

# Liber 2 Folio 00038

Homeowners Assn. Disclosure Record  
Clerk of the Circuit Court  
Washington County

## **NORTH GATE TOWNEHOMES SUPPLEMENTAL DISCLOSURE BY HOMEOWNERS ASSOCIATION PURSUANT TO MARYLAND REAL PROPERTY CODE SECTION 11B-112(c)(2)**

Pursuant to the provisions of Maryland Real Property Code, Section 11B-112(c)(2), et seq., North Gate Community Association, Inc. (hereinafter sometimes referred to as the "Homeowners Association"), hereby submits the following information with regard to that subdivision known as North Gate Townhomes, Hagerstown, Maryland:

### **1. Name, Principal Address, and Telephone Number of The Declarant<sup>1</sup>:**

North Gate Community Association, Inc., a Maryland corporation; P.O. Box 1287, Hagerstown, Maryland 21741; Telephone: (301) 791-6231.

**2. Name and Address of the Management Agent of the Homeowners Association Authorized to Provide to Members of the Public, Information Regarding the Homeowners Association and the Development.** David R. Rider, Contractor, Inc., P.O. Box 1287, Hagerstown, Maryland 21740, 301-791-6231.

### **3. Names and Addresses of the Principal Officers of the Declarant:**

- (a) Julie Donat, President  
1251 Lindsay Lane  
Hagerstown, MD  
21740
- (b) Robin Lyles, Secretary  
1409 Lindsay Lane  
Hagerstown, MD 21740
- (c) Ron Ross, Treasurer  
1067 Lindsay Lane  
Hagerstown, MD 21740

### **4. Name of Homeowners Association, State of Incorporation and Name of Maryland Resident Agent:**

North Gate Community Association, Inc., a Maryland corporation; Roger Schlossberg, 134 West Washington Street, Hagerstown, Maryland 21740.

### **5. A Description of:**

**a. The Location And Size Of The Development:** 3.08 acres of land located along Fairchild Avenue in Hagerstown, Maryland and being more particularly described as all of that land described in those various plats of North Gate Townhomes recorded among the Plat Records of Washington County, Maryland (hereinafter the "Development"). The Development presently includes two hundred twenty-five (225) townhome lots.

**b. Any Property Owned by the Declarant Contiguous To The Development Which Is To Be Dedicated To The Public Use:** Not Applicable .

**6. If The Development Is Or Will Be Within Or A Part Of Another Development, a General Description Of The Other Development:** Not Applicable.

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Community Association, Inc., has succeeded to certain of the rights of the original Declarant (i.e., DRR, Ltd.) pursuant to the terms of the Declaration hereinafter referenced.

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Section 8. Duties. The duties of the officers are as follows:

### President

(a) The President shall preside at all meetings of the Members and of the Board of Directors and shall ensure that orders and resolutions of the Board are carried out. The President shall have authority to sign all leases, mortgages, deeds and other written instruments.

### Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board. The Vice-President shall likewise have authority to sign all leases, mortgages, deeds and other written instruments.

### Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board.

### Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and disburse those funds as directed by resolution of the Board of Directors; keep proper books of account; cause an annual audit of the Association books to be made at the completion of each fiscal year; and prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members requesting the same.

## ARTICLE IX

### COMMITTEES

The Association shall appoint such committees as deemed appropriate in carrying out its purposes.

## ARTICLE X BOOKS

### AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## ARTICLE XI

### ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association assessments which are secured by a continuing lien upon the Lot against which the assessment is made. If the assessment is not paid on the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and interest, costs, and reasonable attorney's fees of any such action shall be added to

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meeting of the Members, to serve until the close of the annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Directors shall be by written ballot. At the election, the Member or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI MEETINGS OF

### DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least annually at such place and hour as may be fixed from time to time by resolution of the Board, without the necessity of further notice.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII POWERS AND DUTIES OF THE BOARD OF

### DIRECTORS

Section J. Powers. The Board of Directors shall have the power to:

(a) adopt and publish rules and regulations governing the use of the Common Areas including any improvements and amenities located thereon, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights, and the right of use of any recreational facilities located on any Common Area during any period in which the Member is in default in the payment of any assessment levied by the Association; these rights may also be suspended for a period not to exceed sixty (60) days for an infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the Members by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration; and

(d) employ a manager, independent contractors, or other employees or contractors as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) keep a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such a statement is requested in writing by the holders of one-fourth (1/4) of the votes of the Class A Members or by the holders of one-fourth (1/4) of the votes of the Class B Members;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

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Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

## ARTICLE IV BOARD OF

### DIRECTORS

Section 1. Number. The affairs of this Association shall be managed by a Board of ~~three (3)~~ five (5) directors, who ~~need not~~ shall be Members of the Association.

Section 2. Term of Office. ~~The terms of office of the "Charter Directors" (as defined in the Articles of Incorporation of the Association) shall be for the period until the first annual meeting of the Member, at which their successors die.~~ The terms of office of the "Charter Directors" (as defined in the Articles of Incorporation of the Association) shall be for the period until the first annual meeting of the Member, at which their successors die. ~~at the annual meeting.~~

a. *Except as herein provided, the terms of office of each director shall be for a period of three (3) years, or until each such director's successor is elected, whichever shall last occur.*

b. *At the annual meeting next following the date of adoption of the amendment to these By-Laws including the revised provisions of this Article IV, Section 2, five (5) directors shall be elected. Those two candidates receiving the highest number of votes shall be elected to serve three-year terms; those two candidates receiving the next highest number of votes shall be elected to serve two-year terms; and the candidate receiving the next highest number of votes shall be elected to serve a one-year term. Upon the expiration of the initial three-year, two-year and one-year terms above-provided, all directors shall thereafter be elected to three-year terms.*

c. *All elections of directors shall take place at the annual meeting of the Association.'*

Section 3. Removal. Any director, other than a Charter Director, may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal, pursuant to these By-Laws, of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE V NOMINATION AND ELECTION OF

### DIRECTORS

Section 1. Nomination. Nomination of Directors for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more other persons. The Nominating Committee shall be appointed by the President of the Association prior to each annual

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'Amended August 6, 1990

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REVISED THROUGH AUGUST 9, 1999

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~~Strikeout~~ = Text which was removed by amendment

*Italics* = Text which was added by amendment

## **NORTH GATE COMMUNITY ASSOCIATION, INC.**

### **BY-LAWS ARTICLE I**

NAME AND LOCATION. The name of the corporation is North Gate Community Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 120 North Jonathan Street, Hagerstown, Washington County, Maryland 21740, but meetings of members and directors may be held at such places within the State of Maryland, as may be designated by the Board of Directors.

### **ARTICLE II**

#### **DEFINITIONS**

Section 1. The terms "Association", "Common Area", "Lots", "Owner", "Estimated Annual Assessment" and "Property" as used in these By-Laws shall have the meanings set forth in the North Gate Townhomes Declaration of Covenants, Conditions and Restrictions dated February 8, 1989, and recorded among the Land Records of Washington County, Maryland (the "Declaration").

Section 2. "Member" means those persons or entities entitled to membership in the Association as provided in the Declaration.

