

Master Deed Restrictions (Original 1997 Version)

1997 AMENDMENT TO AND RESTATEMENT OF
THE MASTER DECLARATION OF AMHERST WOODS
IN AMHERST, HAMPSHIRE COUNTY, MASSACHUSETTS

RESERVATIONS AND RESTRICTIONS

Pursuant to Article 6, Section 6.01 of the Amendment To Master Declaration of Amherst Woods in Amherst, Hampshire County, Massachusetts, Reservations and Restrictions dated November 30, 1988 (“the 1988 Amendment”), and recorded in the Hampshire County Registry of Deeds at Book 3298, Page 152 , notice is hereby given that a three _fifths majority of the Board and a majority of the Members voting in attendance or by proxy have voted to amend the Master Declarations of Amherst Woods in Amherst, Hampshire County, Massachusetts Reservations and Restrictions, including prior amendments, herein referenced as follows:

By deleting in their entirety: (i) the 1988 Amendment; (ii) the Amendment to the Master Declaration of Amherst Woods in Amherst, Hampshire County Massachusetts Reservations and Restrictions dated November 29, 1995 (“1995 Amendment”), and recorded in the Hampshire County Registry of Deeds at Book 4790, Page 215; and (iii) the Amendment to the Master Declaration of Amherst Woods in Amherst, Hampshire County Massachusetts Reservations and Restrictions dated November 7, 1996 (“1996 Amendment”), and recorded in the Hampshire County Registry of Deeds at Book , Page ,and in their place substituting the following:

“The Amended and Restated Master Declaration of Phases 1, 2, 3, 4 and 5 of Amherst Woods, including Reservations and Restrictions, made this day of January, 1997 by the Amherst Woods Property Owners Association Board of Trustees, Amherst, Hampshire County, Massachusetts, as directed by the Amherst Woods Property Owners Association at its Annual Meeting of November 6, 1996” (“1997 Amendment and Reinstatement”).

WHEREAS the Amherst Woods Property Owners Association is the controlling body of the Master Declaration of Amherst Woods in Amherst, Hampshire County, Massachusetts Reservations and Restrictions covering Phases 1, 2, 3, 4 and 5 of Amherst Woods; and

WHEREAS, the Amherst Woods Property Owners Association desire to have a consistent set of Reservations and Restrictions covering Phases 1, 2, 3, 4 and 5 of Amherst Woods; and

WHEREAS, the Amherst Woods Property Owners Association wish to create a residential community on the land described as Phases 1, 2, 3, 4 and 5 Amherst Woods as more particularly described in Exhibit "A" attached hereto and made a part hereof, together with recreational and other appropriate facilities and amenities therein, areas of trees and fields, foot paths, public and private ways for circulation and access to residences and utility services; and

WHEREAS in furtherance thereof it is desired to establish common and mutual covenants, conditions, reservations and restrictions and an association of property owners hereinafter referred to as the Amherst Woods Property Owners Association or the Association to administer the same.

WHEREAS, Jeffrey W. Flower is the Developer of Amherst Woods, but no longer owns Residence Lots in Amherst Woods and has failed to complete his obligations within Amherst Woods as developer;

WHEREAS, the Amherst Woods Property Owners Association, at its 1995 and 1996 Annual Meetings, further amended the 1988 Amendment and during the 1996 Annual Meeting instructed the Board of Trustees of the Association to incorporate the 1995 and 1996 Amendments into a fully restated and amended Amherst Woods Declaration and further authorized the Board of Trustees to correct typographical errors, inconsistent numbering and other non-substantive technical errors in the 1988 , 1995 and 1996 Amendments as part of the 1997 Amendment and Restatement, and finally directed the Board of Trustees to prepare, approve and file this 1997 Amendment and Restatement to the Master Declaration in the Hampshire County Registry of Deeds.

NOW, THEREFORE, the Association hereby declares, provides and covenants as follows:

ARTICLE 1

SUBJECT PROPERTY

The Land as described on Exhibit "A" attached hereto and made a part hereof situated within Amherst, County of Hampshire, Commonwealth of Massachusetts, as shown on Plan of Amherst Woods, Phase 1, 2, 3, 4 and 5 (old Farms Village at Amherst Fields), prepared for Jeffrey W. Flower by Almer Huntley and Associates, dated September 9, 1987 and recorded in Hampshire County Registry of Deeds at Plan Book Page incorporated herein and made a part hereof.

ARTICLE 2

LAND CLASSIFICATIONS
PROPERTY USE AND RESTRICTIONS

SECTION 2.01. LAND CLASSIFICATIONS. The land within Amherst Woods is hereby divided into the following use classifications:

A. RESIDENCE AREAS. Referring to the parcel designations set forth on the plans as described in Exhibit "A" attached hereto and made a part hereof ("Residence Lots").

