

the Class B Member during the Developer Control Period, and the assent of sixty-seven percent (67%) of the Class A Members of a Quorum of Members.

(b) Restoration Assessment. The Association may levy a Restoration Assessment upon any Lot whose Owner fails to maintain such Lot, or who fails to provide such maintenance funds as may be required by the Declaration. Restoration Assessments shall be limited to the amount necessary to meet the cost of restoration or deficiency in required funds and the cost of collection thereof.

Section 6. Developer Assessment

The Developer shall pay an annual Developer Assessment on the aggregate of all unimproved property that it owns or has contracted to purchase within the Development Limits in accordance with Article V Section 4(a).

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association

Any assessment installment not paid within thirty (30) days after the due date shall be delinquent. Thereupon, the Association shall provide Notice of such delinquency as provided by the POA Act and may: (a) declare the entire balance of such Annual or Special Assessment due and payable in full; (b) charge interest from the due date at a percentage rate no greater than is permissible by law, such rate to be set by the Board of Trustees for each Assessment period; (c) charge a penalty to be set by the Board of Trustees; (d) give Notice to the Owner that in the event payment with accrued interest and penalties are not paid within thirty (30) days from the date of such Notice, then the expressed contractual lien provided for by the Declaration shall be filed and/or enforced; and (e) upon Registered Notice to the Owner or Occupant of the Lot, suspend the right of such Owner or Occupant to vote or to use the Common Area until the assessment, accrued interest, penalties, and costs of collection are paid in full.

Section 8. Exempt Property

The following property shall be exempted from the assessments, charges, and liens created by the Declaration: (1) all Common Areas; (2) all Property to the extent dedicated and accepted by a public authority and devoted to public use; (3) all Property exempted from taxation by the Virginia or Roanoke government upon the terms and to the extent of such legal exemption, provided that no property utilized for residential purposes shall be exempt.

ARTICLE VI

NEIGHBORHOOD ASSESSMENTS

A. TOWN HOME NEIGHBORHOOD

Section 1. Purpose of Town Home Assessments and Exterior Maintenance

(a) The Town Home Neighborhood Assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Town Home Neighborhood and for the limited maintenance of certain portions of the improvements situated

upon the Town Home Lots. Such Assessments will be blended and applied to all Lots within the Town Home Neighborhood, and not for the benefit of certain Lots over others.

(b) The Association shall provide limited maintenance for any dwellings located on any Town Home Lot which is subject to assessment hereunder, which maintenance shall be limited to: (i) repairing, maintaining and/or replacing (except as the result of a casualty) in a commercially reasonable manner the roof shingles and felt, gutters and downspouts; (ii) siding maintenance, repair, and replacement; (iii) exterior painting maintenance of exterior face of doors, handrails, columns, porches, and decks; and (iv) landscaping maintenance of mulch beds, grass areas, and snow removal on driveways and walkways for any Town Home Lot on which a dwelling has been completed, which maintenance shall be limited to: periodic grass cutting, mulch replacement as determined by the Board of Trustees, leaf removal, and fertilization (using such chemicals and commercial lawn care products as are customarily used for residential developments), and snow removal on driveways and walkways when the accumulated snow fall exceeds two (2) inches and is not anticipated to melt within 24 hours following the end of the snow fall.

(c) The Owner of any Town Home Lot shall be solely responsible for (i) repairing, maintaining and/or replacing any and all other exterior building surfaces and components including windows, doors, exterior lights, stoops, steps, sidewalks, driveways, patios, and all utility facilities, water connections from the Town Homes to the municipal main, sewer connections from the Town Homes to the municipal main, and other exterior improvements, (ii) all other components of the improvements, it being expressly understood that the Association has no responsibility for any defect in any construction or for any maintenance of any other portion of the Town Home Lots, and (iii) maintaining all other landscaping, plant beds, trees, shrubs, mulch, mailbox, etc. If the need for maintenance, repair, or replacement is caused through the willful or negligent act of the Owner, their family, guests, permittees, or invitees, the cost of such maintenance, repair, or replacement shall be added to and become a part of the assessment to which such Town Home Lot is subject.

(d) For the purpose solely of performing the exterior maintenance required by this Article, the Association, through its duly authorized agents or employees, shall have the right, after written notice to the owner at least two (2) days in advance, to enter upon any Town Home Lot or exterior of any residence upon a Town Home Lot at reasonable hours of any day except the Occupant's day of worship provided, however, that no prior notice shall be required for landscaping maintenance and snow removal or in the event of an emergency, but the Association shall endeavor to provide as much prior notice as reasonably possible under the emergency circumstances.

Section 2. Maximum Annual Assessment

(a) Until January 1 of the year immediately following the conveyance of the first Improved Town Home Lot to an Owner other than Developer, the maximum annual Town Home Neighborhood Assessment shall be **\$1,500.00** per Improved Town Home Lot.

(b) The maximum annual Town Home Neighborhood Assessment imposed on Town Home Lots pursuant to the Declaration shall be in addition to the maximum annual General assessment that may be imposed on such Town Home Lots in accordance with the terms and conditions of the Declaration.

(c) From and after January 1 of the year immediately following the conveyance of the first Town Home Lot to an Owner, the maximum annual Town Home Neighborhood Assessment may be increased each year by the Board of Trustees above the maximum assessment for the previous year, without a vote of the membership, by the greater of ten percent (10%) or the percentage increase over the previous year ended December 31 in the Consumer Price Index, or equivalent, as published by the U.S. Department of Labor; such increase shall become effective the first day of the next fiscal year.