### **ARTICLE III MEETING**

#### **OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held in the same month of each year thereafter, at a date, time and place within the State of Maryland selected by the Board of Directors of the Association.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the president or by the Board of Directors, or upon written request of the Members who are (i) entitled to vote one-fourth (1/4) of all of the votes of the Class A Membership or (ii) entitled to vote one-fourth (1/4) of all of the votes of the Class B Membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of the notice, postage prepaid, not less than fifteen (15) nor more than sixty (60) days before the meeting, to each Member, addressed to the Member's address last appearing on the books of the Association, or supplied by the Member to the Association for the purpose of notice. The notice shall specify the place, day and hour of the meeting. In the case of a special meeting, the notice shall state the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members or proxies entitled to cast one-tenth (1/10) of the votes of the Membership shall constitute a quorum for any action except as otherwise provided in the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

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or any Lot therein for Federally approved mortgage financm purposes, any amendments to these Articles made during any perio of time when there are Class B members of the Association shal also require the prior consent of the agency giving such approval

IN WITNESS WHEREOF, for the purpose of forming thi: corporation under the laws of the State of Maryland, th< undersigned, Roger Schlossberg, whose post office address is 13' West Washington Street, Hagerstown, Washington County, Maryland 21740, being at least eighteen ye^rs of age, **foms** executed these Articles of Incorporation this ^-day of February/' 1989, for the purpose of incorporating this Association( ■' \ I [

Roger 'SchlLossberg \

STATE OF MARYLAND, WASHINGTON COUNTY, to-wit:

I hereby certify that on this h •\* '\ day of February, 1989, before me, a Notary Public, i-n and for the State and County aforsaid personally appeared Roger Schlossberg who die

**Witness my official hand and notarial seal.**

MY .COMMISSION EXPIRES:  
July 1, 1990 Notary Public

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P.O. Box 12B7  
Hagerstown, MD 2174 1

Roger Schlcsssberg 134  
W. Washington St.  
Hagerstown, MD 21740

These Directors, (herein called "Charter Directors") shall serv< until the first annual meeting of the members at which thei: successors are elected. In the even of death or resignation of ; Charter Director during his term of office, the remaining Charte: Directors shall elect a successor Charter Director to fill th< unexpired term of such Charter Director.

**ARTICLE IX**

**DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by the holders of not less than two-thirds (2/3; of the votes of each class of the members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that acceptance of sue! a dedication is refused, the assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

**ARTICLE X**

The Association shall exist perpetually.

**ARTICLE XI**

Amendment of these Articles shall require the assent of the holders of two-thirds (2/3) of the votes of each class of member: present in person or by proxy at the meeting at which the vote is taken. Anything set forth above in this Article XI to the contrary notwithstanding, the Company shall have the absolute unilateral right, power and authority to modify, revise, and amend or change any of the terms or provisions of these Articles of Incorporation all as from time to time amended or supplemented. However, this unilateral right, power and authority of "the Company may be exercised if and only' if either the Veterans Administration or the Federal Housing Administration or any similar or successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the United States of the Property or an} part thereof or any Lots thereon for federally approved mortgage financing purposes under applicable Veterans Administration, Federal Housing Administration or similar programs. If the Veterans Administration or the Federal Housing Association or an> successor agencies thereto approve the Property or any part thereof

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## ARTICLE VII The Association shall have

two classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Company and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members; however, for purposes of a quorum they shall be treated as a single member. The votes for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B Member(s) shall be the Company and shall be entitled to three votes for each Lot Owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B Membership; or

(b) on the ninth anniversary of the date of the Declaration.

Provided, however, that the Class B Membership shall be revived (and the Company shall again be entitled to three votes for each Lot owned by the Company) during any periods of time occurring before the seventh anniversary of the date of the Declaration, when by reason of the annexation of additional land as a part of the Property additional Lots owned by the Company exist which, when added to the other Lots then owned by the Company, would result in the Company having more than 50% of the votes of the Association were the Company to have three votes for each Lot owned by the Company instead of only a single vote for each Lot owned by the Company.

## ARTICLE VIII

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

Roger T. Craig  
c/p Craig Blacktop & Paving, Inc.,  
Hump Road  
Hagerstown, MD 2174 0

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pleasure, recreation and the welfare of the residents of the Lots within the Property. In furtherance of these purposes, the Association, (by action of its Directors unless otherwise noted in these Articles of Incorporation or in the Declaration) shall have full power to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration as the same may be amended from time to time as therein provided, the Declaration being incorporated herein by reference as if set forth at length;

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

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association, subject, however, to the requirements of the Declaration;

(d) borrow money and, with the assent of two-thirds (2/3) of the votes of each class of members of the Association, mortgage, pledge, convey by deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility subject, however, to the requirements of the Declaration and to such conditions, as may be agreed to by the members; **and**

(f) participate in mergers and consolidations with other non profit corporations organized for the same purposes or annex additional property and open space, provided that, except as otherwise provided in the Declaration, any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of the votes of each class of the members, and

(g) have and to exercise any and all powers, rights and privileges which a non-stock corporation organized under the Corporation Law of the State of Maryland by law may now or hereafter have or exercise.

### ARTICLE VI

Every Owner shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

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 Clerk of the Circuit Court GATE  
 Washington County

APPROVED FOR RECORD  
 -9-86 at 10:16

COMMUNITY ASSOCIATION, INC.

' In compliance with the requirements of Title 5, Subtitle 2 of the Corporations and Associations Article of the Annotated Code of Maryland, the undersigned, a resident of Maryland, who is at least eighteen years of age, has this day, formed a non-stock corporation, not for profit, and does hereby certify:

ARTICLE 1

The name of the Corporation is North Gate Association, Inc., hereafter called the "Association". Community

ARTICLE 11

The principal office of the Association is located at 120 N. Jonathan Street, P.O. Box 1287, Hagerstown, Washington, Maryland 21741.

ARTICLE 111

Roger Schlossberg, whose address is 134 W. Washington Street, Hagerstown, Washington, Maryland 21740, is hereby appointed the resident agent of the Association.

ARTICLE IV

The terms "Association", "Common Area", "Company", "Lots", "Owner"<sup>1</sup>, and "Property" as used in these Articles of Incorporation shall have the meanings set forth in the North Gate Townhomes Declaration of Covenants, Conditions and Restrictions dated February 8, 1989, and recorded among the Land Records of Washington County, Maryland (the "Declaration").

ARTICLE V PURPOSES AND

POWERS OF THE ASSOCIATION

The Association shall not operate for pecuniary gain or profit, shall not issue capital stock, and no part of the net earnings of the Association shall inure to the benefit of any member or individual (except that reasonable compensation may be paid for services rendered), and the specific purposes for which it is formed are to provide for: (i) the use, improvement, maintenance, operation and repair of the Common Areas located in the Property including any improvements and amenities located thereon; (ii) the establishment of rules and regulations for the use of the Common Areas including any improvements and amenities located thereon; (iii) the distribution among the Owners of the Property of the costs of the use, improvement, maintenance and repair of the Common Areas including any improvements and amenities located thereon; and (iv) the promotion of the health, safety,

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	STATE OF MARYLAND	/
I hereby certify that this	a true and compl'ei \$	nf the /
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MY COMMISSION EXPIRES:  
July 1, 1990

/s/ Marylvn L. Reid  
Notary Public

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, That on this 6<sup>th</sup> day of February, 1989, before me, the Subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Thomas K. Myers, Trustee, who did acknowledge his execution of the foregoing Declaration of Covenants, Conditions and Restrictions to be his voluntary act and deed.

Witness my hand and official Notarial Seal.

MY COMMISSION EXPIRES:  
July 1, 1990

/s/ Marylvn L. Reid  
Notary Public

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, That on this 6<sup>th</sup> day of February, 1989, before me, the Subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Philip L. Rohrer, Executive Vice-President of Hagerstown Trust Company who did acknowledge his execution of the foregoing Declaration of Covenants, Conditions and Restrictions to be the voluntary act and deed of said Corporation.

Witness my hand and official Notarial Seal.

MY COMMISSION EXPIRES:  
July 1, 1990

/s/ Marylyn L. Reid  
Notary Public

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Property or any parts thereof or any Lots thereon for federally approved mortgage financing purposes, any further amendments to the Declaration made during any period of time when there are Class B members of the Association shall also require the prior consent of the agency giving such approval.

The Trustees join herein for the purpose of assenting to and subordinating the Deeds of Trust to the legal operation and effect of this Declaration, reserving, however, the lien and effect of the Deeds of Trust on the easements, reservations, rights and benefits reserved and retained by the Company herein.

The Bank joins herein for the purpose of assenting to and subordinating its interest under the Deeds of Trust to the legal operation and effect of this Declaration, reserving, however, the lien and effect of the Deeds of Trust on the easements, reservations, rights and benefits reserved and retained by the Company herein.

WITNESS the hands and seals of the parties hereto on the day hereinabove first written.

