to the privilege of ownership and all such co-owners shall be jointly and severally obligated to perform all responsibilities of Unit Owners under the provisions, of the Association Documents.

**Section 9.2 Rights and Obligations of the Association.** The Association, subject to the rights of the Unit Owners as set forth in the Association Documents, shall manage and control the Common and Limited Common Areas and Common and Limited Common Improvements within the Real Estate pursuant to the terms and provisions of the Association Documents and such Association Documents relating thereto as may be promulgated by the Association, its successors and assigns. In addition, the Association shall undertake and perform all maintenance as herein provided within the Common and/or Limited Common Areas and Common and/or Limited Common Responsibilities and shall undertake the adoption of budgets, levy of Homeowners' Dues and special assessments, enforce compliance with the provisions hereof and in the Association Documents as may be adopted from time to time, and all modifications and amendments to such Documents. The Association shall have such further responsibilities and obligations as are set forth in this Declaration and as may be necessary and convenient to effectuate the purposes hereof and as may be implied and inferred therefrom.

**Section 9.3 Association's Rules and Regulations.** The Association, through its Board of Directors, may make and enforce all such reasonable Rules and Regulations as may be consistent with the interpretation and application of the provisions of this Declaration to further carry out and effectuate the purpose and intent of said Declaration. In the event of any inconsistency between the provisions of the Rules and Regulations and the



provisions of this Declaration, the Declaration shall control. Included within such Rules and Regulations shall be procedures and provisions relating to the enforcement of the provisions of this Declaration, the By-Laws and the Rules and Regulations promulgated by the Association. Such procedures may include the imposition of sanctions or fines, the suspension of voting rights, the prohibition of use of facilities or amenities comprising a part of the Common and/or Limited Common Areas and Common and/or Limited Common Improvements and the right to recoup fees and costs incurred in the enforcement thereof, including court costs and counsel fees and costs.

**Section 9.4 Board of Directors.** The Board of Directors shall be comprised of Unit Owners. The number and terms of the members of the Board of Directors shall be as determined by the By-Laws, subject to amendment from time to time as therein provided. The Board of Directors may appoint committees to undertake any act or activity within the scope of the authority of the Board of Directors and shall elect from its membership a President and Vice President, and such other officers as it shall deem necessary. The obligations of each such office shall be as set forth in the By-Laws as adopted and amended from time to time. Meetings of the Board of Directors shall be determined by the By-Laws as adopted and amended from time to time.

**Section 9.5 Personal and Property Security.** Every Unit Owner by acceptance of a deed to a Unit and every occupant by assuming possession of a Unit acknowledges and agrees to the terms of this section and voluntarily assumes all risks for injuries, damages or losses to persons or Units and their contents, or to other properties resulting from their acts or omissions. Nothing herein, however, shall relieve the Developer from its acts of negligence or willful misconduct.

**Section 9.6 Indemnification.** The Association shall indemnify every officer, director and committee member of The Association as provided in the By-Laws. The Association shall as a Common Expense, maintain adequate general liability insurance and officers' and directors' liability insurance to fulfill this indemnification obligation, provided such insurance is reasonably available as determined by the Board of Directors in its sole discretion.

## ARTICLE 10- BUDGETS: COMMON EXPENSES:

### HOMEOWNERS' DUES. ASSESSMENTS AND ENFORCEMENT

**Section 10.1 Budgets and Computation of Homeowners' Dues and Assessments.** Not less than ninety (90) days before the beginning of each fiscal year, the Developer, the Association, its successors and assigns, during

the Developer's Control Period, and the Board of Directors thereafter, shall prepare a budget covering the estimated Common Expenses for the ensuing year, including capital contributions to establish reserve funds in accordance with the provisions hereinafter set forth. The total costs and expenses, including capital reserve contributions, as required by each such budget shall be divided among the total number of units as of the date of the adoption of said budget. Said annual assessment per unit shall be billed and collected in accordance with practices and procedures established by the Board of Directors and the Association's Property Management Company, if any, on the fifteenth (15<sup>th</sup>) day of any period designated. Special assessments, if any, as hereinafter provided, shall be due and payable within a reasonable period of time as established by the Board of Directors. The said period shall not be less than sixty (60) days of the date notice thereof is given by the Association. All Homeowners' Dues shall be a charge and continuing lien upon the Unit and Unit Owner, including all late fees and interest due thereon, and all costs of suit and counsel fees and costs incurred in the collection thereof. Collection of any such fees shall be in accordance with a policy adopted by the Board of Directors. Each Unit Owner by acceptance of a deed to the Lot agrees, jointly and severally, to be liable for all such Dues and special assessments, all of which shall bind their heirs, successors and assigns. All such mortgagees upon taking title to any Lot and their grantees shall be fully bound by all provisions of the Association Documents.

