

GEORGETOWN DECLARATION

As Recorded

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

GEORGETOWN COMMON HOMES ASSOCIATION, INC.

DECLARATION

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BY-LAWS

THIS DECLARATION, made on the date hereinafter set forth by S.F.M. DEVELOPMENT CORP., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the Town of Perinton, County of Monroe, State of New York, which is more particularly described as:

ALL THAT TRACT OR PARCEL OF LAND containing 31.285 acres, more or less, to centerline of road, situated in the Town Lot 46, Township 12, Range 4 in the Town of Perinton, County of Monroe, State of New York and being more particularly bounded and described as follows:

BEGINNING at a point in the center line of Mosley Road, said point being 1066.29 feet measured northerly from the center-line intersection of Mosely Road and Pittsford-Palmyra Road; thence

(1) S $89^{\circ} - 13' - 12''$ W, and along the northerly line of lands now or formerly owned by L.R. Hoyt and wife, a distance of 264.00 feet to a point; thence

(2) S $0^{\circ} - 00' - 43''$ W, and along the westerly line of lands now or formerly owned by L.R. Hoyt and wife, a distance of 82.50 feet to a point; thence

(3) S $89^{\circ} - 13' - 12''$ W, and along the northerly line of lands now or formerly owned by Wegmans Enterprises, Inc., a distance of 624.56 feet to a point; thence

(4) N $0^{\circ} - 12' - 33''$ E, and along the easterly line of lands now or formerly owned by D.L. Streppa and Central School District No. 1, a distance of 1843.60 feet to a point; thence

(5) N 88° - 51' - 42" E, and along the southerly line of lands now or formerly owned by LuVern Gardner and lands now or formerly owned by Albert E. Heinz and wife, a distance of 884.80 feet to a point; thence

(6) S 0° - 58' - 41" W, and along lands now or formerly owned by Village of Fairport, a distance of 118.34 feet to a point; thence

(7) N 89° - 01' - 19" W, and along lands now or formerly owned by Village of Fairport, a distance of 71.50 feet to a point; thence

(8) S 0° - 58' - 41" W, and along lands now or formerly owned by Village of Fairport, a distance of 100.00 feet to a point; thence

(9) S 89° - 01' - 19" E, and along lands now or formerly owned by Village of Fairport, a distance of 151.50 feet to a point; thence

(10) S 0° - 58' - 41" W, and along extension of easterly line of lands now or formerly owned by Village of Fairport, a distance of 88.73 feet to a point; thence

(11) S 43° - 31' - 22" W, and along lands retained by Francis J. Trau and wife, a distance of 200.48 feet to a point, thence

(12) S 1° - 03' - 17" E, and along lands retained by Francis J. Trau and wife, a distance of 200.48 feet to a point, thence

(13) S 88° - 56' - 43" W, and along the northerly line of lands now or formerly owned by R.W. Kester and wife, a distance of 204.00 feet to a point; thence

(14) S 0° - 00' - 43" W, and along the westerly line of lands now or formerly owned by R.W. Kester and wife, H.E. Sayer and wife, Jack L. Seaman and wife, Ward E. Rowley and wife, C.H. Yackiw and wife, a distance of 677.50 feet to a point; thence

(15) N 88° - 56' - 43" E, and along the southerly line of lands now or formerly owned by C.H. Yackiw and wife, a distance of 31.00 feet to a point; thence

(16) S 0° - 00' - 43" W, and along the westerly line of lands now or formerly owned by K.M. Mosher and wife, W.F. Kalin and wife, and T.C. Dunham, a distance of 300.00 feet to a point; thence

(17) N 88° - 56' - 43" E, and along the southerly line of lands now or formerly owned by T.C. Dunham, a distance of 233.00 feet to the center line of Mosley Road; thence

(18) S 0° - 00' - 43" W, and along the center line of Mosley Road, a distance of 296.02 feet to the place or point of beginning.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, 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, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1
DEFINITIONS

Section 1. "Association" shall mean and refer to GEORGETOWN COMMON HOMES ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, including the areas therein to be occupied by townhouse units.