ATTEST AS TO CORPORATE SIGNATURE & SEAL:

/s/ Roger Schlossberg, Secretary

"COMPANY" DRR, Ltd.

By: /s/ David R. Rider, President (SEAL)

"TRUSTEES"

/s/

/s/ Thomas K. Myers, Trustee (SEAL)

/s/

/s/ Diane T. Brining, Trustee (SEAL)

ATTEST AS TO CORPORATE SIGNATURE & SEAL:

/s/ Ass't Sec.

"BANK" HAGERSTOWN TRUST COMPANY

/s/ Philip L. Rohrer, Executive Vice-President (SEAL)

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, That on this 8th day of February, 1989, before me, the Subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared David R. Rider, President of DRR, Ltd., who did acknowledge his execution of the foregoing Declaration of Covenants, Conditions and Restrictions to be the voluntary act and deed of said Corporation.

Witness my hand and official Notarial Seal.

MY COMMISSION EXPIRES: July 1, 1990

/s/ Joanna E. Kemmerer Notary Public

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, That on this 6\* day of February, 1989, before me, the Subscriber, a Notary Public, in and for the State and County aforesaid, personally appeared Diane T. Brining, Trustee, who did acknowledge her execution of the foregoing Declaration of Covenants, Conditions and Restrictions to be her voluntary act and deed.

Witness my hand and official Notarial Seal.

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If an annual or special assessment is not paid on the due date, the assessment shall be delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot for such assessment, and there shall be added to the amount of such assessment the reasonable costs of preparing and filing the action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the Court together with the costs of the action. Each Owner of a Lot shall by accepting title thereto be deemed to have assented to the passage of a decree for the foreclosure of any lien upon his Lot which results from his failure to pay an assessment on the due date thereof.

SECTION 10

The lien of the assessments provided for herein shall be subordinate to any mortgage or deed of trust hereafter placed upon the Lot subject to assessment; provided, however, that the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall only extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not extinguish the personal obligation of the previous Owner therefor. Such sale or transfer shall not relieve the Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

ARTICLE IX

GENERAL PROVISIONS

SECTION 1

(a) Enforcement of any of the covenants or restrictions set forth herein shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain the violation or to recover damages resulting therefrom, or both.

(b) Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

SECTION 2

Wherever herein the power or right is reserved to the Company to approve or consent or withhold such approval or consent of some action or proposed action by one or more of the Owners, the reservation of that power or right to the Company shall be deemed to be assigned unto the Association by operation of law upon the cessation of the Class B membership in the Association as provided by the terms of this Declaration, the Articles of Incorporation or the By-Laws of the Association (hereinafter the "Association Documents"); subject, however, to the deemed re-assignment of that power or right by the Association to the Company by operation of law upon the revival of the Class B membership as provided by the terms of the Association Documents.

SECTION 3

The covenants and restrictions of this Declaration shall run with and bind the Property, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years unless, prior to the expiration of the then current term, a written instrument shall be executed by the then owners of seventy-five percent (75%) of the Lots stating that this Declaration shall expire at the end of the then current term. This Declaration may be amended by action of the Association duly taken by majority vote thereof in accordance with the Articles of Incorporation and By-Laws thereof, and such amendment shall be effective upon the recording in the Land Records of Washington County of an Amendment to Declaration setting forth such amendment and including a certificate by the Secretary of the Association that the amendment set forth therein was duly adopted by the Association pursuant to the Articles and By-Laws thereof.

SECTION 4

Anything set forth in Section 3 of this Article to the contrary notwithstanding, the Company shall have the absolute unilateral right, power and authority to modify, revise, amend or change any of the terms or provisions of this Declaration, all as from time to time amended or supplemented. However, this unilateral right, power and authority of the Company may be exercised only if either the Veterans Administration or the Federal Housing Administration or any similar or successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the United States of the Property or any part thereof or any Lots thereon, for federally approved mortgage financing purposes under applicable Veterans Administration, Federal Housing Administration or similar programs. If the Veterans Administration or the Federal Housing Administration or any similar or successor agencies approve the

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sixty percent (60%) of all of the votes of each class of members entitled to be cast at the meeting shall be necessary and sufficient to 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 any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 7

The annual assessments shall commence on the first day of the month following the first conveyance of a Common Area to the Association (the "Commencement Date"). The first annual assessment shall be made for the balance of the calendar year and shall become due and payable on the Commencement Date. The amount of the assessment for the first year shall be an amount which bears the same relationship to the annual assessment provided for in the first sentence of Section 3 of this Article as the remaining number of months in that year bear to twelve. The same reduction in the amount of the annual assessment shall apply to the first assessment levied against any property which is hereafter added to the Property at a time other than the beginning of any calendar year.

The annual assessments for any year after the first year shall be on a calendar year basis and become due and payable on the first day of January of that year.

The due date under any special assessment under Section 4 shall be fixed in the resolution authorizing the special assessment. However, such due date shall be at least 45 days after the date of such resolution.

SECTION 8 ESCROW

PAYMENTS

(a) On the first day of each month next following the Commencement Date through the last month of that calendar year (the "Commencement Year"), the owner of each Lot shall pay unto the Association an amount equal to the estimated annual assessment (as determined by the Association) for the following calendar year divided by the number of months remaining in the Commencement Year. On the first day of each month next following the Commencement Year, the Owner of each lot shall pay unto the Association an amount equal to the estimated annual amount (as determined by the Association) for the following calendar year (the "Estimated Annual Assessment") divided by twelve (the "Monthly Escrow Payment"). Said sum shall be held by the Association in escrow in trust for the owners of the Lots in an interest-bearing account (the "Escrow Account") until such time as the actual annual assessment for the following year becomes due and payable on the first day of January of that year. On that date, the Association shall transfer from the Escrow Account a sum equal to the actual annual assessment determined for each Lot and shall deposit such sum into the operating funds of the Association. In the event the funds maintained in the Escrow Account with regard to any Lot are insufficient to pay the actual annual assessment, the Owner of such lot shall immediately pay unto the Association a sum equal to such deficiency amount (the "Deficiency") and any unpaid Deficiency shall be a lien, bear interest and be subject to actions to collect the same as otherwise hereunder provided for annual or special assessments. In the event the funds maintained in the Escrow Account with regard to any Lot exceed the amount necessary to pay the actual annual assessment, the amount of said surplus funds shall be divided by twelve and the quotient thereof subtracted from the Monthly Escrow Payment otherwise required to made for the next successive twelve months.

(b) In the event any Monthly Escrow Payment herein provided for any Lot is not paid when due on the first day of each month, or in the event of transfer of the title to any Lot, then without notice and by operation of law, the entire unpaid Estimated Annual Assessment for any such Lot for the following year shall be immediately accelerated and become due and payable and be a lien, and bear interest from that date, and be subject to action to collect the same as otherwise hereunder provided for annual or special assessments.

(c) The Escrow Account provided for in Paragraph (a), supra, shall be separately maintained from the operating funds of the Association and shall be clearly designated as the "Northgate Home Owners Assessment Escrow Account"; the funds therein being held in trust for the Owners for the purposes herein-provided and not subject to any right of any Owner or any creditor thereof to withdrawal thereof or execution thereon. The interest earned on said Escrow Account shall inure to the general benefit of and shall be periodically paid to the Association.

SECTION 9

The Board of Directors of the Association shall fix the Commencement Date and the amount of the annual assessment against each Lot for each assessment period at least one month in advance of the due date for the payment thereof, and the amount of the Estimated Annual Assessment at least thirteen months in advance of the due date for the payment thereof, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

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>!  
·  
·v^ COVENANT FOR ASSESSMENT

\\_ ^  
^ SECTION 1

The Company, for each Lot owned by it within the Property, hereby covenants, and each Owner, by acceptance of a deed hereafter conveying any such Lot to him, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association (i) annual assessments or charges; and (ii) special assessments or charges for capital improvements, such annual and special assessments and charges to be established and collected as hereinafter provided. The annual and special assessments or charges, together with interest at the rate of twelve percent (12%) per annum accruing from their due date until payment is made, and the costs of collection thereof and reasonable attorney's fees, shall be a charge on, and continuing lien upon each Lot against which an assessment is made. Each assessment or charge, together with interest at the rate of twelve percent (12%) per annum accruing as aforesaid, and costs and reasonable attorney's fees incurred or expended by the Association in the collection thereof, shall also be the personal obligation of the Owner of the Lot. The personal obligation for any delinquent assessment or charge, together with interest, costs and reasonable attorney's fees, however, shall not pass to the Owner's successors in title, unless expressly assumed by them.