B. COMMON AREAS. Referring to the parcel destination set forth in Article 1 hereof, the parcels shown and designated as Undisturbed Stream Belt or Green Areas, and drainage and trail easements.

C. VEHICULAR ACCESS AREAS. Referring to the streets and ways shown on the plans described at Exhibit "A" attached hereto and made a part hereof designated as Vehicular Access Areas.

SECTION 2.02. RESIDENCE AREAS: PERMITTED USES AND RESTRICTIONS. Each Residence Lot shall be for the exclusive use and benefit of the owner or owners thereof, subject, however, to all the following limitations and restrictions:

A. PURPOSE. Residence Lots shall be used exclusively for residential purposes.

B. USE. Not more than one single family dwelling house may be erected or constructed on any one residential lot, nor more than one additional building for garage or storage purposes and provided further that no building or structure of any kind shall be erected prior to the erection of a dwelling house. Every residential dwelling house erected or constructed on any residential lot after December 12, 1995 shall have a minimum of two thousand (2,000) square feet of livable, heated, enclosed space, exclusive of porches and basements. No garage shall be used for the storage of heavy commercial vehicles or construction equipment. No business activities of any nature shall be conducted upon any Residence Lot, except those approved in writing by the approval committee. No advertising signs shall be displayed thereon, except a small professional nameplate.

C. GARAGES. All single family dwellings must include a minimum one car garage.

D. SIDING. No accessory, temporary building or permanent structure shall have

tar paper, roll brick, aluminum, log siding, plywood siding, texture ill siding, vinyl siding or similar material on outside walls. All buildings will be stained, not painted.

E. LEASING. Nothing herein shall be deemed to prevent the leasing of a Resident Lot from time to time by the owner thereof subject to all of the provisions of this Declaration.

F. TEMPORARY OCCUPANCY. No trailer, mobile home, camper, temporary building or structure of any kind, shall be used for a residence, either temporarily or permanently.

G. TRAILERS AND TENTS. No trailer, mobile home, heavy commercial vehicle, construction equipment, camper, permanent tent or similar structure, shall be kept, placed or maintained upon any residence Lot or on any vehicular access areas in such a manner to be visible from neighboring property; provided, however, that the provisions of this paragraph shall not apply to temporary construction shelters or facilities maintained during, and used exclusively and in connection with, the construction of any improvements approved by the Approval Committee.

H. ANIMALS AND PETS. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the property, except that dogs, cats or other household pets may be kept by the respective owners in their respective residences provided that they are not kept, bred or maintained for any commercial purpose and do not endanger the health or, unreasonably disturb the owner of any residence or any resident thereof.

I. NUISANCES. No rubbish, debris, dead trees or heavy brush of any kind shall be placed or permitted to accumulate upon or adjacent to any Residence Lot which will or may render the same or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Residence Lot, and no activity shall be conducted or maintained which is or may be offensive or detrimental to any other Residence Lot in the vicinity thereof or to its occupants.

J. POOLS. No in ground pools, or above ground pools in excess of eighteen (18) inches in height are permitted without written approval of the Approval Committee. The Approval Committee will take into consideration all abutters prior to granting approval.

K. REPAIR OF BUILDINGS. No buildings or structure upon any Residence Lot shall be permitted to fall into disrepair, and such building and structure shall at all times be kept in good condition and adequately stained or otherwise finished.

L. CLOTHESLINES, GARBAGE CANS, ETC. All clotheslines, equipment, garbage cans, service yards, woodpiles and storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring residence and streets, except for such necessary periods when said containers are made available for collection. All rubbish trash and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

M. SIGNS. No signs shall be erected or maintained on any Residence Lot except:

1. Such signs as may be required by law;
2. A residential identification sign having a total face area not larger than seventy two (72) square inches.
3. During a time of construction of any building or other improvements, one job identification sign not larger in area than three (3) square feet;
4. A "For Sale" or "For Rent" sign, of reasonable type, size and appearance, but only if attached to the building or free standing (and not attached to a tree); and
5. Informational or directional signs erected or maintained by the Developer, its successors or assigns.

N. RESTRICTIONS OR FURTHER SUBDIVISIONS. No Resident Lot shall be further subdivided. No portion of any Lot nor any easement or license shall be conveyed by any owner without the prior written approval of the Developer or its successors or assigns.

The Developer expressly reserved to itself, its successors or assigns, the right to re-plat any two (2) or more lots in any section on the plat of any subdivision prior to their sale in order to create a modified building lot or lots, the restrictions and covenants herein applied to each such building or lot or lots so created.

O. TIME. The exterior of all houses and other structures and landscaping must be completed within nine (9) months after the construction of the same shall have commenced. The Approval Committee may grant a reasonable extension of time in such cases where completion is impossible or would result in great hardship to the Buyer or builder because of strikes, fires, national emergencies or natural calamities.

P. PARKING. A minimum of two (2) and a maximum of three (3) off_street parking spaces for automobiles must be provided for each dwelling, and must be completed before the dwelling is occupied.