Section 4. "Common Area" shall mean all real property and improvements thereon owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows: all streets and private drives, pedestrian malls, play areas, clubhouse and other recreational facilities including the swimming pool and related equipment as may be shown on a map of the subdivision to be filed with the Monroe County Clerk.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the commons area.

Section 6. "Declarant" shall mean and refer to S.F.M. DEVELOPMENT CORP. its successors and assigns if such successors or assigns should acquire more than one developed lot from the Declarant for the purpose of development.

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

Section 8. "Unit" shall mean and refer to any improvement constructed upon any lot, subject to this Declaration, for use as a single or one family residence.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment through the Association in and to the Common Area which shall be appurtenant to and shall pass with the title of every lot, subject to the following provisions:

A. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area;

B. the right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

C. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;

D. the right of the Association to limit the number of guests of members;

E. the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the common area and facilities and in aid thereof the mortgage on said properties shall be subordinate to the rights of the homeowners hereunder.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Regulation of Uses. The Association reserves the right to regulate the use of the recreational facilities and area through the establishment of rules and regulations.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot.

Section 2. Voting. Each lot owner shall be entitled to one vote, no matter how many lots they own. When any lot is owned or held by more than one person as tenants by the entirety, enjoined or common ownership or interest, such Owners shall collectively be entitled to only one vote and if such Owners cannot jointly agree as to how that vote should be cast, no vote shall be allowed.

ARTICLE IV
COVENANT FOR MAINTENANCE,
SPECIAL AND PROPERTY TAX ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any lot by acceptance of a deed therefor, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual maintenance assessments or charges, which may be subdivided into an Operating Fund, Maintenance Reserve Fund, and other appropriate Funds for budgeting and reporting purposes, (2) special assessments for capital improvements and (3) property tax assessments for state and local real property taxes on the common areas, such assessments to be established and collected as hereinafter provided. The annual maintenance, special and property tax (common area) assessments, together with interest, costs, and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Each deed shall contain the following covenant:

“And the party of the second part (his, her, their) heirs, grantees and assigns further covenants that the property herein conveyed shall be subject to an annual maintenance charge in such amount as shall be determined by GEORGETOWN COMMON HOMES ASSOCIATION, INC., its successors and assigns, and in addition state and local real property taxes on common areas, and subject to special assessments as set forth in Article IV, Section 4 of the Declaration, which sums shall be paid monthly, in advance on the 1st day of each month, and on each monthly date such charges shall become liens upon the land and so continue until fully paid and empower said GEORGETOWN COMMON HOMES ASSOCIATION, INC., its successors and assigns, to bring any and all actions or legal proceedings in the name of GEORGETOWN COMMONS HOMES ASSOCIATION, INC., its successors and assigns, for the obligation of such charges and the enforcement of such liens. Such charges shall be payable to GEORGETOWN COMMON HOMES ASSOCIATION, INC., its successors and assigns and shall be devoted exclusively to promote the recreation, health, safety, and welfare of the owners and for the improvements, maintenance and payment of real property taxes of the common area, and for the improvement and maintenance of the units upon the properties.”

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement, maintenance and payment of real property taxes of the common area, and for the improvement and maintenance of the homes situated upon the properties.

Section 3. Maximum Annual Maintenance Assessment.

A. Beginning with the fiscal year April 1, the maximum annual maintenance assessment, which may be subdivided in different funds as indicated in Article IV, Section 1, may be increased each year up to Consumer Price Index, (published by the Department of Labor, Washington, D.C. for the preceding month of July) plus 4% of the prior annual maintenance assessment at the end of the fiscal year, March 31. The Board of Directors may fix the annual maintenance assessment at an amount not in excess of the maximum without a vote of the membership.