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\ ^  
~ SECTION 2

The assessments and charges levied by the Association shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents of the Property, and in particular for the improvement, operation and maintenance of the Common Areas and the Lots as herein provided, including, but not limited to, the payment of taxes (except to the extent that proportionate shares of such public charges and assessments on the Common Areas may be levied against all Lots on the Property by the tax collecting Authority so that the same are payable directly by the Owners thereof, in the same manner as real property taxes assessed or assessable against the Lots) and insurance thereon.

^  
^ SECTION 3

Until December 31st of the year in which the first Common Area is conveyed to the Association, the annual assessment shall be \$600.00 per Lot which shall be the maximum annual assessment for that year. Thereafter, the maximum permissible annual assessment shall increase each year by twenty percent (20%) of the maximum permissible annual assessment for the previous year without the necessity of a vote of the membership of the Association. The maximum permissible annual assessment may be increased above the twenty percent (20%) limitation specified in the preceding sentence only by a vote of two-thirds (2/3) of the members of the Association, voting in person or by proxy, at a meeting called for such purpose.

^ ^  
^ ^ The Board of Directors of the Association may fix the annual assessment against each Lot at any amount not in excess of the maximum permissible annual assessment applicable to that year without the necessity of a vote of the membership of the Association.

i ^, Notwithstanding anything elsewhere set forth herein, the annual assessments or charges made or levied against any Lot of which the Company is the Owner of January 1st of the year to which the assessment pertains, shall equal twenty-five percent (25%) of the annual assessment or charge made or levied against any other Lot on the Property, it being intended that the Company shall not pay more, or less, than twenty-five percent (25%) of the per Lot annual assessment established by the Association under this section.

\s SECTION 4

^ In addition to the annual assessments authorized above, the Board of Directors of the Association may levy in any year, a special assessment, applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located on any Common Area, including fixtures and personal property related thereto, provided that such assessments shall first be approved by two thirds (2/3) of the votes of the members of the Association, voting in person or by proxy at a meeting called for such purpose.

's^ \*^/ SECTION 5

, Except as provided in Section 3 of this Article, and in Section 7 of this Article, annual assessments must be fixed at a uniform rate for all Lots.

w SECTION 6

^ Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first meeting, the presence of members, or of proxies, entitled to cast

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No noxious or offensive activity shall be carried on upon any Common Area nor shall anything be done thereon which will become an annoyance or nuisance to the neighborhood.

SECTION 4

The Association shall improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Areas (including snow removal therefrom as required and appropriate) as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense.

SECTION 5

The right of each Owner to use the Common Areas shall be subject to the terms, conditions, and provisions as set forth in this Declaration and, to any rule or regulation now or hereafter adapted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Areas. All such terms, conditions, provisions, rules and regulations shall inure to the benefit of and be enforceable by the Association and the Company, or either of them, their respective successors and assigns, against any Owner, or any other person, violating or attempting to violate the same, either by an action at law for damages or a suit in equity to enjoin a breach or violation, or to enforce performance of any term, condition, provision, rule or regulation. The Association and the Company shall each have the right, summarily, to abate and remove any breach or violation by any Owner at the cost and expense of the Owner.

ARTICLE VII

PROPERTY RIGHTS IN THE COMMON AREAS

SECTION 1

The Company shall hold, and hereafter grant and convey the Lots, subject to the covenants, conditions and restrictions herein set forth, which are imposed upon the Lots for the benefit of the Company, the Association and the Owners, and their respective personal representatives, successors and assigns, to the end and intent that each Owner hold his Lot subject to the following:

Each Owner, in common with all other Owners, shall have the right and privilege to use and enjoy the Common Areas for the purposes for which the same were designed. This right and privilege shall be appurtenant to and pass with the title to the Lot. The right to the use and enjoyment of all Common Areas shall be subject to: (i) the right of the Association to charge reasonable admission and other fees for use of facilities within the Common Areas; and (ii) the right of the Association to suspend the voting rights and rights to use the Common Areas by an Owner (a) for any period in which any assessment against his Lot remains unpaid, or (b) for a period not to exceed sixty (60) days for any infraction of published rules and regulations of the Association.

SECTION 2

Any Owner may delegate, in accordance with By-laws of the Association, his right to the use and enjoyment of the Common Areas, and any facilities thereon, to the members of his family, his tenants, or to contract purchasers who reside on his Lot.

SECTION 3

Each Owner shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Areas, as these rules, regulations and restrictions are from time to time adopted by the Association for the safety, care, maintenance, good order and cleanliness of the Common Area. Each Owner shall comply with the covenants, agreements and restrictions imposed by this Declaration on the use and enjoyment of the Common Area.

SECTION 4

The rights, privileges and easements of the Owners are at all times subject to the right of the Association to dedicate or transfer all or any part of any Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the Association; provided, however, that no such dedication or transfer shall be effective unless approved by a two-thirds (2/3) vote of the members of the Association voting in person or by proxy at a meeting called for such purpose, and the same shall have been consented to by the agency, authority or utility accepting the dedication or transfer.

ARTICLE VIII



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Company hereby reserves to itself, its successors and assigns, the right to grade, regrade and improve the streets, avenues, roads, courts and open spaces as the same may be located on the Plat, including the creation or extension of slopes, banks, or excavation in connection therewith and in the construction of and installation of drainage structures therein.

(d) The Company further reserves to itself, its successors and assigns, the right to grant easements, rights of way and licenses to any person, individual, corporate body or municipalities; to install and maintain pipelines, underground or above-ground lines, with the appurtenances necessary thereto, for public utilities or quasi-public utilities, or to grant such other licenses or permits as the Company may deem necessary for the improvement of the Property in, over, through, upon and across any and all of the streets, avenues, roads, courts and open spaces, and in, over, through, upon and across each and every Lot in the easement area reserved in Paragraph (a)(i) of Section 2 of Article V of this Declaration or as shown on the Plat. The Company further reserves to itself, its successors and assigns, the right to dedicate all of the streets, avenues, roads, courts, open spaces and easements to public use. No street, avenue, court, open space or easement shall be laid out or constructed through or across any Lot, except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Company.

ARTICLE VI

COMMON AREA

SECTION 1

The Company shall grant and convey to the Association, and the Association shall take and accept from the Company, the Common Areas shown on any subdivision plat which is subject to this Declaration, not later than the date the first Lot shown on the subdivision plat which is improved by a dwelling is conveyed to an Owner. At the time of the conveyance, the Common Area shall be free of any mortgages, judgment liens or similar liens or encumbrances.

The Association shall hold the Common Area conveyed to it subject to the following:

(a) The reservation, to the Company, its successors and assigns, of the beds, in fee, of all public streets, avenues and highways shown on the subdivision plat which includes the Common Area so conveyed.

(b) The reservation to the Company, its successors and assigns, of the right to lay, install, construct and maintain, on, over, under or in those strips across land designated on the subdivision plat, as "Sanitary Sewer Easement", "Utility Easement", "Open Space", "Access Road", or "Storm Water Management Area", or otherwise designated as an easement area, or on, over, under, or in any portion of any Common Area, pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone and other public utilities or quasi-public utilities deemed necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established on the Property, or the area in which the same is located, together with the right and privilege of entering upon the Common Area for such purposes and making openings and excavations therein.

(c) The reservation to the Company, its successors and assigns of the right to enter upon any Common Area conveyed to the Association for the purpose of construction or completing the construction of improvements and landscaping on the Lots and the Common Area.

