

# **Harts Woods Homeowners Association**

- **Restated Declaration of Covenants,  
Conditions & Restrictions**
  - **Certificate of Incorporation**
    - **By-Laws**



Revised: June 15, 1998

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

THIS AMENDED AND RESTATED DECLARATION, made on the date hereinafter set forth by the members of Harts Woods Homeowners Association, Inc., hereinafter referred to as "Declarant".

**WITNESSETH:**

WHEREAS, the members of Declarant and Declarant are the owners of certain contiguous properties in the Town of Perinton, County of Monroe, State of New York, which properties are described by perimeter description as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Perinton, Monroe County, New York, being part of Lot 45, Township 12, Range 4, and more particularly bounded and described as follows:

BEGINNING at the intersection of the west line of Mosley Road with the north line of premises conveyed to Niagara Mohawk Power Company by deed recorded in Monroe County Clerk's Office in Liber 3782 of Deeds, page 173; thence (1) running due north along the west line of said Mosley Road a distance of 381.04 feet to a point; thence (2) running due west a distance of 170.00 feet to a point; thence (3) running north 78°00'00" west a distance of 75.00 feet to a point; thence (4) running north 88°00'41" west a distance of 606.47 feet to a point; thence (5) running north 89°43'53" west a distance of 150.00 feet to a point; thence (6) running south 00°16'07" west a distance of 260.00 feet to a point; thence (7) running south 15°48'12" east a distance of 149.77 feet to a point in the north line of said Niagara Mohawk Power Company premises; thence (8) running south 89°08'54" east along the north line of said Niagara Mohawk Power Company premises a distance of 960.00 feet to the point of beginning.

Together with a nonexclusive easement for right of way abutting the above described premises and more particularly bounded and described as follows:

BEGINNING at the northeast corner of the above described premises; thence (1) running due west along said north line 170.00 feet to a point; thence (2) running due north 38 feet to a point; thence (3) running due east a distance of 170.00 feet to a point in the west line of said Mosley Road; thence (4) running due south along the west line of said Mosley Road 38.00 feet to the point of beginning.

Together with a nonexclusive drainage and sanitary sewer easement generally 60 feet in width and more particularly bounded and described as follows:

NO. 100-41  
CLERK

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ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of Perinton, County of Monroe, State of New York, being part of Town Lot 45, Township 12, Range 4, more particularly described as follows:

BEGINNING at a point in the west right of way line of Mosley Road, said point being south 830.52 feet from the intersection of the west right of way line of Mosley Road and the southerly right of way line of Hulbert Avenue; thence (1) west 170.0 feet to a point; thence (2) north 78°00'00" west a distance of 75.00 feet to a point; thence (3) north 88°00'41" west a distance of 576.47 feet to a point; thence (4) northwesterly a distance of 36 feet more or less to a point in the west line of the premises conveyed by deed recorded in the Monroe County Clerk's Office in Liber 4571 of Deeds at Page 97, which point is located 17 feet more or less on a bearing of north 00°14'18" west from the southwest corner of said premises herein described and conveyed by Deed recorded in the Monroe County Clerk's Office in Liber 4571 of Deeds, at page 97; thence (5) northwesterly along said west line a distance of 45 feet more or less to a point; thence (6) southeasterly and parallel to course (4) a distance of 12 feet more or less to a point; thence (7) easterly and parallel to course (3) at 60 feet distant therefrom a distance of 836 feet more or less to a point in the west right of way line of Mosley Road; thence (8) southerly, along the west right of way line of Mosley Road, a distance of 66 feet, more or less to the point and place of beginning.

The aforesaid non-exclusive drainage and sanitary sewer easement is subject to the aforesaid non-exclusive easement for right of way, which right of way provides access between Mosley Road and the parcel of land conveyed herein.

WHEREAS, said properties are subject to a certain Declaration of Covenants, Conditions and Restrictions made by Harts Woods Townhouses, Inc. And dated May 27, 1978, and recorded on June 12, 1978 in Liber 5446 of Deeds, page 67, and,

WHEREAS, the undersigned desire to amend and restate said Declaration of Covenants, Conditions and Restrictions so that this Amended and Restated Declaration of Covenants, Conditions and Restrictions shall in all respects supersede and replace said Declaration in its entirety upon the recording hereof in the Monroe County Clerk's Office;

NOW, THEREFORE, Declarant hereby declares and the members of Declarant hereby consent and agree, that all of the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Harts Woods Homeowners Association, Inc., its successors and assigns, also defined hereinbelow as "Declarant".