(d) From and after the first day of the fiscal year immediately following the conveyance of the first Town Home Lot to any Owner, the maximum annual Town Home Neighborhood Assessment may be increased above the amount which can be set by the Board with the consent of the Class B Member during the Developer Control Period, and the assent of sixty-seven percent (67%) of the Owners of the Town Home Lots of a Quorum of Town Home Lot Members.

(e) The Board of Trustees may fix the annual Town Home Neighborhood Assessment and at an amount not in excess of the maximum.

(f) The maximum annual Town Home Neighborhood Assessment for an Unimproved Town Home Lot shall be twenty-five percent (25%) of the maximum annual Town Home Neighborhood assessment rate for an Improved Town Home Lot, pursuant to Article V Section 4 (a).

Section 3. Special Assessments for Capital Improvements

In addition to the annual assessments authorized above and in addition to, and not in limitation of, such other special assessments as may be authorized by applicable law (the POA Act, for example), the Association may levy, in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of any capital improvements required to be made by the Association on any Town Home Lot, provided that any such special assessment shall be approved by the consent of the Class B member during the Developer Control Period, and sixty seven percent (67%) of the Class TH members of a Quorum of TH Members.

Section 4. Voting Rights for Class TH; Notice and Quorum for Any Action

(a) With respect to the supplemental provisions and assessments affecting the Town Home Neighborhood, the owners of the Town Home Lots shall comprise a separate class of members of the Association, designated as "Class TH Members". The Class TH Members shall be entitled to one (1) vote for each Town Home Lot owned. Class A Members (unless also being a Class TH owner) shall have no right to vote on Town Home Neighborhood matters as provided in the Declaration. The Class B Member during the Developer Control Period must consent to any action taken by any vote on Town Home Neighborhood matters as provided in the Declaration. Only one vote may be cast per Town Home Lot, notwithstanding the number of Class TH Members owning any one Town Home Lot.

(b) Written notice of any meeting called for the purpose of taking any action shall be sent to the Class B Member during the Developer Control Period and all Owners of the Town Home Lots not less than ten (10) days, or more than sixty (60) days in advance of the meeting.

Section 5. Assessments

(a) Both annual and special assessments may be collected on a monthly, bi-monthly, quarterly, semi-annual, or annual basis.

(b) Date of Commencement of Annual Assessments; Due Dates. Such annual assessments shall commence as to all Town Home Lots on the first day of the month following the date upon which the Developer conveys the first Town Home Lot to an Owner. The first annual assessment shall be adjusted pro rata according to the number of months remaining in the fiscal year. The Board of Trustees shall fix the amount of the annual assessment against each Town Home Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Trustees. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Town Home Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Town Home Lot is binding upon the Association as of the date of its issuance.

Section 6. Party Walls; Insurance

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

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. Any disputes over the reasonableness of the cost of such repair and maintenance shall be resolved in accordance with Paragraph (f) of Section 6 of this Article VI.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration of the party wall in proportion to such use without prejudice to the right of any such Owners to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by their negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

(e) Right to Contribution Runs with Land. The right of any Owner to contributions from any other Owner under this Article shall be appurtenant to the Owner's Town Home Lot and shall pass to such Owner's successors in title.

(f) Arbitration. Upon any dispute arising concerning a party wall, or under the provisions of this Article, the parties may choose to resolve such dispute through binding arbitration. In such case, the Board of Trustees shall act as the arbitrator. However, if either party objects to the Board of Trustees acting as the arbitrator, then each party shall choose one arbitrator, and the two chosen arbitrators shall select one additional arbitrator, and the decision shall be by a majority of all the arbitrators. All arbitrators shall be chosen from a panel of arbitrators named by the Board of Trustees. If the parties fail to use the Board of Trustees as the arbitrator, the fees of the arbitrators used shall be borne by the parties, and the arbitrators may elect to award the prevailing party the right to contribution for such fees from the non-prevailing party.

(g) Fire Insurance. Each Owner shall maintain fire insurance with extended coverage endorsement (or more extensive insurance) covering the improvements on the Town Home Lot owned by him. Each such policy shall name the Association as an "Additional Insured". Each Owner shall provide to the Association annually a certificate of insurance reflecting such coverage being in force at all times.

Section 7. Easements

(a) Overhanging Roofs and Eaves. Each Town Home Lot and its Owner is hereby declared to have an easement and such easement is hereby granted by the Developer, over each adjoining Lot for over-hanging roofs and eaves attached to improvements on the Town Home Lot; provided, however, that such encroachments may not exceed two feet.

(b) Duties of the Association. There is hereby reserved to the Association such easements as are necessary to perform the duties and obligations of the Association as set forth in this Article III.

(c) Hedges and Fences. Each Town Home Lot and its Owner is hereby declared to have an easement and the same is hereby granted by the Developer, for encroachments on adjoining Town Home Lots due to hedges or above ground fences belonging to such Town Home Lot, to the extent such hedge or above ground fence encroaches on adjoining Town Home Lots. Notwithstanding the foregoing, no fence shall be erected or placed without the approval of the appropriate Design Review Committee.

(d) Priority of Easements. Each of the above easements shall be deemed to have been established upon the recordation of the Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Town Home Lots, superior to all other encumbrances which may hereafter be applied against or in favor of the Town Home Property or any portion thereof.