It is further understood the obligation of each Unit Owner to pay said Homeowners' Dues, fines, interest, late charges and special assessments is a separate and independent covenant on the part of each Owner and shall not be affected by the use or nonuse of the Common and Limited Common Areas or Common and Limited Common Improvements, the abandonment of any Unit, or any other act or action of a Unit Owner and shall not be abated due to any interruption in his occupancy of his Unit or any interruption or failure in the delivery of any services to the Unit Owner or his Unit or for any other reason whatsoever.

Section 10.2. Appeal by Membership. Upon adoption of an annual budget, the Board shall send a copy of the budget together with an explanation therefore and notice of the amount of the Homeowners' Dues for the following year to each Unit Owner at least thirty (30) days prior to the beginning of each fiscal year. The said budget shall be presented at a meeting of the Homeowners' Association prior to its adoption by the Board. Once adopted, such budget and assessment shall become effective unless disapproved at a meeting by the Membership with a vote of not less than sixty-five percent (65%) of the membership. Subsequent to the adoption of the budget, the Board shall have no obligation to call a meeting for the purposes of further considering the budget by the Membership; however,

the Members shall have the right to petition for such a meeting provided the petition is received by the Board within ten (10) days after the date of the notice of assessment and budget. In the event any proposed budget is disapproved by the membership, the budget in effect for the immediately preceding year shall continue for the ensuing period.

Section 10.3. Limitation on Expenditures. The Board of Directors may undertake all expenditures included in the annual budget. The Association shall have the right to transfer funds between expenditure categories within the budget or create additional categories of expenses provided the total budget is not exceeded by so doing. Any expenditure not included within the approved budget shall be subject to disapproval by the Members, either by means of a supplemental budget to be processed in a manner similar to the annual budget or on an item by item basis. All budgeted expenses, charges and costs of the maintenance, repair or replacement of Common and/or Limited Common Improvements, and any other expenses, charges or costs which the Association may incur or expend pursuant hereto, shall be approved by the Board of Directors, and a written memorandum thereof prepared and signed by the Treasurer of the Association. Absent an emergency there shall be no structural alterations, capital additions to, or capital improvements on the Common or Limited Common Areas or replacing and restoring portions thereof requiring an expenditure in excess of twenty per-cent (20%) of the annual approved budget without the prior notice to the Unit Owners subject to the right of disapproval by a negative vote of not less than sixty-five percent (65%) of the votes of all Members cast at a meeting called for that purpose. Said meetings must be held within 30 days of the date of notice to the Unit Owner.

Section 10.4. Reserve. Each annual budget shall include an amount reasonably considered by the Board of Directors to be sufficient as a reserve for replacements and contingencies. Extraordinary expenditures for expenses specifically included within the customary coverage of replacement reserve accounts, but not originally included in the annual budget, may be charged against such reserve, as the Board of Directors shall determine. In addition, the Association shall have the right to segregate all or any portion of the reserve accounts for any specific replacement or contingency upon such conditions as the Board of Directors deems appropriate. If the non-budgeted expenditure is not within the customary uses intended to be funded by the reserves, then the proposed expenditure shall be subject to disapproval of the Membership as provided in Section 9.2 above. Contingency funds shall be applied only to emergency circumstances and uses.

Section 10.5. Accounting and Fiscal Year. For all purposes hereof the fiscal year of the Association shall be the calendar year. On or before the first (1st) day of June of each calendar year, the Association shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected and paid together with a tabulation showing the net excess or deficit of income over expenditures plus reserves. Any excess shall be carried forward to the succeeding year's budget as hereinafter provided or transferred to the reserve account, at the discretion of the Board of Directors.