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

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, including areas herein to be occupied by single dwellings, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Areas" shall mean and refer to all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association is described as follows: The private road known as Great Wood Circle, the right of way in common with others over Great Wood Court, all private drives, and all Open Green Areas as shown on a map of Harts Woods Manor Townhouse Subdivision, Phase II, filed in the Monroe County Clerk's Office in Liber 201 of Maps at Page 72, but does not include lots 1 through 45 as shown on said map.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Harts Woods Homeowners Association, Inc its successors, and assigns, also defined hereinabove as the "Association".

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

Section 8. "By-Laws" shall mean the By-Laws of the Association duly adopted by the members of the Association and appended to this Amended and Restated Declaration as Exhibit "A".

## **ARTICLE II PROPERTY RIGHTS**

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

(a) the right of the Association, pursuant to its By-Laws, to adopt rules and regulations governing the use of the Common Area, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereon;

(b) the right of the Association to suspend the right to use the Common Area for any period during which an assessment against his Lot remains unpaid and for a period of not more than sixty (60) days for any infraction of its published rules and regulations; however, there shall be no right of the Association to suspend the right of an Owner to ingress or egress to his Lot;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by seventy-five percent (75%) of the members (one (1) signature per

Lot owned) and signed by their first mortgagees (one (1) signature per first mortgage) agreeing to such dedication or transfer has been recorded;

(d) the right of the Association to limit the number of guests and members;

(e) the right of the Association, in accordance with its Certificate of Incorporation and By-Laws, to borrow money for the purpose of improving Lots and the Common Areas, including the existing buildings, consistent with the responsibilities of the Association;

(f) the right of the Association for an ingress and egress easement, over, under and through the private road known as Great Wood Circle, the right of way in common with others over Great Wood Court, private drives, and Open Green Areas for the purpose of maintaining the Properties.

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

### **ARTICLE III EASEMENTS**

Section 1. The Association shall have the right to grant easements, both temporary and permanent, to any or all public utilities and/or public authorities, over, under, or through any part of the Properties described herein.

Section 2. There is hereby created a blanket easement upon, across, over an, under all of the Properties for ingress, egress, installations, replacement, repair, and maintenance of all utilities,

including but not limited to water, sewers, gas, telephones, electricity, and a television antenna or cable system. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles and other equipment on the Properties and to affix and maintain electrical and/or telephone wires and conduits, sewer and water lines, on, above, or below any residence or land owned by any owner so long as it does not interfere with the use and occupancy of any structure. An easement is hereby granted to the Association, its officers, agents, employees, including employees of any management company having a contract with the Association, over all the Common Areas and to enter any residence to perform the duties of maintenance and repair of the residences or Common Area, to repair and maintain any utilities for which an easement has been granted and to prevent any damage to any other residence. Neither the Association nor any public authority or public utility shall be liable for any damage done by any of them or their assigns, agents, employees or servants to shrubbery, trees, flowers, lawns, or other improvements of the Owner located on land covering easements for underground services, other than the liability for the reasonable cost of repairing said damage.

Section 3. Each Lot, and the property included in the Common Area, shall be subject to an easement for encroachments created by construction, settling, and overhangs for all buildings constructed on the Properties. An easement for said encroachments and for the maintenance and repair of same, so long as such encroachments stand, shall and does exist in favor of the owner and mortgagees, if any, of the improvement causing the encroachment. In the event that any structure containing one or more units is partially or totally destroyed and then rebuilt, minor encroachments on parts of the adjacent units or Common Areas due to construction shall be permitted, and a valid easement for said rebuilding and for said encroachments and the maintenance and repair thereof shall exist.

## **ARTICLE IV PARTY WALLS**

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

Section 2. Sharing of Repairs 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.

Section 3. 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. If the other Owner thereafter makes use of the wall, he shall contribute to the costs of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for wilful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any provisions of this Article any Owner who by his wilful act or negligence causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

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

Section 6. Arbitration. In the event of any dispute arising concerning a party wall under provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose an additional arbitrator, and the decision shall be by a majority of the arbitrators, and the decision shall be binding.



**ARTICLE V  
EXTERIOR MAINTENANCE**

In addition to maintenance of the Common Areas, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and other such exterior improvements. Such exterior maintenance shall not include glass surfaces. The Association may more particularly define and establish the items for which it is responsible hereunder in the By-Laws. In the event that the need for maintenance or repairs is caused through the wilful or negligent act of the Owner, his family or guests, or invitees, or the owners' failure to properly maintain and/or repair, the cost of such maintenance or repairs shall be added to and become part of the assessment to which such lot is subject. The above obligation does not include any maintenance or repairs caused by fire or other casualty to the premises owned individually or by members of the Association.