Q. SETBACKS. No portion of any dwelling or any other building or structure in Phases 1_5 shall be located on any lot nearer than forty (40) feet to the front line or nearer than forty (40) feet to any side street line. No portion of any single or multi-family dwelling or other building or structure shall be located nearer than twenty five (25) feet to an interior lot line. These setbacks shall be effective as to Phase 5 for any dwelling or any other building or structure erected or constructed after December 12, 1995.

R. CLEARING, EXCAVATION, IMPROVEMENTS AND ALTERATIONS. No Residence Lot shall be cleared or excavated and no building or fences or other structures of any kind or additions thereto or driveways shall be erected or placed or allowed to stand upon any Residence Lot until the size, plans, specifications and locations thereof shall have been approved in writing by the Approval Committee provided for in Article 4 hereof. No loam, sand, gravel or other soil material, except that resulting from customary landscaping or from construction permitted and approved hereunder, shall be removed from Amherst Woods. The erection of any approved structure on the Residence Lot, once begun, shall be carried forward to completion with reasonable diligence, but must, in all events, be completed within nine (9) months after commencement, unless any extension is granted by the Approval Committee, as provided in O. TIME. above. Temporary buildings or structures used during the construction of a dwelling on a Residence Lot shall be removed immediately after the completion of construction. Completion of construction shall be deemed to be the date upon which a certificate of occupancy shall have been issued by the Town of Amherst.

S. SEPTIC SYSTEMS. No outside toilet shall be allowed on the premises. No untreated waste from any lot shall be permitted to enter any lake or stream within the subdivision. Each residential dwelling shall have an individual sanitary unit and the owner of said Lot shall install a type of unit that complies in all respects with the requirements of the Amherst Board of Health, or other governing legal authority. Each lot owner shall obtain approval from the appropriate legal authority and/or authorities with regard to water supply to said lot, repair, alteration or replacement of the installed sanitary unit.

T. LIGHTING. All exterior lights shall be attached to the house and no higher than the eaves except for standard lamp posts and walkway lights. Light shall not fall beyond the borders of each Residence Lot.

U. ANTENNAS/SATELLITE DISH ANTENNAS. No antennas more than 24" higher than the house will be allowed. All such antennas will be attached to the house. No towers or satellite dish antennas shall be allowed. However, satellite dish antennas no more than 38 inches in diameter may be erected on a lot if not visible from a street.

V. FENCES. No fences of shrubbery or other material shall be constructed without prior written approval of the Approval Committee.

W. VEHICLES. No vehicle other than those designated or used primarily for the transportation of nine (9) or less human beings shall be stored or parked on any lot. For the purpose of this paragraph, panel trucks and pickup trucks of not more than three quarter (3/4) ton capacity shall be deemed to be designated and used primarily for the transportation of human beings, provided that no more than one (1) such truck shall be parked or stored upon any lot at a given time. Nothing in this paragraph shall be construed as prohibiting the temporary presence of delivery trucks, moving vans, and the like upon any lot while actually making a pickup or delivery thereon.

X. SALE OF WARES. No lot shall be used for the public display nor sale of goods, wares or merchandise of any kind, including those made upon the premises. Nothing in this paragraph or in these restrictions generally shall be interpreted as precluding the rendering of professional services upon any lot.

Y. WAIVING OF RESTRICTION. The Approval Committee shall have the right, in its absolute discretion, to waive any of the foregoing conditions or restrictions upon being shown that the same is unreasonable or unfeasible, as applied to any particular lot or lots in said subdivision.

SECTION 2.03. RESIDENCE AREAS: CONSTRUCTION OF IMPROVEMENTS AND ALTERATIONS.

A. APPLICATION FOR APPROVAL OF CLEARING, EXCAVATION, IMPROVEMENTS AND ALTERATIONS. Any owner of a Residence Lot proposing to clear, excavate, make any improvements or alterations which, under Section 2.02 hereof, requires the prior written approval of the Approval Committee shall apply for approval by delivering to the Approval Committee a written application describing the nature of the proposed improvement together with such of the following documents and information as are pertinent, from time to time along with such other materials in such number of copies as the Approval Committee may require.

1. A plot plan of the affected property showing the location of existing and proposed improvements, alterations and driveway location;
2. Floor plans of the proposed improvements;
3. Drawings showing all elevations of the proposed improvements;
4. A description of exterior materials and colors, with color samples; and

5. The owner's proposed construction schedule.

B. BASIS FOR APPROVAL OF CLEARING, EXCAVATION, IMPROVEMENTS AND ALTERATIONS. The Approval Committee shall, after consideration of the items set forth in the foregoing paragraph A and such other matters as it deems necessary, grant the requested approval if the Approval Committee determines that:

1. The proposed clearing, excavation, improvement or alteration conforms to the provisions of this Declaration, the restrictions herein set forth and the Approval Committee Rules as defined in Section 3.04 in effect at the time the application for approval was submitted.