Section 10.6. Further Assessments. If any annual budget proves inadequate for any reason, including nonpayment of any Unit Owner's Dues and assessments, or any nonrecurring Common Expense, or any Common Expense not set forth in the annual budget as adopted, the Board of Directors shall prepare a supplemental budget as provided in Section 9.3 above and thereafter may at any time levy further assessments according to each Unit Owner's Membership in the Association. Such further assessments shall be payable over period of time as the Board of Directors may determine as set forth in section 9.1 above. The Board of Directors shall serve notice of such further assessments on all Unit Owners by a statement in writing giving the amount and reasons therefore, and such further assessments shall become effective as determined by the Board of Directors subject only to the same right of disapproval as in the instance of the annual assessment.

Section 10.7. Separate Real Estate Taxes. Real estate is to be separately taxed to each Unit Owner for his Unit.

Section 10.8. Surplus. Any amounts accumulated from Homeowners' Dues and special assessments for Common Expenses in excess of the amount required for actual Common Expenses and reserves for future Common Expenses shall be applied to future Common Expenses and carried over to the next budget period or refunded to the Homeowner, in the form of a reduction in the subsequent years' dues, or applied to the reserves, at the discretion of the Board.

Section 10.9. Acceleration. If Unit Owners are in default in the payment of any Homeowners Dues or other charges for sixty (60) days, the Board of Directors may, in addition to all other remedies as set forth in Association Documents and the Uniform Planned Community Act as amended, accelerate all Homeowners Dues for that Unit to become due for the fiscal year in which such default occurs and may bring suit to collect sums due upon the Unit or Units of said defaulting Unit Owner.

Section 10.10 Interest, Charges, and/or Late Fees. All sums assessed by the Association against any Unit Owner as regular Homeowners' Dues or

special assessment which are in default, shall bear interest thereon at not more than fifteen percent (15%) per annum] from the sixtieth (60<sup>th</sup>) day following default in the payment thereof. Any delinquent Unit Owner shall also be obligated to pay (1) all expenses of the Association including reasonable counsel fees and costs incurred in the collection of the delinquent Dues and special assessments by legal proceedings or otherwise; and (2) any amounts paid by the Association for taxes or on account of superior liens or otherwise to protect its liens, which expenses and amounts, together with accrued interest, shall be deemed to constitute part of the delinquent Homeowners' Dues and special assessments and shall be collectible as such and included within the lien and charge against said Unit or Units hereinafter provided. Allocation of payments shall be in accordance with the Uniform Planned Community Act as amended.

Section 10.11. Implementation The Association shall adopt in its Rules and Regulations and/or By-Laws such additional or other procedures and requirements as it deems necessary and desirable to implement the provision of this Article 9, and to otherwise provide for the efficient fiscal operation and management of the Common and/or Limited Common Areas or Common and/or Limited Common Improvements.

Section 10.12. Special and Specific Assessments In addition to the regular Homeowners' Dues and assessments authorized above, the Association may levy special assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. In addition, the Board shall have the power to specifically assess the expenses of the Association against individual Unit Owners receiving benefits, items, or services not provided to all Unit Owners or Units within the development situate upon the Real Estate; provided said expenditures were incurred either (a) upon request of the Unit Owner for specific items or services relating to the Unit, (b) as a consequence of conduct of the Unit Owner, or the licensee, invitee, tenants or guests of the Unit Owner, or (c) pursuant to the other obligations of Unit Owners as herein provided and upon the default of the Unit Owner to satisfy the same. All special assessments and specific assessments shall be due and payable as determined by the Association.

## ARTICLE 11—INSURANCE

Section 11.1. Generally. The Association shall purchase and maintain a Master Insurance Policy covering all structures, improvements, fixtures, attachments, appurtenances and other improvements. Specifically, the

following coverage shall be provided with premiums included in Homeowners' Dues:

(a) Fire and extended coverage in an amount equaling the full replacement cost of the Unit and all fixtures, attachments and appurtenances.

(b) Public liability insurance in an amount of not less than One Million Dollars (\$1,000,000) covering all injuries, losses and death arising from one or more occurrence to one or more persons; and

(c) Third party property damage coverage in an amount of not less than One- Million Dollars (\$1,000,000).

Inasmuch as the Association shall manage and control the Common Areas and Common Improvements, said Association shall maintain public liability insurance as determined by the Association and such property damage insurance as may be similarly determined to be appropriate by the Board. All costs incident to obtaining and maintaining such coverage shall be a Common Expense.