**ARTICLE VI  
MEMBERSHIP AND VOTING RIGHTS**

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

Section 2. The Association shall have one class of voting membership which shall consist of all Owners. The members 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. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

**ARTICLE VII  
COVENANT FOR ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner hereby covenants and by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Association: (1) annual assessments for servicing, maintenance, and repairs of the Common Areas and operating expenses of the Association ("Maintenance Assessment"); (2) annual assessments for all real property taxes on the Common Areas ("tax assessments"); (3) special assessments for capital improvements to or on the Common Areas or to or on the Lots ("Capital Improvement Assessments"); (4) annual assessments for services, if any, obtained for, and/or provided for Lots, such as water, fire and casualty insurance, gas, electricity, television reception, etc. ("Unit Service Assessments"); (5) assessments for repair and maintenance of individual units ("Unit Repair Assessments"), and (6) reserves for maintenance and replacement of exterior building components, and facilities and improvements in the Common Areas ("Reserves"), such assessments to be established and collected as hereinafter provided. The maintenance, tax, capital improvement, unit service, and unit repair assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. Maximum Maintenance Assessment. Until January 1 of 1999, the maximum annual maintenance assessment shall be \$2364.00 per three-bedroom living unit.

(a) Thereafter the annual maintenance assessment will be determined by the Board of

Directors of the Association provided that any increase of the same may not exceed five percent (5%) of the previous years assessment, plus the percentage increase shown on the U. S. Bureau of Labor Statistics Consumer Price Index for Services for the twelve-month period ending on September 30th of the previous year.

(b) The Board of Directors may fix the annual maintenance assessment at an amount not in excess of the maximum.

(c) The annual maintenance assessment may be increased above the maximum which may be adopted by the Board of Directors only by a vote of seventy-five percent (75%) of the members, voting in accordance with By-Laws of the Association at a meeting notice of which has been given and at which a quorum is present as hereafter provided in Section 4.

Section 3. Special Assessments for Capital Improvements. In addition to the annual maintenance assessments authorized above, the Association may levy, in any assessment year, one or more special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or replacement of a capital improvement upon the Common Areas or the Lots, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of seventy-five percent (75%) of the votes of the members who are voting in accordance with the By-Laws of the Association at a meeting notice of which has been given and at which a quorum is present as hereafter provided in Section 4.

Section 4. Notice and Quorum for Any Action Authorized Under Sections 2 and 3. Written notice of any meeting of the members called for the purpose of taking any action authorized under Sections 2 and 3 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 such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of the all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

If at such meeting the required seventy-five percent (75%) approval is not given, then the Secretary shall hold open the ballot for thirty (30) days to enable those members not present to vote. If at the end of the thirty (30) days period the required seventy-five percent (75%) approval has not been given, then the proposal shall be deemed to have been defeated.

Section 5. Rate of Assessment. Maintenance, tax, capital improvements and service assessments must be fixed at a uniform rate for all Lots except that they shall be adjusted so that Owners of two-bedroom units shall pay fifteen percent (15%) less than Owners of three bedroom units. Provided, however, that such fifteen percent (15%) preference for Owners of two-bedroom units shall be personal to those Owners who own such units as of the date of recording of this instrument and shall not pass with the conveyance or transfer of title to subsequent Owners of such units, whether by sale or by operation of law (except for transfers to spouses or surviving joint tenants or tenants by the entirety), so that after title to such two-bedroom units has been conveyed or transferred, the new Owners of same shall pay assessments at the uniform rate. Such obligation shall commence with the next succeeding monthly installment of assessment following such conveyance or transfer.

Section 6. Date of Commencement of Annual Assessments:

Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of January of each year. The Board of Directors shall fix the amount of the annual assessments against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and, unless the Board otherwise provides, one-twelfth (1/12) of the annual assessments shall be due each month. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

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

The Association shall be entitled to impose a late charge upon any assessment or installment thereof not paid by the fifteenth day of the month in which such assessment or installment is due. Such late charge shall be established by the Board of Directors and may be increased or decreased from time to time but shall not in any event exceed ten percent (10%) of the past due amount. In addition, any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of sixteen percent per annum (16%), or the highest prevailing legal rate of interest, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and late charges, interest, costs, and reasonable attorneys fees of any such action will be added to the amount of such assessment. Each such owner, by his acceptance of a deed to a lot, hereby expressly vests in the Association the right and power to bring all actions against such owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including

foreclosures by an action brought in the name of the Association in a like manner as foreclosure of a mortgage lien on real property, and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all lot owners. The Association, acting on behalf of the lot owners shall have the power to bid for an Owner's interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, placed by a lending institution. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## **ARTICLE VIII ARCHITECTURAL CONTROL**

No building, fence, wall, antenna, or other structure or air conditioning compressor shall be constructed, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve such design and

location within thirty (30) days after said plans and specifications have been submitted to it, the request shall be deemed denied.