(d) The reservation to the Company, its successors and assigns, of the right to continue to use and maintain any storm water management ponds and any sediment control ponds or facilities located on any Common Area conveyed to the Association.

SECTION 2

The Common Areas conveyed to the Association shall be deemed property and facilities for the use, benefit and enjoyment, in common, of each Owner. Except as otherwise permitted by the provisions of this Declaration, no structure or improvement of any kind shall be erected, placed or maintained on any Common Area except: (i) structures or improvements designed exclusively for community use, including, without limiting the generality of the foregoing, shelters, benches, chairs or other seating facilities, fences and walls, walkways, roadways, playground equipment, swimming pools and tennis courts, and (ii) drainage, storm water and utility systems and structures. The Common Areas may be graded, and trees, shrubs or other plants may be placed and maintained thereon for the use, comfort and enjoyment of the Owners, or the establishment, retention or preservation of the natural growth or topography of the Common Areas, or for aesthetic reasons. No portion of any Common Area may be used exclusively by any Owner for personal gardens, storage facilities or other private uses without the prior written approval of the Association.

SECTION 3

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Certain of the buildings constructed or to be constructed by the Company on adjacent Lots share or will share a common wall set on the property line between such Lots. Such common walls are hereby declared to be party walls (hereinafter referred to as "Party Walls") with all the legal incidents thereof and are further subject to the following:

(a) That said Party Walls shall be used jointly and equally by the respective owners of the properties on either side thereof, their respective successors, heirs and assigns, from time to time (hereinafter the "Party Owners");

(b) That any chimneys, sewer disposal lines, water and gas supply lines, electric power lines, telephone lines, cable television lines, or other utility lines, underground drainage pipe lines and all other underground facilities and service and all metal gutters, drains and downspouts now or hereafter in existence and use (hereinafter collectively referred to as "Utility Lines") insofar as the same serve both properties on either side of the Party Walls and irrespective of where the same are located with reference to the division line between the said adjacent lots, shall be used jointly by the respective Party Owners thereof in all respects as community or party facilities;

(c) That said Party Walls (except as to decorations) and the services and facilities mentioned in paragraph (b) hereof shall be kept in repair, maintained and/or replaced at the equal cost of the Party Owners thereof; provided, however, that any such Party Owners shall be liable for damages caused by his, her or their own negligence, and; provided further, that the duty of such maintenance and repair shall cease as to any one or more of the facilities mentioned in paragraph (b) hereof during such time and as to such Party Owner who:

(i) is not making use thereof, or

(ii) has provided a like facility for the property owned by said Party Owner; provided further, however, that the Party Owners thereof now or hereafter making use of any or all of such facilities shall have the right to maintain the same in their present location; and

(d) that the provisions of this paragraph shall run with the land and inure to the benefit of and be binding upon all future Party Owners.

## SECTION 2 RESERVED EASEMENTS

(a)(i) Easements for the installation and maintenance of utilities and drainage facilities are hereby reserved by the Company over the front and rear ten (10) feet and side three (3) feet of each Lot for the installation and maintenance of utilities, storm water sewers and surface drains. No Structure, planting or other material shall be placed or permitted to remain within these easements or within any utility or similar easements, shown on the Plat, which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements; and the construction by the Company of any Structure within these easements is hereby irrebuttably presumed not to so damage or interfere, change direction, or obstruct or retard. Said easements shall also include the right to install and maintain on the facade of any Structures therein-constructed such electric meters, telephone interfaces, etc., as are reasonably requested to be there installed by the providers of those services utilizing the Utility Lines. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements whose maintenance is the responsibility of a governmental body or agency or a public authority or utility company.

(ii) Easements fifteen feet in width are hereby reserved adjacent to the outside-side, and rear property lines of those Lots on which are now or hereafter constructed "end-units" (hereinafter "End Lots") for the benefit of the Owners of all those Lots on which are now or hereafter constructed "interior units" (hereinafter "Interior Lots") connected directly or indirectly to said "end-units". Said easements are reserved for the limited purpose of providing ingress to and egress from the front of said Interior Lots to the rear of said Interior Lots for the conveyance of items too large to be practicably transported through the improvements constructed on the Interior Lots. Said easements are to be narrowly construed and used only for the limited purpose herein set forth, and any damage or injury suffered by the End Lots or any improvements located thereon shall be promptly remedied at the instance and expense of the Owner of the Interior Lot for whose benefit the use of the easement causing such damage or injury was undertaken.

(iii) No conveyance by the Company of any Lot, or of any interest therein, shall be deemed to be, or construed as, a conveyance or release of these easements, or any of them, even though the conveyance purports to convey the Lot in fee simple, or by other language purports to convey the Company's entire interest therein, but such effect shall only arise if the conveyance specifically recites it to be the intention of the Company to thereby convey or release the easements.

(c) The designation of streets, avenues, roads, courts and open spaces on the Plat is for the purpose of description only and not dedication, and the rights of the Company in the same are specifically reserved, and the

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are not kept, bred or maintained for any commercial purpose and provided further that they are kept in such a manner as to avoid becoming a nuisance to neighbors or adjoining property owners.

(d) No nuisance shall be maintained, allowed or permitted on any part of the Property, and no use thereof shall be made or permitted which may be noxious or detrimental to health.

(e) No Structure other than a dwelling house shall be used at any time as a residence, either temporarily or permanently. No boats, trailers or recreational vehicles shall be regularly parked or stored on any street, or on any Lot except in a garage. No commercial vehicles shall be parked on any street or Lot longer than is reasonably necessary for the driver thereof to perform the business functions to which the commercial vehicle relates.

(f) No advertising or display signs of any character shall be placed or maintained on any part of the Property or on any Structure except with the written consent of the Company, except customary "For Rent" or "For Sale" signs, not larger than twenty-eight inches wide and twenty inches high, on or in front of a dwelling house by the owner thereof.

(g) No outside television or radio antenna or ~~satellite dish receiver~~ shall be erected, installed or maintained on any Lot, or on any Structures thereon.<sup>4</sup>

(h) No permanent exterior clothes dryer shall be erected, installed or maintained on any Lot, or on any Structure thereon. Only collapsible or retractable clothes dryers shall be used and the same shall be collapsed or retracted when not in use and shall be located in the rear yard behind the dwelling house.

(i) The front yard of each Lot shall be kept only as a lawn, including trees, flowers and shrubs. No trees or shrubs shall be located on any Lot which block the view of motor vehicles so as to create a traffic hazard.

## SECTION 2 REPAIR AND MAINTENANCE OF

### INDIVIDUAL LOTS

(a) The owner of each Lot shall keep all buildings and other improvements thereon, in good order and repair, free of debris, and painted exterior surfaces repainted, all in a manner and with such frequency as is consistent with good property management.

(b) All lawn maintenance for each Lot (including grass mowing, trimming, fertilization, seeding, etc., but excluding watering) and all maintenance of the gas lampposts located at the front of each Lot (hereinafter referred to as the "Lampposts"), shall be undertaken by the Association and the cost therefor shall be borne by the Association; an easement being granted hereby to the Association to come onto the Lots for such purpose. "Lawn maintenance" shall not include the planting and maintenance of trees, bushes, shrubbery, gardens, etc., and each Owner shall be responsible to keep such trees, bushes, shrubbery, gardens, etc., trimmed, free of debris, and in good order and repair, and shall further be responsible for the continuous and uninterrupted supply of natural gas to the Lampposts, all at the Owner's instance and expense, and in a manner and with such frequency as is consistent with sound property management.

(c) In the event the Owner of a Lot shall fail to maintain the Lot and the buildings and other improvements thereon as provided herein or in the event of any damage to the lawn or Lamppost on any Lot (routine wear and tear excepted) resulting from the negligent or willful act of any Owner or other person whose action is attributable to such Owner, the Association, after notice to the Owner and with the approval of the Board of Directors, shall have the right to enter upon the Lot to perform such work as is reasonable required to restore the Lot and the buildings and other improvements thereon (including the lawn and the Lampposts) to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot upon demand. All unreimbursed costs shall be a lien upon the Lot until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with Article VIII of this Declaration.