2. The proposed clearing, excavation, improvement or alteration is reasonably compatible with the standards of Amherst Woods and the purposes of this Declaration to the quality of workmanship and materials, as to harmony of external design with existing structures and as to location with respect to the vegetation, topography, finished grade and views from other buildings and building sites; and

3. The proposed clearing, excavation, improvement or alteration complies with all applicable laws, specifically including the zoning by_laws and building code requirements of the Town of Amherst.

C. FORM OF APPROVAL. All approvals given under the foregoing paragraph shall be in writing, provided, however, that any such application for approval which has not been acted upon thirty (30) days from date of submission thereof to the Approval Committee shall be deemed approved, and a certificate to that effect signed by any member of the Approval Committee or the President or the Secretary of the Association and shall be conclusive evidence of approval. One set of plans as finally approved shall be retained by the Approval Committee as a permanent record.

D. PROCEEDING WITH WORK. Upon receipt of approval from the Approval Committee or upon the lapse of thirty (30) days without action as provided in Paragraph C of this Section 2.03, the owner of the Residence Lot shall, as soon as practicable, commence and diligently proceed with the construction, refinishing, alterations and excavation in accordance with the owner's proposed construction schedule set forth in the documents accompanying his application for approval.

E. FAILURE TO COMPLETE WORK. In the event that the construction,

reconstruction or alteration of any improvements is not completed within the time prescribed in Section 2.02 O. TIME. above or having been completed does not comply with the approval previously given by the Approval Committee, the Approval Committee shall report the matter to the Board of Trustees of the Association and the Board after hearing, may direct the owner to remedy the non-compliance or remove the improvement. If the owner does not comply with the order of the Board within the period set forth in the order, the Board may either remove the non-complying improvements or remedy the non-compliance and the owner shall reimburse the Amherst Woods Association, upon demand, for all reasonable expenses incurred in connection therewith.

SECTION 2.04. COMMON AREAS.

A. PERMITTED USES, CONSTRUCTION OF IMPROVEMENTS AND ALTERATIONS. The Developer shall convey the Common Areas and the facilities thereof and thereon to the Association, and shall so convey the same on or before the date on which thirty (30) per cent of the Residence Lots have been sold. Common Areas shall be used for outdoor recreation and conservation purposes. No improvements, excavating or work which in any way alters any Common Area from its natural or existing state on the date such area was conveyed to the Association shall be done or made except within the restrictions and limitations of this Section 2.04.

B. LIMITATION AND CONSTRUCTION. No person other than the Developer or the Association shall construct, reconstruct, refinish, alter or maintain any road or improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree, shrub or other vegetation from any Common Area. The Association shall have the right, at any time, to plant, replace, maintain and cultivate shrubs, trees, grass and maintain any recreation facility or improvement on any portion of the Common Areas. However, only structures or improvements enhancing the natural recreational amenities of Amherst Woods shall be constructed or allowed on or within the Common Area.

SECTION 2.05. FOOTPATH AREAS: PERMITTED USES AND RESTRICTIONS. Resident Lot owners shall have the appurtenant right to travel by foot along the footpaths located within the boundaries of the Amherst Woods area.

ARTICLE 3

APPROVAL COMMITTEE

SECTION 3.01. ORGANIZATION, POWER OF APPOINTMENT AND REMOVAL OF MEMBERS.

A. COMMITTEE COMPOSITION. The Approval Committee shall consist of seven (7) members.

B. INITIAL MEMBERS. The Developer shall appoint the initial three (3) members and reserves the right to remove and replace these initial members as it sees fit.

C. TERM OF OFFICE. The term of office of the initial members of the Approval Committee shall expire on the date on which fifty (50) per cent of the Residential Lots have been sold. After the expiration of such initial term, the term of the Approval Committee members first appointed thereafter shall be for such periods of three (3) years or less as specified by the Board of Trustees, so that such terms shall expire on December 31st in three (3) successive years. Thereafter the term of each Approval committee member appointed shall be for a period of three (3) years or until his successor shall have been appointed. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term.

D. APPOINTMENT AND REMOVAL. The right to appoint and remove all members of the Approval Committee shall be vested solely in the Board of Trustees acting on behalf of the Association (except initial members appointed by the Developer as provided for above) provided, however, that no member may be removed from the Approval Committee except by the vote or written consent of four sixths of all the members of the Board. The exercise of the right of appointment or removal, as set forth herein, shall be recorded by the Secretary of the Association identifying the new member appointed to the Approval Committee and the member whose membership on the Approval Committee has terminated.

E. RESIGNATIONS. Any member of the Approval Committee may at any time resign from the Approval Committee by giving written notice thereof to the Board.