**ARTICLE IX  
USE RESTRICTION**

No commercial or business activities shall be permitted upon the Properties. No commercial vehicles may be stored or parked on any portion of the properties, except entirely within an enclosed garage, other than those vehicles making deliveries or providing services to the lots and living units in the development. Similarly, no boating vessel, trailer or recreational vehicle may be parked or left on the properties, except entirely within an enclosed garage or in areas designated by the Association. Visitor parking may be limited to areas designated by the Association. No advertising signs shall be placed or permitted to remain on the property. There shall be no exterior television or radio antennas placed or maintained upon any portion of the property. Except in the individual patio area adjacent to a unit and fenced at the time of purchase, no planting or gardening shall be done by other than the Association, and such planting as is done within the patio areas shall be kept trimmed so as not to encroach upon neighboring property. A variance application must be submitted to and approved by the Board of Directors before any exterior additions or modifications are made to the structure or common areas.

**ARTICLE X  
INSURANCE AND CASUALTY DAMAGE**

Section 1. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain a master insurance policy for all units against loss or damage by fire or other insured hazards covered by the standard extended coverage endorsement in an amount sufficient to cover the full replacement cost of any repair or

reconstruction work necessary to restore the damaged unit or units to their original condition. The Board shall also obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. The Association may secure such other forms of insurance coverage as its Board of Directors may from time to time direct with the cost thereof to be paid as an operating expense of the Association assessable to its members as provided in Article VII hereof. The coverage shall be written on such basis, at such rates and upon such terms as the Board of Directors of the Association shall from time to time in its discretion determine. The Association shall carry Directors and Officers Liability Insurance in an amount deemed appropriate by the Board of Directors. Premiums for all such insurance shall be included in the unit service assessment, payable monthly. All such insurance coverage, including insurance on individual townhouses obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhouse owners. In addition to the aforesaid insurance required to be carried by the Owner through the Association, any Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowner's liability insurance, theft and other insurance covering personal property damage and loss. In the event of destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as originally constructed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal government



agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall then negotiate with any contractor of its choice. In the event that insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged units in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such units to make up any deficiency. In the event of an uninsured casualty, the Board of Directors may levy a special assessment against all Owners in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such units to cover the cost of repair. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall revert to the Reserve Fund. In the event of damage or destruction by fire or other casualty to any unit covered by insurance written in the name of an individual Owner, said Owner shall, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the unit in a good workmanlike manner in conformance with the original condition of said unit. In the event such Owner refuses or fails to so repair and rebuild any and all such damage to the unit within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such unit in good and workmanlike manner in conformance with the original condition of the unit. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided for delinquent assessments, and subject to foreclosure.

**ARTICLE XI  
GENERAL PROVISIONS**

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

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

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

IN WITNESS THEREOF, the undersigned being the Declarant and the Members of Declarant, have executed this instrument as of the dates set forth below.

DECLARANT:

HARTS WOOD HOMEOWNERS  
ASSOCIATION, INC.

Dated: July 8, 1998

By: Edward A. O'Connor

STATE OF NEW YORK)  
COUNTY OF MONROE) SS:

On this 8<sup>th</sup> day of July, 1998, before me personally came EDWARD O'CONNOR to me known, who, being by me duly sworn, did depose and say that he resides in FAIRPORT, New York, that he is the President of Harts Woods Homeowners Association, Inc., the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

M. Martha Brooks  
Notary Public

**M. MARTHA BROOKS**  
Notary Public, State of New York  
Monroe County

MEMBERS OF DECLARANT:

Dated: \_\_\_\_\_, 1998 Lot No. \_\_\_\_\_ Owner/Member \_\_\_\_\_

STATE OF NEW YORK)  
COUNTY OF MONROE)

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her capacity, and that his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

MEMBERS OF DECLARANT:

Dated: \_\_\_\_\_, 1998 Lot No. \_\_\_\_\_ Co-owner/Member \_\_\_\_\_

STATE OF NEW YORK)  
COUNTY OF MONROE)

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her capacity, and that his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**RESTATED CERTIFICATE OF INCORPORATION  
OF  
HARTS WOODS HOMEOWNERS ASSOCIATION, INC.  
under Section 805 of the Not-for-Profit Corporation Law**