B. From and after the fiscal year, March 31, the maximum annual maintenance assessment may be increased above the Consumer Price Index +4% established above by a vote of two thirds (2/3) of the members who are voting in person and by proxy at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual maintenance assessments authorized above, the Board of Directors may levy in any assessment year a special assessment in an amount of less or equal to twenty percent (20%) of the annual maintenance assessment for that year, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, or to create a reserve fund for future construction, maintenance of repairs. If the amount of any such assessment exceeds twenty percent (20%) of the annual maintenance assessment for that year, the consent of two thirds (2/3) of the votes of members who are voting in person or by proxy at meeting duly called for this purpose is required.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 or 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the

preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Annual Maintenance and Special Assessments. Both annual maintenance and special assessments must be fixed at a uniform rate for all lots.

Section 7. Property Tax Assessments. The state and local real property taxes assessed on the common area real property and improvements will be paid through the Association by all the Owners. Each lot will be assessed by the Association for an equal pro-rata share of the real property taxes on the common area, real property and improvements.

Section 8. Date of Commencement of Annual Maintenance Assessments: Due Dates. The annual maintenance assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first annual maintenance assessment shall be adjusted according to the number of the months remaining in the calendar year. The Board of Directors shall fix the amount of the annual maintenance assessment for each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual maintenance assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors, and, unless otherwise provided, the Association shall collect each month from the owner of each lot one-twelfth (1/12) of the annual maintenance assessment for such lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Date of Commencement of Property Tax Assessments. The property tax assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. Upon transfer of title to a townhouse unit, the state, town and county taxes shall be adjusted and apportioned on a calendar year beginning January 1 and ending December 31. School taxes shall be adjusted and apportioned for the fiscal year beginning July 1 and ending the following June

30. In addition to the adjustment of taxes at the time of transfer of title to a townhouse unit, a purchaser shall deposit in escrow with the Homeowners Association a sufficient sum to pay his pro rata share of the next due property taxes on the common area.

Section 10. Effect of Nonpayment of Assessments: Remedies of the Association.

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the prevailing legal interest, found in the New York Civil Practice Law and Rules and the Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in GEORGETOWN COMMON HOMES ASSOCIATION, INC., or its agents the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosures by an action brought in the name of the Association in a like manner as a mortgage or deed or trust lien on a real property and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other lot owners. The Association, acting on behalf of the lot owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary to expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting owner's portion of the premium. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot

pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale of transfer. No sale or transfer shall relieve such lot from liability for any assessments which thereafter become due or from the lien thereof.

Section 12. Exempt Property. All properties dedicated to and accepted by, a local public authority, and the common area, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 13. Management Agreements. Each owner of a lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled prior to its expiration date by an affirmative vote of sixty percent (60%) of the votes of each class of members of the Association who are voting in person or by proxy at a meeting at which a quorum, as defined in Article IV, Section 5, is present. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a new management agreement prior to the expiration of any prior management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 14. Insurance to be Carried. The Board of Directors of the Association shall obtain and maintain, to the extent reasonably obtainable and to the extent determined by the Board of Directors to be appropriate or relevant: (i) fire and casualty insurance on the Association Property, the Units, (ii) liability insurance on the Association Property, (iii) directors' and officers' liability insurance, (iv) fidelity bond or surety bond, and (v) such

other insurance as the Board of Directors shall deem necessary or desirable from time to time including “umbrella” catastrophe coverage. Coverage shall be as follows:

Fire and Casualty. Coverage shall be for the full replacement values of the Units and other improvements under the “single entity” concept, i.e. covering the Units as initially built and including the wall to wall carpeting, lighting fixtures, bathroom fixtures, kitchen appliances, built in cabinetry, wall covering, and all machinery servicing the units and common facilities, excluding the land, foundations, the personal property of Unit Owners and occupants, and any improvements or alterations (including upgrading of appliances, kitchen cabinets, carpet or lighting fixtures, built-ins and wall coverings) made by present or prior Unit Owner or occupants. The policy shall have the following provisions, endorsements and coverages:

- (i) Special or “All Risk” coverage;
- (ii) Inflation guard;
- (iii) Coverage for loss of Maintenance Assessments from Unit Owners forced to vacate because of fire or other insured against casualty;
- (iv) Waiver of any right to claim by way of subrogation against individual Unit Owners and the members of their households and families, the Association, the officers and directors of the Association and the managing agent, if any, for the Association;
- (v) An exclusion from the “other insurance” clause of the individual Unit Owners’ policies so that the insurance purchased by the Board of Directors shall be deemed primary coverage and any policies obtained by individual Unit Owners or mortgagees shall be deemed excess coverage;
- (vi) A provision that insurance obtained by the Board of Directors shall in no event be brought into “contribution: with insurance purchased by individual Unit Owners or mortgagees;
- (vii) A provision that the policy cannot be cancelled, invalidated or suspended because of the act or neglect of someone over whom the insured has no control;
- (viii) A provision that includes the increased cost to repair, rebuild or construct the property caused by enforcement of building, zoning or land use ordinance of law;

(ix) A provision that the policy may not be cancelled or substantially modified without at least ten days prior written notice to all of the insured, including all mortgagees of units reported to the insurance carrier or its agent;

(x) A provision requiring periodic review at least every two years to assure sufficiency of coverage.

Premiums for all such insurance, except on the individual townhouses, shall be common expenses. All such insurance coverage, including insurance on individual townhouses obtained by the Association shall be written in the name of the Association as trustee for each of the townhouse owners in equal proportions. Insurance on individual townhouses obtained by such townhouse owners may be written in the name of the individual owners. Premiums for insurance obtained by the Board of Directors on individual townhouses shall not be part of the common expense but shall be an expense of the specific townhouse or townhouses so covered and a debt owed by the owners and shall be paid within twenty (20) days after notice of such debt and shall be collected by any lawful procedure permitted by the laws of the State of New York. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such owner's lot and townhouse and shall continue to be such lien until fully paid. This lien shall be subordinate to the lien of any first mortgagee and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments.

Insurance Carried by Unit Owners. In addition to the aforesaid insurance required to be carried by the owners and/or the Association, any owner may, if he wishes, at his own expense, insure his own townhouse unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each owner at his own expense, to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss.

Restoration or Reconstruction After Fire or Other Casualty. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee,

if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractors, who shall be required to provide a full performance and payment bond for the repair, constructions or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all owners of the damaged townhouses in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhouses to make up any deficiency, except that the special assessment shall be levied against all townhouse owners, as established by Article IV, Section 4 above, to make up any deficiency for repair or rebuilding of the common area not a physical part of the townhouse unit. In the event the insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over the respective mortgagees and owners in such proportions as the Board of Directors deems fair and equitable in the light of damage sustained by such owners and their mortgagees as their interest may appear. Such payments shall be made to all such owners and their mortgagees as their interest may appear. In the event of damage or destruction by fire or other casualty to any townhouse or other property covered by insurance written in the name of an individual owner, said owner shall with concurrence of the mortgagee, if any, upon receipt of insurance proceeds, contract and repair or rebuild such damaged or destroyed portions of the exterior of the townhouse that are improvements and alterations made by present or prior unit owner or occupants. These will be done in a good workmanship manner in conformance with the original plans, specifications and any Board of Directors approved variances. In the event such owner

refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhouse area within thirty (30) days, the Association, by and through its Board of Directors, if hereby irrevocably authorized by such owner to repair and rebuild any such damage to the exterior improvements and alterations to each townhouse in a good and workmanlike manner in conformance with the original plans, specifications and Board of Directors approved variances. The owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of insurance premiums; and subject to foreclosure as above provided.