Section 11.2 Deductible Payments. Any insurance to be provided hereunder may be subject to reasonable deductibles as determined by the Association, its successors or assigns. Such deductible payments shall be the responsibility of the effected Unit Owner. The Association may make further and additional rules and regulations pertaining to the insurance to be provided hereunder.

Section 11.3 Unit Owner Responsibility. In the event that the Association is unable to obtain the above-referenced Master Policy, each Unit Owner shall provide annually a certificate of insurance or equivalent to the Secretary of the Association indicating coverage as set forth above in Section 10.1 (a), (b), and (c), and compliance with the provisions thereof and evidencing full payment of all premiums due prior to the expiration or termination of each policy providing such coverage. The Association shall be named as a co-insured under the provisions of each and every such policy. It is expressly understood and agreed that the Association shall be a co-payee on any proceeds issued by the insurer and that all such proceeds shall be applied to the replacement and restoration of any property damage or loss due to a covered occurrence under said policies. Each Unit owner by accepting the deed to a Unit covenants and agrees to the provisions hereof and to the insurable interest of the Association and its right to require the aforesaid repair and replacement and agrees, further, that the Association shall have no obligation to surrender or otherwise disburse any of the proceeds except as is herein provided. The cost of any repair or replacement in excess of the insurance coverage provided by the Unit

Owner shall be the responsibility of each such Unit Owner and shall constitute a charge and lien against such Owner's Unit.

Section 11.4. Approved Insurers All insurance as herein provided shall be underwritten by or issued by a company authorized to do business within the Commonwealth of Pennsylvania and having a Best's rating of A or better or such equivalent rating by a comparable rating service.

Section 11.5. Enforcement In the event any Unit Owner fails or refuses to obtain the necessary insurance coverage as herein provided, the Association shall be entitled to obtain the same for and on behalf of said Unit Owner at the sole cost and expense of said Unit Owner. Each Unit Owner further hereby acknowledges and agrees that any and all costs incurred by the Association incident to the obtaining and maintaining of such insurance coverage shall constitute a special assessment and shall be collectible pursuant to the provisions relating to assessments generally. Each Unit Owner agrees to obtain in connection with such coverage the agreement of the insurer to provide the Association with written notice of any cancellation, invalidation, suspension or non-renewal of any policy not less than thirty (30) days prior to the effective date of any such action.

## ARTICLE 12- LIMITED LIABILITY AND INDEMNIFICATION

Section 12.1. Limited Liability of the Board of Directors and Officers of the Association The Board of Directors and Officers of the Association, and members in their capacity as Directors, officers and employees:

- (a) Shall not be liable for the failure of any service to be obtained by the Association and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or by any other person or entity upon the Real Estate, unless in each such instance such injury or damage has been caused by the willful misconduct or gross negligence of the Association or its Officers or Directors.
- (b) Shall not be liable to the Unit Owners as a result of the performance of the Association or Directors or Officers of their duties or any mistake of judgment, negligence or otherwise, except for the said Directors' or Officers' own willful misconduct or gross negligence;
- (c) Shall have no personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by

them on behalf of the Association in the performance of their duties as a Director or as an Officer thereof,

- (d) Shall not be liable to a Unit Owner or such Unit Owner's tenants, employees, agents, customers, invitees or guests, or to any other person or entity whatsoever, for loss or damage caused by theft of or damage to, personal property of any such person or entity, whether situate on a Lot, or in a Unit, or on the Common Areas, except for the Directors' or Officers' own willful misconduct or gross negligence;
- (e) Shall have no personal liability in tort to a unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Directors' or Officers' own willful misconduct or gross negligence.
- (f) Shall have no personal liability in tort to a unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them, except for the Directors' or Officers' own willful misconduct or gross negligence.
- (g) Notwithstanding the foregoing, all parties agree that the Association, its Directors and/or Officers shall not be liable in any action or proceeding for punitive damages.

**Section 12.2. Notice of Complaints** Legal action brought against the Association, the Board of Directors, or the Officers, employees or agents thereof in their respective capacities as such, shall be directed to the Board of Directors of the Association, which shall promptly give written notice thereof to any Unit Owner affected thereby and such complaints shall be defended by the Association. The Unit Owners and the holders of mortgages on Units shall have no rights to participate in such defense other than through the Association unless said parties are named as individual defendants.