The undersigned, being a majority of the board of directors of Harts Woods Homeowners Association, Inc., do hereby certify:

- A. The name of the corporation is Harts Woods Homeowners Association, Inc.
- B. The certificate of incorporation of Harts Wood Homeowners Association, Inc. was filed by the Department of State on the 12th day of June, 1976.
- C. The certificate of incorporation of Harts Woods Homeowners Association, Inc. is amended to effect the following amendments authorized by the Not-For-Profit Corporation Law:
  - (1) To restate the purposes of the corporation.
  - (2) To change all references to the "Association" to read, "the Corporation".
  - (3) To delete the provisions in paragraph 5 of the original certificate of incorporation relating to two classes of voting membership.
  - (4) To simplify the provisions in paragraph 6 of the original certificate of incorporation pertaining to the management of the corporation by its board of directors, the number of directors and the method of electing their successors, and to delete the names and addresses of the initial board of directors.
  - (5) To delete paragraphs 7,8, and 9 of the original certificate of incorporation.
  - (6) To modify paragraph 11 of the original certificate of incorporation by designating the Secretary of State as agent of the corporation to accept service of process against

it and to designate a new address to which such process shall be mailed and to which any other notice required by law shall be sent.

D. The text of the certificate of incorporation is hereby restated, as amended to read as herein set forth in full:

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

(2) The purposes for which the corporation is to be formed are to:

- (a) Provide maintenance, preservation and architectural control of the residences, lots and common areas within that certain tract of property located on Mosely Road in the Town of Perinton, Monroe County, New York;
- (b) Exercise all of the powers and privileges and to perform all of the duties and obligations of the corporation as set forth in that certain Declaration of Covenants, Conditions and Restrictions, (hereinafter called the "Declaration") applicable to said property and recorded in the Monroe County Clerk's Office, and as the same may be amended from time to time as therein provided;
- (c) Fix, levy, collect and enforce payment of, by any lawful means, all

charges or assessments pursuant to the terms of the Declaration and pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the corporation, including all licenses, taxes or governmental charges levied or imposed against the property of the corporation;

- (d) 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 corporation;
- (e) Borrow money, and, with the assent of the members of the corporation holding two-thirds (2/3) of the votes of the members, mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (f) Dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by seventy-five percent (75%) of the members, agreeing to such dedication, sale or transfer;

- (g) Participate in mergers and consolidations with other not-for-profit corporations organized for the same purposes, or annex additional residential property and common area, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the members;
- (h) Act as purchasing agent for goods and services for the members of the corporation only;
- (i) Do any and all lawful acts and things which may be necessary, desirable, useful, suitable or proper for the furtherance, accomplishment or attainment of, any or all the purposes or powers of the corporation, either alone or in cooperation with other persons, entities, or other organizations, including, without limitation, all powers enumerated in Section 202 of the Not-for-Profit Corporation Law, and any amendments thereto.

(3) The corporation is a corporation as defined in sub-paragraph (A) (5) of Section 102 of the Not-for-Profit Corporation Law and is a Type A Corporation.

(4) Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessments by the corporation, including contract sellers, shall be a member of the corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an

obligation. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the corporation.

(5) The affairs of the corporation shall be managed by a board of directors.

The Board of Directors must be members of the Association or be a related party to the owner(s) of record and be primary residents of Harts Woods Homeowners Association, Inc. The number of directors shall be as set by the By-Laws of the corporation.

(6) Amendment of this Certificate of Incorporation shall require the assent of seventy-five percent (75%) of the entire membership.

(7) The territory in which the corporation's activities are principally to be conducted is the County of Monroe, State of New York.

(8) The Secretary of State is hereby designated as agent of the corporation upon whom process against it may be served, and the Secretary of State shall mail a copy of any such process served upon him to the corporation in care of Crofton Associates, 111 Marsh Road, Pittsford, New York 14534, or a Manager of Harts Woods Homeowners Association, Inc. as designated by the Board of Directors.

(9) Subscribers are each of the age of nineteen (19) years or older




(11) Any action required or permitted to be taken by the board of directors may be taken without a meeting if all members of the board consent in writing to the adoption of a resolution authorizing such action.

(12) No approvals or consents are required under the Not-for-Profit Corporation Law prior to the filing of this certificate of incorporation.

E. This restatement of the certificate of incorporation of Harts Woods Homeowners Association, Inc. was authorized by a vote of seventy-five percent (75%) of the members as required by Paragraph 9 of the original certificate of incorporation.

IN WITNESS WHEREOF, the undersigned have subscribed this certificate and hereby affirm it as true under the penalties of perjury this 8<sup>TH</sup> day of JULY, 1998.