Notwithstanding the foregoing provisions of this Section 14, it is further provided that the requirement for the maintenance of insurance on the townhouse shall not apply to any townhouse acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Prior to submission of plans and specifications to the Board of Directors or the Architectural Committee appointed by the Board of Directors, the Unit owner must secure the written approval of the appropriate agencies of the Town of Perinton, indicating that full

compliance with existing zoning, plumbing, electrical, health and safety laws and regulations has been met.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence of willful acts of omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in equal proportions to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of same, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rules of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, to the extent that such damage is not covered and paid by the insurance provided for herein, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such

arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VII
MAINTENANCE

In addition to maintenance upon the common area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, end-of-building fence, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, screens and screen doors, exterior door and window fixtures and other hardware and patios and where applicable, the membrane between the patio-deck and the one substrate below the deck.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, or guests, or invitee, and not covered or paid for by insurance on such lot, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot owner is subject.

Individual owners will be responsible for all interior maintenance to their units.

ARTICLE VIII
USE RESTRICTIONS

Section 1. Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said property shall be of new construction and no buildings or structures shall be moved from other locations onto said property and no subsequent buildings or structures other than townhouse apartments buildings, being single family townhouses joined together by a common exterior roof and foundation, shall be constructed, no structures of a temporary character, trailer, basement, tent, shack,

garage, barn or other outbuilding shall be used on any portion of said property at any time as a residence either temporarily or permanently.

Section 2. Each lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 3. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for declarant or the builder of said townhouses to maintain during the period of construction and sale of said townhouses, upon such portion of the premises as declarant deems necessary, such facilities as in the sole opinion of declarant may be reasonably required, convenient or incidental to the construction and sale of said townhouses, including but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said lots, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

Section 5. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in anyway or for any purpose which may endanger the health or unreasonably disturb the owner of any townhouse or any resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said property; provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of declarant, its agents and assigns during the construction and sale period, and of GEORGETOWN COMMON HOMES ASSOCIATION, INC., a non-profit corporation, incorporated or to be incorporated under the laws of the State of New York, its successors and assigns, in furtherance of its powers and purposes as hereinafter set forth.

Section 6. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring townhouses and streets. All rubbish, trash, or garbage

shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

Section 7. Except in the individual patio and balcony areas, if any, appurtenant to a townhouse, no planting or gardening shall be done, and no fences, hedges, walls or permanent structure of any nature, shall be erected or maintained upon said property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representative. Except for the right of ingress and egress, the owners of lots are hereby prohibited and restricted from using any of said property outside the exterior building lines, patio and garage areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all owners of lots in GEORGETOWN COMMONS and is necessary for the protection of said owners.

Section 8. Maintenance, upkeep and repairs of any patio, screens and screen doors, exterior door and window fixtures, and other hardware shall be the sole responsibility of the individual owner of the lot appurtenant thereto and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common area and all exteriors and roofs of the townhouses, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representative.

Section 9. All fixtures and equipment installed within a townhouse, commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a townhouse, shall be maintained and kept in repair by the owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of another townhouse or impair any easement or other rights, nor do any act nor allow any condition to exist which will adversely affect the other townhouses or their owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennas of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the property, nor

upon any structure situated upon the property other than a satellite dish, subject to approval by the Association as to location and an agreement to abide by the rules for installation of antennas and satellite dishes.

Section 11. No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any owner or owners in favor of the other owners.

ARTICLE IX EASEMENTS

Section 1. Each townhouse and the property included in the common area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the declarant. A valid easement of said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more townhouses is partially or totally destroyed, and then rebuilt, the owners of the townhouses so affected agree that minor encroachments of parts of the adjacent townhouse units or common areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over and under all said property for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephone and electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and common area in the performance of their duties. Further, an easement is hereby granted

to the Association, its officers, agents, employees and to any management company selected by the Association to enter in or to cross over the common area and to enter any townhouse to inspect and to perform the duties of maintenance and repair of the townhouses or common area provided for herein to prevent damage to any other townhouse of the common area. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said property except as initially programmed and approved by the declarant or thereafter approved by declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided request a specific easement in the form of a separate recordable document, declarant shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said premises.