**Section 12.3. Indemnification Against Third Party Actions** The Association may indemnify and hold any person harmless who was, or is, a party or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding commenced or threatened by any third person or entity, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Board of Directors of the Association) by reason of the fact that he is or was a member of the Board of Directors, an Officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including reasonable counsel fees and costs), judgments, fines and amounts paid in settlement actually and



reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by an adverse judgment, order, or settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe that his conduct was unlawful.

**Section 12.4 Indemnification Against Association Action** The Association may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding commenced or threatened by the Association, whether civil, criminal, administrative or investigative, by or in the right of the Board of Directors of the Association, by reason of the fact that he is or was a member of the Board of Directors, an Officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, trustee, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including reasonable counsel fees and costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association. Except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Association, unless and only to the extent that the Court in which such action or suit was brought shall determine upon application made therein that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Court shall deem proper.

**Section 12.5. Determination** To the extent that a member of the Board of Directors, an Officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 12.3 or 12.4 hereof; or in defense of any claim, issue or matter therein, he may be indemnified against expenses (including counsel fees and costs) actually and reasonably incurred by him in connection therewith. Any other indemnification under Sections 12.3 and 12.4 hereof shall be made by the Association only upon a determination

that indemnification of a member of the Board of Directors, an Officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Sections 12.3 or 12.4 hereof. Such determination shall be made either (i) by the Board of Directors by a majority vote of a quorum consisting of all members who were not parties to such action, suit or proceeding, or (ii) by independent legal counsel in a written opinion, or (iii) by the Unit Owners by the affirmative vote of a simple majority of the Unit Owners at any meeting duly called for such purpose.

Section 12.6. Advances Expenses incurred in defending a civil or criminal action, suit or proceeding as contemplated in this Article may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon a majority vote of the Board of Directors and upon receipt of an undertaking by or on behalf of a member of the Board of Directors, an Officer, employee or agent to repay such amount or amounts unless it ultimately is determined that he is entitled to be indemnified by the Association as authorized by this Article.

Section 12.7. Scope of Indemnification The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Association's Articles of Incorporation, By Laws, agreements, vote of disinterested Unit Owners or members of the Board of Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. The indemnification authorized by this Article shall apply to all present and future members of the Board of Directors, Officers, employees and agents of the Association, and shall continue as to a person who has ceased to be a member of the Board of Directors or an Officer, employee or agent, and further shall inure to the benefit of the heirs and personal representatives of all such persons, and shall be in addition to all other rights which such persons may be entitled as a matter of law.

Section 12.8. Insurance The Association shall purchase and maintain insurance on behalf of any person who was or is a member of the Board of Directors, an Officer, employee or agent of the Association, or who was or is serving at the request of the Association as a trustee, director, officer, employee or agent of another corporation, entity or enterprise (whether for profit or not for profit), against any liability asserted against him or incurred by him in any such capacity or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the laws of the Commonwealth of Pennsylvania, as the same may be hereafter amended or modified, or the provisions hereof.

Section 12.9. Payments and Premiums All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article, shall constitute expenses of the Association and shall be Common Expenses.

## ARTICLE 13- EFFECT AND ENFORCEMENT

Section 13.1. Reservations and Restrictions to Run with Land All of the covenants, easements, restrictions, reservations and servitudes set forth herein shall run with the land and each Unit Owner, by accepting a deed to any Unit accepts title to the Unit and Unit Lot subject to such covenants, easements, restrictions, reservations and servitudes and agrees for himself, herself, his or her heirs, personal representatives and assigns to be bound by each of such covenants, easements, restrictions, reservations and servitudes jointly, separately and severally.

Section 13.2. Remedies for Violations For a violation or a breach of any of the Association Documents by any person or entity, the Association shall have the right to proceed at law and/or in equity to compel compliance with the terms of the Association Documents, or to prevent the anticipated, future or continued violation or breach of any of them. In addition to the foregoing right, the Association, its successors and assigns, shall have the right, whenever there shall have been built on any Unit Lot or Unit any structure which is in violation of the provisions of the Association Documents, to enter upon the Unit Lot and/or Unit where such violation occurred or exists and summarily abate or remove the same at the expense of the Unit Owner, and any such entry, abatement or removal shall not be deemed a trespass.