## ARTICLE V PARTY WALLS AND RESERVED

### EASEMENTS

#### SECTION 1 ' PARTY WALLS

*^Amended August 9, 1999 to delete the absolute prohibition on "satellite dish receivers ". Such satellite dish receivers are now subject to the general restrictions on "Structures " and require prior written approval pursuant to the procedures set forth in Article IV, Section 1, Paragraph (b).*

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Class A. Except for the Company (which shall initially be a Class B member), the Class A members shall be all of the Owners of the Lots. Each Class A member shall be entitled to one vote per Lot for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

Class B. The Class B member shall be the Company. The Class B member shall be entitled to three votes per Lot for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

The vote of any Class A member comprised of two or more persons, or other legal entities, or any other combination thereof, shall be cast in the manner provided for in the Articles of Incorporation of the Association, or as the several constituents may determine, but in no event shall all such constituents cast in the aggregate more than one vote per Lot for each Lot owned by them.

The Class B membership in the Association shall cease and be converted to Class A membership in the Association on the ninth anniversary of the date of this Declaration or at such earlier time as the total number of votes entitled to be cast by Class A members of the Association equals or exceeds the total number of votes entitled to be cast by the Class B member of the Association; provided, however, that the Class B Membership shall be revived (and the Company shall again be entitled to three votes for each Lot owned by the Company) during any periods of time occurring before the ninth anniversary of the date of the Declaration, when, by reason of the annexation of additional land as a part of the Property, additional Lots owned by the Company exist which, when added to the other Lots then owned by the Company, would result in the Company having more than 50% of the votes of the Association were the Company to have three votes for each Lot owned by the Company instead of only a single vote for each Lot owned by the Company.

## ARTICLE IV RESTRICTIVE COVENANTS AND

### CONDITIONS

#### SECTION

#### 1

#### GENERAL

(a) The Lots and any building or structure now or hereafter erected on a Lot shall be occupied and used for single family residence purposes only, except as follows:

(i) Real estate sales, management and construction offices may, with the prior written consent of the Company, be erected, maintained and operated on any Lot provided the offices are used solely in connection with development of the Property or the construction of improvements on the Property, or the management, rental or sale of any part of the Property, or of improvements now or hereafter erected thereon.

(ii) Any part of any dwelling house now or hereafter erected on a Lot may, with the prior written consent of the Company, be used as a physician's office or dentist's office, provided the physician or dentist using the office resides in the dwelling house in which the office is located.

(iii) Any Lot or other parcel of land comprising the Property, and any improvements now or hereafter erected thereon may, with the prior written consent of the Company, be used for a playground, non-profit community swimming pool, non-profit community tennis court, park, place of public assembly for community meetings, automobile parking area for non-commercial vehicles while the passengers are using or attending any of the above activities, and for the usual purposes incidental to the foregoing.

(b) No building, fence, hedge, privacy enclosure wall, retaining wall, driveway, sign, swimming pool, tank, hot tub, greenhouse, free standing mailbox, gazebo, or structure of any kind (collectively called "Structures") shall be commenced, erected or maintained on the Property, nor shall any addition to (including awnings) or change or alteration therein (including alterations in exterior color or design) be made, until the plans and specifications, in duplicate, showing the nature, kind, shape, height, materials, color, locations and approximate cost of the Structure, addition or alteration shall have been submitted to and approved in writing by the Company. The Company shall consider applications for approval of plans, specifications, etc., upon the basis of conformity with this Declaration and shall be guided by the extent to which the proposed Structure, addition or alteration will ensure conformity and harmony in exterior design and appearance, based upon, among other things, the following factors: the quality of workmanship; nature and durability of materials; harmony of external design with existing Structures; choice of colors; changes in topography, grade elevations and/or drainage; factors of public health and safety; the effect of the proposed Structure, addition or alteration on the use, enjoyment and value of other neighboring properties, and/or on the outlook or view from adjacent or neighboring properties; and the suitability of the proposed Structure, addition or alteration taking into account the general aesthetic values of the surrounding area.

(c) No animals may be kept, maintained, or bred on any Lot or in any dwelling houses or Structure erected thereon, except that no more than two dogs, cats, or similar domestic household pets may be kept on a Lot provided they

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*(f) "Lot" or "Lots " means any of the lots located within the Property, except that in interpreting the provisions of Article VIII, said terms shall mean only those lots on which are erected complete or substantially complete residential structures.<sup>2</sup>*

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

#### SECTION 1

All of the land shown on the Plat referred to in paragraph A of the Recitals to this Declaration (the "Existing Property") shall be, transferred, held, sold, conveyed, and occupied subject to this Declaration.

#### SECTION 2 Additional lands may

be subjected to this Declaration in the following manner:

(a) The Company, its successors and assigns, shall have the right for nine (9) years from the date of this Declaration to bring within the operation and effect of this Declaration additional portions of the land more particularly described on Exhibit A attached as a part of this Declaration.

The additions authorized under this Section 2(a) shall be made by recording among the Land Records of Washington County a supplement to this Declaration, which need be executed only by the Company and the owner of such additional land if the Company is not the Owner thereof, which shall describe the additional land and state that it is subject to this Declaration. The additions authorized by this Section 2(a) shall not require the approval of the Association.

(b) Upon the written approval of the Association after the Association has attained the assent of the holders of two-thirds (2/3) of the votes of each class of members present in person or by proxy at the meeting at which the vote is taken, the owner of any land who desires to subject it to the operation and effect of this Declaration may do so by recording among the aforesaid Land Records a supplement to this Declaration describing the additional land and stating that it is subject to this Declaration.

Any such Supplement to this Declaration may contain such complementary additions and modifications of the Covenants, Conditions and Restrictions contained herein as may be necessary to reflect the different character, if any, of the added Property, provided they are not inconsistent with this Declaration. In no event, however, shall the supplement to this Declaration revoke, modify or add to the Covenants, Conditions and Restrictions established by this Declaration insofar as they pertain to the Property as the same exists prior to the supplement/

## ARTICLE III

### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

#### SECTION 1

Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of the Lot.

#### SECTION 2 The

Association shall have two classes of voting membership:

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*'Amended February 7, 1990 to add Paragraph (f).*

■ \*By a series of Supplements duly recorded among the Land Records of Washington County, Maryland, all of the lands included in North Gate Townhomes, Sections I, II and III, have been subjected to the force and effect of this Declaration.

# Liber 2 Folio 00044

Homeowners Assn. Disclosure Record  
Clerk of the Circuit Court  
Washington County

Liber 904, folio 744

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**REVISED THROUGH AUGUST 9,1999**

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~~Strikeout~~ = Text which was removed by amendment

*Italics* = Text which was added by amendment

## NORTH GATE TOWNEHOMES DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION dated February 8, 1989, by DRR, Ltd., a Maryland Corporation, (the "Company"), Thomas K. Myers and Diane T. Brining (the "Trustees"), and Hagerstown Trust Company (the "Bank").

### RECITALS

A. The Company owns a 3.03 acre tract of land more or less located in Washington County, Maryland. The tract (hereinafter called the "Property") consists of all of the land shown on the subdivision plat entitled "Final Plat, Section I, North Gate Townehomes," recorded among the Land Records of Washington County, Maryland, at Plat folio 2669 (said plat and any other or future plats of the Property being hereinafter collectively referred to as the "Plat")

B. The Company desires to subject the Property, and the lots located therein ~~(the "Lots")~~, to the Covenants, Conditions and Restrictions set forth below which are for the purpose of protecting the value and desirability of the Property and the Lots, and are for the purpose of distributing among the Lot Owners the cost of maintaining and operating the Common Areas located within the Property, and any improvements constructed thereon.<sup>1</sup>

C. The Trustees are the trustees named in the Purchase Money Deed of Trust and Security Agreement and the Second Deed of Trust and Security Agreement (the Deeds of Trust") on the Property from the Company each dated October 17, 1988, which are recorded among the Land Records of Washington County, Maryland, at Liber 893 folio 399, and at Liber 893 folio 438, respectively. The Bank is the holder of the promissory notes secured by Deeds of Trust. The Trustees and the Bank are joining in this Declaration for the purpose of subordinating the Deeds of Trust to the legal operation and effect of this Declaration.