SECTION 3.02. DUTIES. It shall be the duty of the Approval Committee to consider and act upon any and all applications for improvements or alterations submitted to it pursuant to Section 2.03 hereof, to inspect newly completed improvements and alterations, to adopt Approval Committee rules, to perform other duties delegated to it by the Board and to carry out all other duties imposed upon it by the provisions of this Declaration.

SECTION 3.03. MEETINGS AND REIMBURSEMENT. The Approval Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of any three of the members, at a meeting or otherwise, of the Approval Committee shall constitute the act of the Approval Committee unless the unanimous decision of the Approval Committee is specifically required by any provision of this Declaration. The Approval Committee shall keep and maintain a written record of all actions taken. Members of the Approval Committee shall be entitled to reimbursement from the Association for all reasonable expenses incurred by them in the performance of any Approval Committee functions, but shall not be entitled to compensation unless specifically authorized by the Board.

SECTION 3.04. APPROVAL COMMITTEE RULES. The Approval Committee may, from time to time, adopt, amend and appeal by unanimous vote rules and regulations to be known as "Approval Committee Rules".

SECTION 3.05. APPROVAL COMMITTEE CERTIFICATE. Within thirty (30) days after written demand is delivered to the Approval Committee by any owner of a Residence Lot, the Approval Committee shall deliver to the owner a certificate in recordable form executed by one of its members, certifying (with respect to such Residence Lot) that as of the date thereof either: (a) all improvements made and other work to be done upon or within said Residence Lot complies with the provisions of this Declaration and plans and specifications approved thereunder; or (b) such improvements or work does not comply, in which event the certificate shall also identify the non-complying improvements or work and set forth the nature of such non-compliance. All persons shall be entitled to rely on said certificate with respect to the matters therein set forth, such matter being conclusive as between the Association, the Developer and all other owners of the Residence Lots, and those claiming or deriving any interest by, through or under them.

SECTION 3.06. LIABILITY. Neither the Approval Committee nor any member shall be liable to the Association, any owner of Residence Lot or to any other party, for any damage or loss suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings or specifications; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; (c) the development of any property; and (d) the executions, recording or filing of a certificate pursuant to Section 3.05 hereof, whether or not the facts therein are correct. The provisions shall not be construed to relieve the Approval Committee or any member thereof, from individual liability for actions not conducted in good faith.

ARTICLE 4

AMHERST WOODS PROPERTY OWNERS ASSOCIATION

SECTION 4.01. ORGANIZATION: THE ASSOCIATION. The Amherst Woods Property Owners Association (herein referred to as the "Association") is a non-profit Massachusetts corporation, organized under provisions of Chapter 180 of the Massachusetts General Laws, charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Organization and By-Laws and this Declaration. Neither the Articles nor the By-Laws shall, for any reason, be amended or otherwise changed or interpreted -o as to be inconsistent with the provisions of this Declaration. The terms of office of the initial members of the Board of Trustees of the Association shall not in any event extend beyond the date on which fifty (50) per cent of the Residence Lots have been sold.

SECTION 4.02: MEMBERSHIP: QUALIFICATIONS: RIGHTS AND DUTIES. The owner or owners from time to time of each Residence Lot shall be members of the Association, and one membership shall be appurtenant to each Residence Lot. The qualifications of such Membership and the rights, duties, privileges and liabilities of members shall be as set forth in this Declaration and in the By-Laws of the Association.

SECTION 4.03: VOTING.

A. ONE VOTE PER LOT. Each Membership (i.e., each Residence Lot) shall be entitled to one vote, regardless of the number of owners of such Residence Lot, provided, however, that:

1. Each Membership shall be held and exercised as a unit and shall not be divided among several owners of any Residence Lot. To that end, whenever any Residence Lot is owned of record by more than one person, the several owners of such Residence Lot shall: (a) determine and designate which one of such owners shall be authorized and entitled to cast votes, execute instruments and otherwise exercise the right appertaining to such Resident Lot hereunder, and (b) notify the Secretary of the Association of such designation by a notice in writing signed by all of the record owners of such parcel. Any such designation shall take effect upon receipt by the Secretary and may be changed at any time and from time to time by notice as aforesaid. In the absence of any such notice of designation, the Secretary may designate any one such owner for such purpose; and

From and after the date on which fifty (50) per cent of the Residence Lots have been sold, the voting power of the Developer, regardless of how many

Residence Lots Developer then and thereafter owns, shall be limited to the number of votes equal to that number of Lots.

SECTION 4.04. DUTIES OF THE ASSOCIATION. The Association shall have the obligation, subject to and in accordance with the provisions of this Declaration, the Articles and the By-Laws, to perform the following duties for the benefit of the owners of Residence Lots:

A. OPERATION OF COMMON AREAS. To operate and maintain or provide for the operation and maintenance of all Common Areas and the facilities thereof and thereon and to keep all improvements of whatever kind or for whatever purpose from time to time located thereon in good order and repair;

B. PAYMENT OF TAXES. To pay all real and personal property taxes and assessments levied upon any property owned by the Association. Such taxes and assessments may be contested or compromised by the Association.