- (a) Should the Association, its successors or assigns or affected individual Unit Owner acting against any other Unit Owner employ legal counsel to enforce any of the provisions of the Association Documents, all costs incurred in such enforcement efforts, including reasonable counsel fees and costs, shall be paid by the Unit Owner found to be in violation thereof.
- (b) Should the Unit Owner fail, neglect or refuse to satisfy and discharge any sums arising under the Association Documents within sixty (60) days, the Association, its successors and assigns, shall have the right to charge interest on such amounts due at the rate of one-and one quarter percent (1.25%) per month and shall

be entitled to receive all costs of collection, including reasonable attorneys' fees and costs.

- (c) The breach of any of the provisions of the Association Documents shall not defeat or render invalid the lien of any mortgage made in good faith for value as to any Unit or Units but all of said provisions shall be binding upon and effective against any such mortgagee, or subsequent owner thereof whose title thereto or whose grantor's title thereto is or was acquired by foreclosure, or otherwise.
- (d) No delay or omission on the part of the Association, its successors or assigns, or of the Unit Owners in the Real Estate in exercising any rights, power or remedy provided in the Association Documents, in the event of any breach of the Association Documents shall be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association, its successors or assigns for or on account of its failure to bring any action on account of any breach of the provisions of the Association Documents. Moreover, neither the Association nor its successors or assigns, shall be liable for having imposed restrictions herein which may be unenforceable.

Section 13.3 Severability Each and every of the covenants, easements, restrictions, reservations and servitudes contained herein shall be considered to be an independent and separate covenant and agreement and in the event any one or more of the foregoing covenants, easements, reservations or restrictions shall be declared for any reason, by a Court of competent jurisdiction, to be null and void, such judgment of decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the other covenants, easements, reservations and restrictions not so declared to be void, and all of the remaining covenants, easements, reservations and restrictions not so expressly held to be void shall continue unimpaired and in full force and effect.

Section 13.5. Public Rights The Real Estate shall be subject to any and all rights and privileges which the Borough of Seven Fields or the County of Butler, Pennsylvania, may have acquired through dedication, or the filing or recording of maps or plats, or as authorized by law; and, provided further, that any covenants, easements, reservations or restrictions, which shall be in conflict with, or in violation of, any Borough or County zoning or Land Use Ordinance shall be null and void.

**ARTICLE 14- DURATION OF COVENANTS EASEMENTS.  
RESTRICTIONS.RESERVATIONS AND SERVITUDES**

Section 14.1. Duration All of the foregoing covenants, easements, reservations and restrictions shall continue and remain in full force and effect at all times as against the Owner of any Unit in such premises, regardless of how he acquired title. These covenants, easements, reservations and restrictions shall run indefinitely. Termination may be considered no sooner than May 2002, and every successive ten years thereafter, provided that a written instrument signed by at least twenty-five percent (25%) of the Voting Membership (as defined herein) is presented to the Board of Directors demanding a meeting of the Members requesting that the covenants, easements, reservations and restrictions be terminated and thereafter be of no further legal or equitable effect on the Real Estate or any Unit Owner. Such proposed termination must be approved by eighty per-cent (80%) or more of the Voting Members (as defined herein).

Although these covenants, easements, reservations and restrictions may expire as herein provided, any and all liens or other reversions for breach of these covenants, easements, reservations or restrictions committed or suffered prior to such expiration shall continue to exist and be fully enforceable.

**ARTICLE 15- AMENDMENT OF DECLARATION**

Section 15.1. Amendment Generally This Declaration may be amended only in accordance with the express provisions of this Declaration.

Section 15.2. Amendment by Unit Owners This Declaration may be amended by affirmative vote of sixty-seven percent (67%) of all Members, pursuant to procedures applicable to voting by Members of the Association as set forth in its By-Laws except as to matters covered by Section 5219(d) of the Act.

Section 15.3 Other Amendments If any amendment is necessary in the judgment of the Association to cure any ambiguity or to correct or supplement any provision of this Declaration which is defective or inconsistent with any other provision hereof, or to change, correct or supplement anything appearing or failing to appear in the Plats which is

incorrect, defective or similarly inconsistent, or if such amendment is necessary to conform to the then current requirements of any applicable law or governmental or municipal rule or regulation, the Association may, at any time and from time to time, effect such amendment without the approval of the Unit Owners or their Mortgagees, upon receipt by the Association of an opinion from independent legal counsel to the effect that the proposed amendment is permitted within the terms of this section, together with a like opinion from an independent registered architect or licensed professional engineer with respect to the necessity of any such amendment to the Plats. Each such amendment shall be effective upon the recording of an appropriate instrument setting forth the amendment and its due adoption, execution and acknowledgment by one or more officers of the Association.