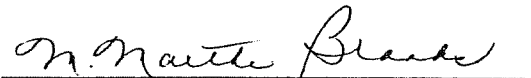


\_\_\_\_\_  
President

\_\_\_\_\_  
Harts Woods Homeowners Association, Inc.

STATE OF NEW YORK)  
COUNTY OF MONROE) SS:

On the 8 day of July, 1998, before me the subscriber, personally, appeared EDWARD O'CONNOR to me personally known to me to be the same persons described in and who executed the within Instrument, and they acknowledged to me that they executed the same.

  
\_\_\_\_\_  
Notary Public

M. MARTHA BROOKS  
Notary Public, State of New York  
Monroe County  
My Commission Expires March 14, 2000

JUL 6 5 1998

D.F./hartswds/certres (7/2/98) (cas)

## CERTIFICATE OF RESOLUTIONS

The undersigned, the Secretary of Harts Woods Homeowners Association Inc., a New York not for profit corporation, does hereby certify:

1. At a meeting of the members of the corporation duly called and held on June 15, 1998 at 74 Great Wood Circle Fairport, New York 14450, at which a quorum was present and acted throughout, the members of the corporation adopted the following resolutions, which have not been modified or rescinded, by a vote of 37 in favor and 0 opposed with 8 abstentions:


RESOLVED, that the bylaws of the corporation shall be amended as set forth in the draft of the restated and amended Bylaws appended to the Amended and Restated Declaration of Covenants, Conditions and Restrictions which has been executed by the required 75% of the owners of lots within the Harts Woods Home Owners Association Development, and that the said restated and amended bylaws be recorded as an exhibit to said Amended and Restated Declaration in the Monroe County Clerks Office to become effective upon such recording, and be it further

RESOLVED, that the certificate of incorporation of the corporation be and hereby is amended as set forth in the restated certificate of incorporation presented for consideration at the meeting and a copy of which is appended hereto, to become effective upon its filing with the Secretary of State of the State of New York, and be it further

RESOLVED, that the officers of the corporation, and any of them, are hereby authorized to arrange for the recording of said Amended and Restated Declaration and Bylaws in the Monroe County Clerks Office and the filing of said restated certificate of incorporation with the Secretary of State of the State of New York, to employ legal counsel to assist them with the same, and to expend such sums as are necessary to accomplish the same.

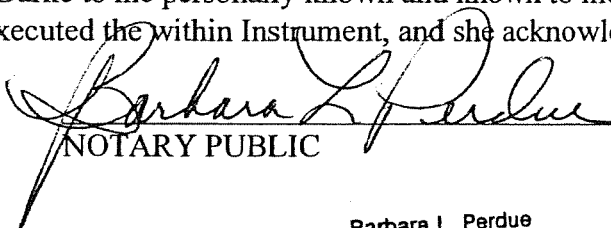
The aforesaid resolutions were adopted by the required number of votes in each instance as set forth in the certificate of incorporation and in the bylaws of the corporation.

In witness whereof, the undersigned has hereto affixed her signature and the seal of the corporation this 13<sup>th</sup> day of July 1998.

  
SANDRA BURKE, Secretary

STATE OF NEW YORK)  
COUNTY OF MONROE) ss:

On this 13<sup>th</sup> day of July Nineteen Hundred and Ninety-eight and before me, the subscriber, personally appeared Sandra Burke to me personally known and known to me to be the same person described in and who executed the within Instrument, and she acknowledged to me that she executed the same

  
NOTARY PUBLIC

Barbara L. Perdue  
Notary Public in the State of New York  
Wayne County 7/11/2000  
Commission Expires

**EXHIBIT "A"**  
**BY-LAWS**  
**OF**  
**HARTS WOODS HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME, PURPOSE AND OFFICE**

**NAME AND LOCATION.** The name of the corporation is HARTS WOODS HOMEOWNERS ASSOCIATION, INC., hereafter referred to as the "Association." The principal office of the corporation shall be located in the Town of Perinton, Monroe County, New York, but meetings of members and Directors may be held at such places within the State of New York, County of Monroe, as may be designated by the Board of Directors. The Association has been formed for the exclusive purpose of promoting the common good and social welfare of the members of the Corporation.

**ARTICLE II**  
**DEFINITIONS**

**Section 1.** "Association" shall mean and refer to HARTS WOODS HOMEOWNERS ASSOCIATION, INC., its successors and assigns.