C. PUBLIC SERVICE. To contract for or provide (to the extent adequate services are not provided by a public authority) such buildings and grounds maintenance, snow plowing service, and other services and facilities of a public or quasi-public nature as may be deemed necessary or desirable to effect of the purposes of this Declaration. In providing such facilities and services, the Association may contract with or delegate its duties to any entity organized for such purposes.

D. INSURANCE. To obtain and maintain in force such insurance as the Board shall deem necessary to protect the Association against loss by reason of fire or other casualty and from liability for personal injury property damage and to obtain and maintain such fidelity and other bonds as the Board shall deem appropriate to protect the Association.

E. OTHER. To carry out the duties of the Association as set forth in this Mater Declaration, the Articles and the By-Laws.

SECTION 4.05. POWERS AND AUTHORITY OF THE ASSOCIATION. The Association shall have all of the powers of a non-profit corporation organized under Chapter 180 of the General Laws of the Commonwealth of Massachusetts, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration, the Articles and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association. Without in any way limiting the generality of the

foregoing provisions, the Association shall have the power and authority at any time:

A. ASSESSMENTS. To levy assessments on the owners of Residence Lots, and to receive and collect payment of such assessments, in accordance with the provisions of Article 5 thereof.

B. EMPLOYMENT OF AGENTS. To employ a manager and such other employees or representatives as are necessary to carry out the responsibilities of the Association.

SECTION 4.06. RULES.

A. RULE MAKING POWER. Subject to the provisions of this Declaration, the Board may from time to time adopt, amend and repeal rules and regulations governing, among other things, use of any Common Areas under the jurisdiction of the Association. Said rules may restrict and govern the use of the Common Areas, and restrictions on the maintenance and the landscaping or other improvements on any Residence Lot which may obstruct the vision of motorists or which create a hazard for vehicular or pedestrian traffic.

B. NEW RECORDATION OF RULES. A copy of the Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each residence Lot owner and may, but need not be recorded and filed. Upon such mailing, other delivery or recordation and filing, said Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

SECTION 4.07. LIABILITY OF BOARD MEMBERS AND MANAGER. No member of the Board, the manager, other representative or employee of the Association, or the Approval Committee shall be personally liable to any Residence Lot owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, the manager or any other representative or employee of the Association or the Approval Committee, provided, however, that such actions were conducted in good faith.

SECTION 4.08. OFFICERS OF THE ASSOCIATION.

A. BOARD OF TRUSTEES. The Board of Trustees of the Association shall consist of the President, President-elect, Past President, Treasurer, Secretary and Approval Committee Chairman.

B. TERM OF OFFICE. The term of office of each member of the Board shall be two (2) years. Board members shall be elected at the annual meeting of the Association.

C. NOMINATING COMMITTEE. The President shall appoint a nominating committee consisting of four (4) people at least six (6) months prior to the annual meeting. Said committee shall be chaired by the President.

D. FISCAL YEAR. The fiscal year of the Association shall run from October 1 to September 30 each year. The annual meeting shall be held within forty five (45) days of the close of the fiscal year with notice of the meeting to all property owners within twenty one (21) days of said meeting.

E. PRESIDENT. The President shall call and preside over the board and the annual business meetings. The President and the Chairman of the Approval Committee shall notify homeowners of any non-compliance with the by-laws.

F. PRESIDENT-ELECT. The President-elect shall take over the duties of the President when the President is unable to attend said meetings. The President-elect shall be the social director and organize one social event per fiscal year for all Association members.

G. PAST PRESIDENT. The Past President shall attend all Board meetings and offer suggestions from past experience to provide continuity for the Association.

H. SECRETARY. The Secretary shall take minutes at all board and annual business meetings and take care of any necessary correspondence. Copies of the minutes of any business meeting will be made available to the owners of Residence Lots upon written request. At least once a year, a summary of meetings and other activity of the Board and Association will be mailed to owners of record of Residence Lots.

I. TREASURER. The Treasurer shall have fiscal responsibility of the Association to include billing, collection and disbursement of money. The Treasurer shall report on the budget for the fiscal year at the annual business meeting.

ARTICLE 5

FUNDS AND ASSESSMENTS

SECTION 5.01. OPERATING FUND. The Board shall establish an operating fund for the Association into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration, the Articles and the By-Laws.

SECTION 5.02. OPERATING AND MAINTENANCE ASSESSMENTS.

A. REGULAR ASSESSMENTS. At least thirty (30) days prior to the commencement of each fiscal year, the Board shall prepare and adopt a budget for the Association reflecting the estimate of the expenses to be incurred by the Association during such fiscal year in performing its functions under this Declaration, the Articles and the By-Laws. The estimate of expenses so determined shall be divided by the total number of Residence Lots (including those, if any, which may then be owned by Developer) and the resulting amount shall be assessed as of the first day of such fiscal year to the owners of each Residence Lot (including the Developer).