Section 3. Underground Electrical Service.

(a) Underground single phase electric service shall be available to 212 residential townhouses on the aforesaid lots and to the recreation building to be constructed on the common area, and the metering equipment shall be located on the exterior surfaces of the wall at a point to be designated by the utility company. The utility company furnishing the service shall have such easements as may be required along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service on the townhouse structure.

(b) For so long as such underground service is maintained, the electric service to each townhouse and the recreation building shall be uniform and exclusively of the type known as single phase, 120/140 volt, 3 wire, 60 cycle alternating current.

(c) Easements for the underground service may be crossed by driveways and walkways provided the declarant or builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways, and neither declarant nor any utility company using

the easements shall be liable for any damage done by either of them or their assigns, their agents, employees, or servants to shrubbery, trees, flowers, or other improvements of the owner located on the land covered by said easements.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with the bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the lot owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be recorded.

Section 4. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

IN WITNESS WHEREOF, the undersigned, being the declarant herein, has hereunto set its hand and seal this _____ day of _____, 19____.

S.F.M. Development Corp.

By: _____

Declarant

STATE OF NEW YORK)
COUNTY OF MONROE)

On the _____ day of _____, 19____ before me personally came KENNETH MORRELL, being by me duly sworn, did depose and say: that he resides at No. 20 Whitecliff Drive, Pittsford, New York; that he is the Vice President of S.F.M. DEVELOPMENT CORP., the corporation described in and which executed the foregoing declaration; that the seal affixed to said instrument is said corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order.

Sworn to before me this _____ day of _____, 19_____.

EXHIBIT B
CERTIFICATE OF INCORPORATION
OF
GEORGETOWN COMMON HOMES ASSOCIATION, INC.

Under Section 402 of the Not-For-Profit
Corporation Law

The undersigned, for the purpose of forming a corporation under Section 402 of the Not-For-Profit Corporation Law of the State of New York, do hereby certify as follows:

FIRST: The name of the corporation shall be GEORGETOWN COMMON HOMES ASSOCIATION, INC.

SECOND: The Corporation has not been formed for pecuniary profit or financial gain, and no part of the assets, income or profit of the corporation is distributable to, or ensures to the benefit of, its members, directors, or officers except to the extent permitted under the Not-For-Profit Corporation Law.

THIRD: The purposes for which the corporation is to be formed are:

(a) To own, operate, maintain, preserve and provide for the architectural control of, on a non-profit basis, the resident lots and common areas of the GEORGETOWN COMMONS development exclusively for the benefit of its members.

(b) No part of the revenues of the corporation shall inure to the benefit of any member, director, officer of the corporation, or any private individual, firm or corporation, except that reasonable compensation may be paid for services rendered to or for the corporation affecting one or more of its purposes.

(c) Notwithstanding any other provision of this certificate, the corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501 (c) (7) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

FOURTH: As a means of accomplishing the foregoing purposes the corporation shall have the following powers:

(a) To perform all of the duties and obligations of the corporation as set forth in any declaration of covenants, conditions and restrictions, a Declaration, applicable to the corporation, which is filed with the Secretary of the corporation.

(b) To fix, levy, collect and enforce payment by any lawful means all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all other expenses incident to the conduct of the affairs of the corporation, including license, taxes or governmental charges levied or imposed against the property of the corporation.

(c) To acquire, by gift, purchase or otherwise, own, hold, improve, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise, dispose of real personal property in connection with the affairs of the corporation.

(d) To borrow money and to pledge, mortgage or hypothecate any of its real or personal property as security for money borrowed or debts incurred.