**Section 2.** "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions as amended and restated by the members of the HARTS WOODS HOMEOWNERS ASSOCIATION, INC., recorded in the Monroe County Clerk's Office, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 3.** "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

**Section 4.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

**Section 5.** "Owner" shall mean and refer to the record owner, whether one or more entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers but excluding those having such interest merely as security for the performance of an obligation.

**Section 6.** "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the Clerk of the County of Monroe.

**Section 7.** "Membership" shall consist of all owners of lots. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote of such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

### ARTICLE III MEMBERSHIP MEETINGS

**Section 1. Annual Meetings.** Regular annual meeting of the Members shall be held each year at a time to be established by the Board of Directors.

**Section 2. Special Meetings.** Special meetings of the Members may be called at any time by the President or by the Board of Directors, upon written petition of 1/4 of the Members.

**Section 3. Notice of Meetings.** Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

**Section 4. Quorum.** The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-third (1/3) of the votes shall constitute a quorum for any action except as otherwise provided in the Certification of Incorporation, 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 power to adjourn the meeting to another time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

**Section 5. Proxies.** At all meetings of Members, each Member may vote in person or by proxy, duly appointed by instrument in writing, filed with the secretary, which writing is subscribed by such Member and bears a date not more than eleven (11) months prior to such meeting, unless such instrument provides for a longer period. 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 five (5) Directors, who shall be members of the Association, or be a related party to the owner(s) of record and be primary residents of Harts Woods Homeowners Association, Inc.

**Section 2. Term of Office.** At each annual meeting, the Members shall elect Directors for a term of three (3) years, or until their successors are duly elected and qualified.

**Section 3. Removal of Directors.** Any Director may be removed from the Board, by a majority vote of the Members of the Association. In the event of death, resignation or removal 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 as a Director 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, as well as compensated for services performed other than as a Director.

**ARTICLE V  
NOMINATION AND ELECTION OF DIRECTORS**

**Section 1. Nomination.** Nomination 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 meetings of the Members. The Nominating Committee shall consist of a Chairman and two (2) or more Members of the Association who need to be Members of the Board of Directors. The nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such. 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.

**Section 2. Election.** Election to the Board of Directors shall be by a vote of the membership. Each Lot shall be entitled to one vote. The persons receiving the largest number of votes shall be elected.

**ARTICLE VI  
MEETINGS OF DIRECTORS**

**Section 1. Regular Meetings.** Regular meetings of the Board of Directors shall be held at least every three months at such place and hour as may be fixed from time to time by resolution of the Board.

**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 (2) Directors, after not less than twenty-four (24) hours notice to each Director.

**Section 3. Quorum.** Three Directors shall constitute a quorum for the transaction of business. Except as defined in Article VI, Section 4, every act or decision shall require approval of at least three members of the Board of Directors at a duly held meeting of the Board. The written position or approval of any Director shall be accepted as that Director's vote in his absence from any Board Meeting, emergency or otherwise.

**Section 4. Emergency Action.** An emergency shall be defined as any situation in which life, limb, property value, personal or property security are at risk. In such case, those Board Members who are available at the time may take reasonable action to alleviate the emergency. The emergency situation and action taken will be reviewed for further or remedial action at the next regular or special meeting of the Board.

**Section 5. Homeowner's Attendance.** Meetings of the Board of Directors shall be open to Homeowners. However, the Board, upon a vote of the majority of the Board members present, may elect to adjourn the meeting to a private session. Minutes of all meetings shall be available from the Secretary of the Association for inspection by Homeowners.

**ARTICLE VII  
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**Section 1. Powers.** The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend, after notice and hearing, for a period not to exceed sixty (60) days, the right of a member to use Common Areas in the event such member shall be in default in the payment of any assessment levied by the Association, or in the event such Member has committed 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 Membership by other provisions of these By-laws, the Certificate of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors, in which event the remaining members of the Board shall select a successor to serve for the unexpired term of his predecessor; and

(e) employ a manager, an independent contractor, or such other employees, agents or professional consultants, as they deem necessary, and to prescribe their duties.

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

(a) cause to be kept a complete record of all its acts and corporate affairs and present a statement thereof to the members at the annual meeting of members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members.

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

(c) as more fully provided in the Declaration,

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of any assessment change to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) take appropriate action to collect assessments which are not paid within thirty (30) days after the due date.

(d) issue, or cause an appropriate officer to issue, upon demand by any member, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) procure and maintain adequate liability and hazard insurance on property owned by the

Association, and procure and maintain a master insurance policy for all units against loss or damage by fire, and other hazards, as set forth in the Declaration.

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained;

(h) cause the exterior of the dwellings to be maintained.