D. The Company, the Trustees and the Bank hereby declare that the Property shall be held, sold and conveyed subject to the Covenants, Conditions and Restrictions set forth below.

### ARTICLE I DEFINITIONS

(a) "Association" means the North Gate Community Association, Inc.

(b) "Common Area" means those areas of land, designated on the recorded subdivision plats of the Property as "open space", intended to be owned by the Association and devoted to the common use and enjoyment of the owners of the Lots.

(c) "Company" means DRR, Ltd., a Maryland Corporation, and any successor or assign thereof to whom DRR, Ltd., shall convey or otherwise transfer all of the rights, title and interest in the Property then owned by it, and to whom DRR, Ltd., shall expressly transfer, and assign all of its rights, title and interest under this Declaration, or any amendment or modification thereof.

(d) "Owner" means the person, or legal entity, or the combination thereof, including contract sellers, holding the record fee simple or perpetually renewable leasehold title to a Lot in the Property, as the Lot is now or may from time to time hereafter be created or established. If more than one person, or other legal entity or any combination thereof, holds the record title to any Lot, all of them shall be deemed a single record owner and shall be a single member of the Association by virtue of their ownership of the Lot. The term "Owner", shall not mean any contract purchaser, or the owner of any redeemable ground rent reversion issuing out of any Lot, nor shall it include any mortgagee or other person or legal entity holding an interest in a Lot as security for the performance of an obligation.

(e) "Property" means all of the land shown on the Plat more particularly referred to in paragraph A of the Recitals to this Declaration and such additional land as may be subjected to this Declaration under the provisions of Article II below.

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<sup>1</sup> Amended February 7, 1990 to conform definition of "Lot" and "Lots " to Article I, Paragraph (f).

Liber 2 Folio 00042

Homeowners Assn. Disclosure Record  
Clerk of the Circuit Court  
Washington County

**a. The Right To Conduct Construction Activities Within The Development:** The Vendor has reserved unto itself in Article VI of the Declaration, the right to enter upon any Common Area conveyed to the Association for the purpose of construction or completing the construction of improvements and landscaping on the Property and the Common Area.

**b. The Right To Pay A Reduced Homeowners Association Fee Or Assessment:** Under the provisions of Article VIII, Section 3 of the Declaration, the Vendor is permitted to pay a reduced Homeowners Association assessment for any Lots owned by the Association on January 1 st of any year.




**c. Exemptions From Use Restrictions Or Architectural Control Provisions Contained In The Declaration Or Provisions By Which The Declarant Or The Vendor Intends To Maintain Control Over The Homeowners Association:** Not Applicable.

The undersigned North Gate Community Association, Inc., hereby certifies that the information above contained is true and correct, to the best knowledge, information and belief of the individual signing on behalf of said corporation.

In witness whereof the undersigned corporation has caused its authorized corporate officers to affix its corporate signature and seal to the foregoing instrument this T-S day of October, 2000.

ATTEST AS TO CORPORATE  
SEAL & SIGNATURE:

  
Robin Lyles, Secretary

NORTH GATE COMMUNITY  
ASSOCIATION, INC.  
    
(BY: ..... ) (SEAL)  
/Julie Donat, President

# Liber 2 Folio 00041

## Homeowners Assn. Disclosure Record Clerk of the Circuit Court Washington County

of months in that year bear to twelve. The same reduction in the amount of the annual assessment shall apply to the first assessment levied against any property which is hereafter added to the Property at a time other than the beginning of any calendar year.

The annual assessments for any year after the first year shall be on a calendar year basis and become due and payable on the first day of January of that year.

The due date under any special assessment under Section 4 shall be fixed in the resolution authorizing the special assessment. However, such due date shall be at least 45 days after the date of such resolution.

### SECTION 8 ESCROW

#### PAYMENTS

(a) On the first day of each month next following the Commencement Date through the last month of that calendar year (the "Commencement Year"), the owner of each Lot shall pay unto the Association an amount equal to the estimated annual assessment (as determined by the Association) for the following calendar year divided by the number of months remaining in the Commencement Year. On the first day of each month next following the Commencement Year, the Owner of each lot shall pay unto the Association an amount equal to the estimated annual amount (as determined by the Association) for the following calendar year (the "Estimated Annual Assessment") divided by twelve (the "Monthly Escrow Payment"). Said sum shall be held by the Association in escrow in trust for the owners of the Lots in an interest-bearing account (the "Escrow Account") until such time as the actual annual assessment for the following year becomes due and payable on the first day of January of that year. On that date, the Association shall transfer from the Escrow Account a sum equal to the actual annual assessment determined for each Lot and shall deposit such sum into the operating funds of the Association. In the event the funds maintained in the Escrow Account with regard to any Lot are insufficient to pay the actual annual assessment, the Owner of such lot shall immediately pay unto the Association a sum equal to such deficiency amount (the "Deficiency") and any unpaid Deficiency shall be a lien, bear interest and be subject to actions to collect the same as otherwise hereunder provided for annual or special assessments. In the event the funds maintained in the Escrow Account with regard to any Lot exceed the amount necessary to pay the actual annual assessment, the amount of said surplus funds shall be divided by twelve and the quotient thereof subtracted from the Monthly Escrow Payment otherwise required to be made for the next successive twelve months.

(b) In the event any Monthly Escrow Payment herein provided for any Lot is not paid when due on the first day of each month, or in the event of transfer of the title to any Lot, then without notice and by operation of law, the entire unpaid Estimated Annual Assessment for any such Lot for the following year shall be immediately accelerated and become due and payable and be a lien, and bear interest from that date, and be subject to action to collect the same as otherwise hereunder provided for annual or special assessments.

(c) The Escrow Account provided for in Paragraph (a), supra, shall be separately maintained from the operating funds of the Association and shall be clearly designated as the "Northgate Home Owners Assessment Escrow Account"; the funds therein being held in trust for the Owners for the purposes herein-provided and not subject to any right of any Owner or any creditor thereof to withdrawal thereof or execution thereon. The interest earned on said Escrow Account shall inure to the general benefit of and shall be periodically paid to the Association.

### SECTION 9

The Board of Directors of the Association shall fix the Commencement Date and the amount of the annual assessment against each Lot for each assessment period at least one month in advance of the due date for the payment thereof, and the amount of the Estimated Annual Assessment at least thirteen months in advance of the due date for the payment thereof, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

If an annual or special assessment is not paid on the due date, the assessment shall be delinquent and shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot for such assessment, and there shall be added to the amount of such assessment the reasonable costs of preparing and filing the action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees to be fixed by the Court together with the costs of the action. Each Owner of a Lot shall by accepting title thereto be deemed to have assented to the passage of a decree for the foreclosure of any lien upon his Lot which results from his failure to pay an assessment on the due date thereof.

### SECTION 10

The lien of the assessments provided for herein shall be subordinate to any mortgage or deed of trust hereafter placed upon the Lot subject to assessment; provided, however, that the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure, or any proceeding in lieu thereof, shall only extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not extinguish the personal obligation of the previous Owner therefor. Such sale or transfer shall not relieve the Lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot."

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12. A Description Of Special Rights Or Exemptions Reserved By Or For The Benefit Of The Declarant Or The Vendor, Including:



**Liber 2 Folio 00040**  
Homeowners Assn. Disclosure Record  
Clerk of the Circuit Court  
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SECTION 1

The Company, for each Lot owned by it within the Property, hereby covenants, and each Owner, by acceptance of a deed hereafter conveying any such Lot to him, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Association (i) annual assessments or charges; and (ii) special assessments or charges for capital improvements, such annual and special assessments and charges to be established and collected as hereinafter provided. The annual and special assessments or charges, together with interest at the rate of twelve percent (12%) per annum accruing from their due date until payment is made, and the costs of collection thereof and reasonable attorney's fees, shall be a charge on, and continuing lien upon each Lot against which an assessment is made. Each assessment or charge, together with interest at the rate of twelve percent (12%) per annum accruing as aforesaid, and costs and reasonable attorney's fees incurred or expended by the Association in the collection thereof, shall also be the personal obligation of the Owner of the Lot. The personal obligation for any delinquent assessment or charge, together with interest, costs and reasonable attorney's fees, however, shall not pass to the Owner's successors in title, unless expressly assumed by them.