#### ARTICLE 16- GENERAL PROVISIONS

Section 16.1. Mortgagees' Provisions The following provisions are for the benefit of holders, insurers and guarantors of first mortgages on the Units comprising the Real Estate, when such parties have by written request to the Association (including proper name, capacity and address) indicated their desire to receive notice of any of the following, notwithstanding any other provision of the Association Documents.

- (a) Notice of any delinquency in the payment of Monthly Dues and assessments by Unit Owners prior to the entry of any lien upon the property or at such time as the provisions hereof would create such a charge or lien upon the property;
- (b) Notice of any lapse, cancellation or material modification of any insurance policy maintained by the Association;
- (c) Notice of any losses, damages or destruction giving rise to the receipt of proceeds under any insurance policy applicable to any Unit and the proposed action of the Association and Unit Owner with respect to the application of said proceeds to the restoration and replacement of any such damaged Unit or portions thereof.
- (d) Notice of any modification or amendment of the terms and provisions of this Declaration or the By-Laws.

Section 16.2. No Priority The provisions of this Declaration or the By-Laws shall not be construed so as to give any Unit Owner or other party priority over any rights of the first mortgagees of any Unit comprising the Real Estate.

Section 16.3. Interpretation and Conflict The Covenants, Easements and Restrictions as set forth in this Declaration shall be cumulative and in

the event of any conflict between or among the provisions of this Declaration or the Articles of Incorporation or By-Laws of the Association, or its Rules and Regulations, the terms and provisions of this Declaration shall control.

Section 16.4. Compliance Each and every Unit Owner and the occupant of any Unit shall comply with the Association Documents. Failure to comply shall be grounds for an action to recover all losses, damages, injuries, reasonable counsel fees and costs, or other sums due, and for injunctive relief; or any other remedy available at law or in equity, by the Association, all as herein above provided.

Section 16.5. Sale or Transfer of Title Any Unit Owner intending to sell or otherwise transfer title to the Unit comprising the Real Estate shall give the Board, or its designated agent, written notice of the name and addresses of the proposed purchaser or transferee not less than fifteen (15) days prior to the said date of transfer. Said notice shall include the proposed date of transfer and such other data and information as the Board may reasonably request by appropriate Rules and Regulations. The transferor, notwithstanding the transfer of title to the Unit, shall continue to be jointly and severally liable with the transferee for all obligations relating to a Unit Owner, including assessment obligations arising prior to the date of transfer of the property.

Section 16.6 Capital Reserve Contribution. Upon the sale or transfer of title to any Unit, the purchaser shall deposit with the Association Treasurer a sum equal to three months of the then current Homeowners' Dues. The said contribution shall be deposited in the Association's "Capital Reserve Fund".

IN WITNESS WHEREOF, SEVEN FIELDS DEVELOPMENT COMPANY, a Pennsylvania corporation, with a business address of P.O. Box 430 Lawrence, Pa. 15055 has caused its name to be signed to these presents by SEVEN FIELDS DEVELOPMENT COMPANY LIQUIDATING TRUST by its duly authorized Trustee on the day and written below.

Developer:

SEVEN FIELDS DEVELOPMENT COMPANY  
By: SEVEN FIELDS DEVELOPMENT COMPANY  
LIQUIDATING TRUST, *SUCCESSOR IN INTEREST*

By: *Lynn Hoffman-Kyle*  
Lynn Hoffman-Kyle, Trustee

ACKNOWLEDGEMENT

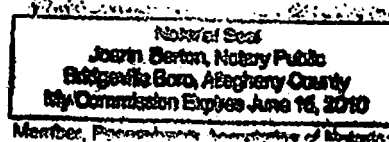
COMMONWEALTH OF PENNSYLVANIA)  
COUNTY OF *Allegheny* ) ss.