B. SPECIAL ASSESSMENTS. If at any time during any fiscal year, the regular assessment seems inadequate for any reason, the Board may levy a special assessment as of such date as it may determine in the amount of such actual or estimated inadequacy, which amount shall be assessed to the owners of all Residence Lots.

C. PAYMENT OF ASSESSMENTS. All assessments shall be due and payable within thirty (30) days after the date of assessment unless otherwise authorized by the Board.

D. OBLIGATION OF OWNERS. All owners of Residence Lots shall be liable for all assessments levied upon them pursuant to this Declaration, the Articles and the By-Laws.

E. ASSESSMENT OF VACANT LOTS. Notwithstanding the above, the Board may waive a portion of the assessment on any vacant lot which is contiguous to the owner's Residence Lot and which is not held for or offered for sale or development.

SECTION 5.03. REIMBURSEMENT ASSESSMENT. The Board shall levy a reimbursement assessment against any owner of a Residence Lot where, as a result of that owner's failure to comply with the provisions of this Declaration, the Articles; the By-Laws, the Rules or the Approval Committee Rules, monies are expended by the Association to cure the non-compliance. Such an assessment shall be limited to the amount so expended including reasonable attorney's fees, and shall be due and payable to the Association when levied.

SECTION 5.04. ENFORCEMENT OF ASSESSMENTS. Assessments levied hereunder together with interest thereon and all reasonable costs of collection thereof, including reasonable attorney's fees, shall be a charge on the Residence Lot and shall constitute a continuing lien upon said property against which such

assessment is made, and shall also be the personal obligation of the owner or owners from the time the payment thereof became due.

Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the Fleet Bank of Massachusetts, N.A., or its successor's prime rate of interest. The Association may bring an action at law against the owner personally obligated to pay the same, or foreclose the lien against the property. The Association may enforce each lien by selling any Residence Lot thereto, and to satisfy the same, in the manner provided by law for the foreclosure of mortgage containing a power of sale, provided that notice of the commencement of such proceedings is filed for recording in the Registry of Deeds within two (2) years of the date on which payment become due and so long as said assessment or any portion thereof remains unpaid.

The lien for the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Residence Lot shall not affect the assessment lien. However, the sale or transfer of any Residence Lot pursuant to mortgage foreclosure or any Residence Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien or such assessment as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Residence Lot or Owners thereof from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE 6

MISCELLANEOUS PROVISIONS

SECTION 6.01. AMENDMENTS AND DURATION.

A. AMENDMENT. Except as otherwise herein expressly provided, the Declaration may be amended at any time by a vote adopting or written consent to the proposed amendment by: (i) a majority of the Board and (ii) a majority of the owners of Residence Lots voting at a meeting or by proxy. Such amendment shall not be effective until there has been filed and recorded in the Hampshire County Registry of Deeds, a certificate signed by the Secretary or Assistant Secretary of the Association setting forth the amendment and the facts relating to its adoption by the Board and the Residence Lot owners. However, no such amendment shall be adopted that substantially derogates from the original intent and purpose of this Declaration.

B. DURATION OF RESTRICTIONS. Subject to the provisions of Paragraph A of Section 6.01 hereof, the restrictions set forth in this Declaration shall continue and remain in full force and effect in all events until thirty (30) years from this

date, and, may thereafter, be extended and continued in full force and effect for further periods of twenty (20) years each in the manner provided in Massachusetts General Laws Chapter 184, Section 28, as it may be amended from time to time.

SECTION 6.02. ENFORCEMENT AND NON_WAIVER.

A. RIGHT OF ENFORCEMENT. The restrictions set forth in this Declaration are for the benefit of all land described herein and for the land known as Amherst Woods and shall run with the land. Except as otherwise provided herein, any owner of any Residence Lot, the Developer or the Association (irrespective of whether the Developer or the Association then owns any of the Residence Lots) shall have the right to enforce any and all of the provisions of this Declaration, including without limitation, the restrictions herein set forth.

B. VIOLATION OF LAW. Any violation of any applicable local, state or federal law of governmental regulation pertaining to the ownership, occupation or use of any property within Amherst Woods is hereby declared a violation of this Declaration and for the restrictions herein set forth and subject to any or all of the enforcement procedures set forth in this Declaration.

SECTION 6.03. DELIVERY OF NOTICES AND DOCUMENTS. Any written notice or other document relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered forty eight (48) hours after a copy of same has been deposited in the United States mail, certified or registered mail postage prepaid, return receipt requested.

SECTION 6.04. CONSTRUCTION AND SEVERABILITY: SINGULAR AND PLURAL.

A. PROVISIONS SEVERABLE. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provisions or portion thereof shall not affect the validity or enforceability of any other provision.