SECTION 2

The assessments and charges levied by the Association shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents of the Property, and in particular for the improvement, operation and maintenance of the Common Areas and the Lots as herein provided, including, but not limited to, the payment of taxes (except to the extent that proportionate shares of such public charges and assessments on the Common Areas may be levied against all Lots on the Property by the tax collecting Authority so that the same are payable directly by the Owners thereof, in the same manner as real property taxes assessed or assessable against the Lots) and insurance thereon.

SECTION 3

Until December 31 st of the year in which the first Common Area is conveyed to the Association, the annual assessment shall be \$600.00 per Lot which shall be the maximum annual assessment for that year. Thereafter, the maximum permissible annual assessment shall increase each year by twenty percent (20%) of the maximum permissible annual assessment for the previous year without the necessity of a vote of the membership of the Association. The maximum permissible annual assessment may be increased above the twenty percent (20%) limitation specified in the preceding sentence only by a vote of two-thirds (2/3) of the members of the Association, voting in person or by proxy, at a meeting called for such purpose.

The Board of Directors of the Association may fix the annual assessment against each Lot at any amount not in excess of the maximum permissible annual assessment applicable to that year without the necessity of a vote of the membership of the Association.

Notwithstanding anything elsewhere set forth herein, the annual assessments or charges made or levied against any Lot of which the Company is the Owner of January 1st of the year to which the assessment pertains, shall equal twenty-five percent (25%) of the annual assessment or charge made or levied against any other Lot on the Property, it being intended that the Company shall not pay more, or less, than twenty-five percent (25%) of the per Lot annual assessment established by the Association under this section.

SECTION 4

In addition to the annual assessments authorized above, the Board of Directors of the Association may levy in any year, a special assessment, applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located on any Common Area, including fixtures and personal property related thereto, provided that such assessments shall first be approved by two-thirds (2/3) of the votes of the members of the Association, voting in person or by proxy at a meeting called for such purpose.

SECTION 5

Except as provided in Section 3 of this Article, and in Section 7 of this Article, annual assessments must be fixed at a uniform rate for all Lots.

SECTION 6

Written notice of any meetings of members of the Association called for the purpose of taking any action authorized under Sections 3 or 4 of this Article shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. At the first meeting, the presence of members, or of proxies, entitled to cast sixty percent (60%) of all of the votes of each class of members entitled to be cast at the meeting shall be necessary and sufficient to 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 any subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 7

The annual assessments shall commence on the first day of the month following the first conveyance of a Common Area to the Association (the "Commencement Date"). The first annual assessment shall be made for the balance of the calendar year and shall become due and payable on the Commencement Date. The amount of the assessment for the first year shall be an amount which bears the same relationship to the annual assessment provided for in the first sentence of Section 3 of this Article as the remaining number

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Homeowners Assn. Disclosure Record  
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**7. If The Declarant Has Reserved In The Declaration The Right To Annex Additional Property To The Development, A Description Of The Size And Location Of The Additional Property And The Approximate Number Of Lots Currently Planned To Be Contained In The Development, As Well As Any Time Limits Within Which The Declarant May Annex Such Property:** Not Applicable.

**8. Attached Hereto Are Copies Of:**

**a. The Articles of Incorporation, The Declaration And All Recorded Covenants And Restrictions Of The Primary Development And Of Other Related Developments To The Extent Reasonably Available To Which The Purchaser Shall Become Obligated On Becoming An Owner Of The Lot Including A Statement That These Obligations Are Enforceable Against An Owner And The Owner's Tenants, If Applicable:** The Declaration of Covenants, Conditions and Restrictions for North Gate Townhomes (hereinafter the "Declaration") and the Articles of Incorporation and By-Laws of North Gate Community Association, Inc. (hereinafter sometimes collectively referred to as the "Articles"), contain obligations which are enforceable against an Owner and the Owner's tenants and are Exhibits A, B, and C, respectively, attached hereto and incorporated by reference herein.

**b. The By-Laws and Rules of the Primary Development And Of Other Related Developments To The Extent Reasonably Available, To Which The Purchaser Shall Become Obligated On Becoming An Owner Of The Lot, Including A Statement That These Obligations Are Enforceable Against An Owner And The Owner's Tenants, If Applicable:** The Declaration and the Articles contain obligations which are enforceable against an Owner and the Owner's tenants and are Exhibits A, B, and C, respectively, attached hereto and incorporated by reference herein.

**9. A Description Or Statement Of Any Property Which Is Currently Planned To Be Owned, Leased, Or Maintained By The Homeowners Association:** All areas not conveyed by lots and dedicated streets are characterized as "Common Area" as that term is defined in the Declaration and are owned and maintained by the Homeowners Association.

**10. A Brief Description of Zoning And Other Land Use Requirements Affecting The Development; Or A Written Disclosure Of Where The Information Is Available For Inspection.** Information pertaining to the zoning and other land use requirements affecting the development may be obtained from the Zoning Administrator for the City of Hagerstown, City Hall, Hagerstown, Maryland or such other governmental department to which this responsibility may be assigned, from time to time.

**11. A Statement Regarding:**

- a. When Mandatory Homeowners Association Fees Or Assessments Will First Be Levied Against Owners Of Lots:**
- b. The Procedure For Increasing Or Decreasing Such Fees Or Assessments:**
- c. How Fees Or Assessments And Delinquent Charges Will Be Collected:**
- d. Whether Unpaid Fees Or Assessments Are A Personal Obligation Of Owners Of Lots:**
- e. Whether Unpaid Fees Or Assessments Bear Interest And If So, The Rate Of Interest:**
- f. Whether Unpaid Fees Or Assessments May Be Enforced By Imposing A Lien On A Lot Under The Terms Of The Maryland Contract Lien Act:**
- g. Whether Lot Owners Will Be Assessed Late Charges Or Attorney's Fees For Collecting Unpaid Fees Or Assessments And Any Other Consequences For The Non-Payment Of The Fees Or Assessments:** Articles VIII of the Declaration provides as follows with regard to Items 11 (a) through (g):

' "ARTICLE VIII

COVENANT FOR ASSESSMENT

## Liber 2 Folio 00068

Homeowners Assn. Disclosure Record  
Clerk of the Circuit Court  
Washington County

.he amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

### ARTICLE XII

#### AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the Members, by the holders of two-thirds (2/3) of the votes of the Members of the Association present in person or by proxy at the meeting at which the vote is taken. Anything set forth above in this Article XII to the contrary notwithstanding, the Company shall have the absolute unilateral right, power and authority to modify, revise, amend or change any of the terms or provisions of these By-Laws all as from time to time amended or supplemented. However, this unilateral right, power and authority of the Company may be exercised only if either the Veterans Administration or the Federal Housing Administration or any similar or successor agencies thereto shall require such action as a condition precedent to the approval by such agency of the United States of the Property or any part thereof or any Lots thereon for federally approved mortgage financing purposes under applicable Veterans administration, Federal Housing Administration or similar programs. If the Veterans Administration or the Federal Housing Administration or any similar or successor agencies thereto approve the Property or any part thereof or any Lot therein for federally approved mortgage financing purposes, any amendments to these By-Laws made during any period of time when there are Class B members of the Association shall also require the prior consent of the agency giving such approval.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and the Articles or these By-Laws, the Declaration shall control.

### ARTICLE XIII

#### MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation and end on December 31st of that year.

#### CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of North Gate Community Association, Inc., a Maryland corporation; and

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 9th day of February, 1989.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 9th day of February, 1989.

/s/  
\_\_\_\_\_  
Roger Schlossberg  
Secretary