On this *19* day of *April*, 2008, before me a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared Lynn Hoffman-Kyle who acknowledged herself to be the Trustee of the Seven Fields Development Company Liquidating Trust, and that as such Trustee, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the Trust by herself as Trustee.

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

*Joan Barton*  
Notary Public

My Commission Expires:





**LEGAL DESCRIPTION**

**EXHIBIT "A"**

All that certain parcel of situate in the Borough of Seven Fields, County of Butler and the Commonwealth of Pennsylvania being known as the Hawthorne Commons Plan of Lots recorded in the Recorder's Office of Butler County in Plan Book 192, Pages 31-34.

# EXHIBIT B

## JOINDER AGREEMENT

This Joinder Agreement (Agreement) made this 8<sup>TH</sup> day of MAY, 2008 is made by and between Hawthorne Homes Company, a Pennsylvania corporation (Hawthorne Homes), Bayard Crossings Corporation, a Pennsylvania corporation (Bayard Crossings) and Hawthorne Commons Homeowners Association, Inc., a Pennsylvania non-profit corporation (Hawthorne Commons).

WHEREAS, Seven Fields Development Company Liquidating Trust successor to Seven Fields Development Company, a Pennsylvania business trust (Seven Fields) laid out a plan of lots known as the Hawthorne Commons Plan of Lots (Plan) as recorded in the Butler County Recorder of Deeds Office in Plan Book Volume 192 pages 31 thru 34.

WHEREAS, the said Seven Fields in connection therewith recorded Rules and Regulations in the Recorder of Deeds Office in Butler County at Book Volume 2741, pages 496 thru 503, which were amended at Book 2781, pages 771 thru 779 and as further amended at Instrument Number 200101240001683.

WHEREAS, Hawthorne Commons was established to administer the property referred to above and now wishes to record a Declaration of Covenants, Easements and Restrictions for the Hawthorne Commons Homeowners Association, Inc., a planned community (Declaration).

WHEREAS, on 7|1, 2008 Hawthorne Commons recorded said Declaration in the Recorder of Deeds Office in Butler County at Instrument Number 20080701 0014915

WHEREAS, Hawthorne Homes and Bayard Crossings purchased lots in the said Plan from Seven Fields and have sold and are selling lots to third parties, and

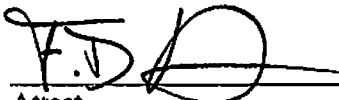
WHEREAS, Hawthorne Homes and Bayard Crossings wishes to join in said Declaration in order to have the benefits of it and have it binding on subsequent purchasers from them in said Plan

NOW THEREFORE, intending to be legally bound, Hawthorne Homes and Bayard Crossings agree to join and bind their respective properties in the Plan to the Declaration as recorded by Hawthorne Commons as recited above.

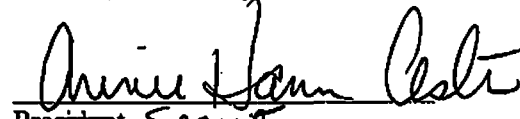
The said Hawthorne Homes and Bayard Crossings agree that: (1) said Declaration shall forever bind them, and their successors and assigns, (2) said Declaration shall be considered as a covenant running with the land, (3) that said Declaration shall be incorporated by reference in any deed of conveyance of any real estate in said Plan by them or any part thereof to any person or entity, and (4) that said Declaration shall be deemed valid, enforceable and have the same force and effect as if it had been recorded


by the Declarant at the same time and place as the original Rules and Regulations for Hawthorne Commons were recorded.

IN WITNESS WHEREOF, the undersigned parties to this Agreement have set their hands and seals the day and year first written above.

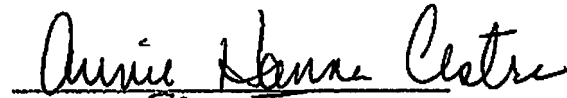
  
Attest


Hawthorne Homes Company,  
a Pennsylvania corporation

  
President Secretary

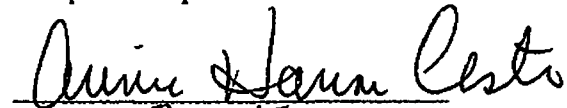
  
Attest

Bayard Crossing Corporation,  
a Pennsylvania corporation

  
President Secretary

  
Attest

Hawthorne Commons Homeowners  
Association, Inc. a Pennsylvania  
non-profit corporation

  
President Secretary