B. SINGULAR INCLUDES PLURAL. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine, or neuter shall include the masculine, feminine and neuter.

C. CAPTIONS. All captions or titles used in this Declaration are intended solely

for convenience of reference and shall not affect that which is set forth in any of the provisions hereof.

ARTICLE 7

PROPERTY SUBJECT TO THIS DECLARATION ADDITIONS THERETO

SECTION 7.01. EXISTING PROPERTY. The real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to this Declaration is located in Amherst, Hampshire County, Massachusetts.

SECTION 7.02. ADDITIONS TO EXISTING PROPERTY: Additional lands may become subject to this Declaration in the following manner:

A. ADDITIONS IN ACCORDANCE WITH A GENERAL PLAN OF DEVELOPMENT. The Developers, its successors and assigns, shall have the right to bring within this Declaration additional properties in future stages of the development, provided that such additions are in accord with a General Plan of Development prepared prior to the sale of any Lot in which such stage of development and are made known to every purchaser (which may be done by brochure delivered to each purchaser) prior to such sale, and provided further that the Association shall first approve each such addition at a meeting of the membership called for the purpose.

Such General Plan of Development shall show the proposed addition to the existing property and contain: (1) a general indication of size and location of additional development stages and proposed land uses in each; (2) the approximate size and location of common properties proposed for each stage; (3) the general nature of proposed common facilities and improvements; (4) a statement that the proposed additions, if made, will become subject to assessments for their just share of Association expenses; and (5) a schedule for termination of the Developer's right under provisions of this sub-section to bring additional development stages within the scheme. Unless otherwise stated therein, such General Plan shall not bind the Developers, their heirs and assigns, to make the proposed additions or to adhere to the Plan in any subsequent development of the land shown thereon and the General plan shall contain a conspicuous statement of this effect.

The additions authorized under this and the succeeding sub-section shall be made by recording with in the Hampshire County Registry of Deeds, a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the covenants and restrictions of this

Declaration to such property.

Such Supplementary Declaration may contain such additions and modifications of the covenants and the restrictions contained in this Declaration as may be necessary to reflect the different character if any, or the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing Property.

B. OTHER ADDITIONS. Upon approval in writing by the Association pursuant to a majority vote of the members voting at a meeting or by proxy and as provided in its Articles of Incorporation, the owner of any adjacent or contiguous lot who desires to add it to this Declaration and to subject it to the jurisdiction of the Association, recorded in the Hampshire County Registry of Deeds a Supplementary Declaration of Covenants and Restrictions, as described in subsection (A) hereof.

C. MERGERS. Upon a merger or the consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations, may by operation of law, be transferred to another surviving or consolidated association or alternatively, the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except hereafter provided.

ARTICLE 8

THE DEVELOPER NOT LIABLE FOR ACTS OR OMISSIONS OF OTHERS

Under no circumstances shall the Developer be held responsible for acts or omissions of any one or more members of the Approval Committee, the Association, or the Trustees, or for any violations of the reservations and restrictions by

any Residential Lot owner, and each owner of a Residential Lot by acceptance of a deed thereto assents to the within provisions and he and his heirs, personal representatives and assigns shall be bound hereby.

2. Definitive Subdivision Plan Amherst woods Phase 2, Amherst Massachusetts, Prepared for Amherst Woods, Inc., 441 Pine Street, Philadelphia, PA. dated November 17, 1983, by Heritage Surveys recorded in Hampshire County Registry of Deeds at Plan Book 126, Page 81.

3. Definitive Subdivision Plan Amherst Woods Phase 3, Amherst, Massachusetts, Prepared for Amherst Woods, Inc. 441 Pine Street, Philadelphia, PA. dated April 1, 1985, by Heritage Surveys and recorded in the Hampshire County Registry of Deeds at Plan Book 132, Page 76.

4. Definitive Subdivision Plan Amherst Woods Phase 4, Amherst, Massachusetts, Prepared for Jeffrey W. Flower, dated March 25, 1986, revised June 16, 1986, and recorded in Hampshire County Registry of Deeds at Plan Book 139, Pages 6 through 9.

5. Definitive Subdivision of Old Farms village at Amherst Fields in Amherst, Massachusetts, prepared for Jeffrey W. Flower, dated September 9, 1987 and recorded in the Hampshire County Registry of Deeds at Plan Book 156, Pages 77 through 79.

Plan of Land in Amherst, Massachusetts Surveyed for Amherst Woods, Inc. dated May 28, 1985, by Heritage Surveys and recorded with the Hampshire County Registry of Deeds at Plan Book 133, Page 58.

1997 AMENDMENT TO AND RESTATEMENT OF
THE MASTER DECLARATION OF AMHERST WOODS
IN AMHERST, HAMPSHIRE COUNTY, MASSACHUSETTS
RESERVATIONS AND RESTRICTIONS