(e) To dedicate, sell or transfer all or any part of the common area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication, sale or transfer shall be effective unless first approved by two-thirds (2/3) of each class of members.

(f) In general, and subject to such limitations and conditions as are or may be prescribed by law, to exercise such powers which now are or hereafter may be conferred by law upon a corporation organized for the purposes herein above set forth, or necessary or incidental to the powers so conferred, or conducive to the attainment of the purposes of the corporation, subject to the further limitation and condition that, notwithstanding any other provisions of this certificate, only such powers shall be exercised as are in furtherance of the tax-exempt purposes of the corporation and as may be exercised by an organization exempt under Section 501 (c) (7) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

FIFTH: Every person or entity who is the owner of any lot which is subject to covenants of record or assessment by the corporation, including contract sellers, shall be a member of the corporation. The foregoing is not intended to include persons or entities

who hold an interest merely as security for the performance of any obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the corporation.

SIXTH: The corporation shall have two classes of voting membership. Class A members shall be all members, with the exception of S.F.M. DEVELOPMENT CORP., the declarant. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. The Class B members shall be the Declarant and be entitled to three (3) votes for each lot owned by it. The Class B membership shall cease and be converted into Class A membership upon the happening of either of the following events, whichever occurs earlier:

(a) When the total votes of the Class A membership equals the total votes of the Class B membership or;

(b) Thirty-six (36) months after date of transfer of title to the first townhouse unit.

SEVENTH: The corporation may be dissolved with the approval of at least two-thirds (2/3) of each class of members. Upon dissolution, the assets, both real and personal, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this corporation was created. In the event that such dedication is refused acceptance, such assets shall be transferred to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

EIGHTH: So long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration”

- a. Mortgaging of the common area
- b. Dedication of the common area
- c. Dissolution of the corporation
- d. Amendment of this Certificate of Incorporation

NINTH: Any indebtedness or liability, direct or contingent, shall be authorized by the affirmative vote of a majority of the Board of Directors at a lawfully held meeting. The

highest amount of indebtedness or liability, direct or contingent, to which this corporation may be subject at one time shall not exceed 150% of its revenues for the previous fiscal year, except that additional amounts may be authorized by the affirmative vote of two-thirds (2/3) of the members.

TENTH: The corporation is a Type A corporation.

ELEVENTH: The principal office of the corporation is to be located in the Town of Perinton, County of Monroe, State of New York.

TWELFTH: The territory in which the operations of the corporation are principally to be conducted is the State of New York.

THIRTEENTH: The number of directors of the corporation shall not be less than three (3) or more than fifteen (15).

FOURTEENTH: The names and residences of the directors until the first Annual Meeting of the corporation are as follows:

<u>Name</u>	<u>Address</u>
Sam F. Morrell	20 Landsdowne Lane, Rochester, NY 14618
Kenneth F. Morrell	20 Whitecliff Drive, Pittsford, NY 14534
Franklin R. Morrell	20 Landsdowne Lane, Rochester, NY 14618
Mary Morrell	20 Landsdowne Lane, Rochester, NY 14618
Edwin A. Williams	16 Edgewood Drive, Penfield, NY 14526

FIFTEENTH: The Post Office address to which the Secretary of State shall mail a copy of any notice required by law is 1224 Lincoln Rochester Trust Building, Rochester, New York 14604.

SIXTEENTH: The subscriber to this certificate is of the age of nineteen (19) years or over.

IN WITNESS WHEREOF, the certificate has been signed by the subscriber this _ day _____, 1994.

Kenneth F. Morrell

20 Whitecliff Drive, Pittsford, NY 14534

STATE OF NEW YORK)

SS:

COUNTY OF MONROE)

On this _____ day of 20___, before me personally came KENNETH F. MORRELL, to me known and known to me to be the person described in and who executed the foregoing Certificate of Incorporation, and he thereupon duly acknowledged to me that he executed the same.