## **ARTICLE VIII OFFICERS AND THEIR DUTIES**

**Section 1. Enumeration of Officers.** The officers of this Association shall be a President and Vice President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board from time to time by resolution create.

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**Section 3. Term.** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year, and until their successors are duly elected and qualified unless they shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

**Section 4. Special Appointments.** The Board may appoint such designees as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal of Officers.** Any officer may be removed from office by a majority of votes of the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

**Section 7. Multiple Offices.** The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

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

### **A. PRESIDENT**

(a) The President shall:

(1) preside at meetings of the Board of Directors and meetings of the Members of the Association;



- (2) see that directives of the Board are executed;
- (3) sign all leases, mortgages, promissory notes, deeds and other such instruments;
- (4) serve as the Association's representative to the public;
- (5) perform such other duties as required by the Board.

#### B. VICE PRESIDENT

(b) The Vice President shall:

- (1) act for the President in the event of his or her absence, inability or refusal to act;
- (2) act for the Secretary in his or her absence;
- (3) perform such other duties as required by the Board.

#### C. SECRETARY

(c) The Secretary shall:

- (1) keep the minutes of meetings of the Board of Directors and of the Homeowners Association;
- (2) serve notice of meetings of the Board Of Directors and meetings of the Association membership;
- (3) maintain or cause to be maintained the membership records;
- (4) publish newsletters, or otherwise maintain communications of Association affairs to the Association membership;
- (5) provide communications to governmental, political or commercial organizations at the request of the Board;
- (6) call the roll and conduct the elections at the annual meeting of the Association;
- (7) perform such other duties as required by the Board.

#### D. TREASURER

(d) The Treasurer shall:

- (1) be responsible for the receipt, deposit, and disbursement of the funds of the Association. This shall include the signing of checks and cosigning of contracts associated with the operations of the Association. He or she may delegate these functions to a manager, however, such delegation does not remove the Board's responsibility for actions of the manager;
- (2) keep, or cause to be kept, proper financial records in a manner consistent with recognized accounting standards;
- (3) provide an annual financial statement to the Association, in a form consistent with recognized accounting standards. He or she will also arrange for an independent audit by a certified public accountant if such is deemed appropriate by a majority of the members of the Board of Directors or by 1/3 of the Members of the Association;
- (4) provide an annual budget for consideration and approval of the Board and shall publish it to the Homeowners upon approval of the Board;

(5) perform such other duties as required by the Board.

E. Any duties of the individual members may be delegated to a manager selected by the Board. However, the delegation does not remove the Board's responsibility for the actions of the manager.

## **ARTICLE IX COMMITTEES**

The Association may appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its duties.

## **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 Certificate of Incorporation, and the By-Laws of the Association shall be available for inspection by any member at the office of the Manager, 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 property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. The Board of Directors has the right to waive any interest and/or late penalty fees. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

## **ARTICLE XII MAINTENANCE RESPONSIBILITIES**

Each owner shall be responsible for providing maintenance to his or her unit in accordance with Attachment #1.

**ATTACHMENT #1 - AMMENDED 11/05/09  
HARTS WOODS HOMEOWNERS ASSOCIATION  
MAINTENANCE RESPONSIBILITIES**

<b>BUILDING</b>		
<b>ITEM</b>	<b>ASSOCIATION RESPONSIBILITY</b>	<b>HOMEOWNER RESPONSIBILITY</b>
Foundation	All	
Garage & Basement Concrete Floor		All
Window Well Repair	All	
Basement Waterproofing		All
Roofs / Balconies	All	
Chimney & Cap	All	Chimney cleaning
Fireplace - Internals		All
Siding - Exterior	All	
Windows and Frames		All
Glass Surfaces / Window Panes		All
Front / Balcony Doors	Exterior painting and replacement	All other
Garage Doors	Overhead and garage door to exterior	Interior garage door to house
Garage Door Tracking & Electric Openers		All
Sliding Doors	Frame only	All other
Screen / Storm Doors		All
Gutters / Downspouts	All	
Patio Bricks / Leveling		All
Patio Fences	All	
Wooden Decks / Porches		All
Master Water System	All	
Interior Plumbing (including hose bib)		All
Paint / Stain - Exterior	Exterior siding, trim, windows, doors	
Paint - Interior		All
Exterior Electrical Supply	All	
Exterior Light Fixtures		All
Internal Electrical		All
Awnings		All
Heating / Cooling Heat Pumps	Staining / painting of original units only	All System Components including leveling
Pest Control	All - Exterior	All - Interior

**HARTS WOODS HOMEOWNERS ASSOCIATION  
MAINTENANCE RESPONSIBILITIES - Revised 2/2011**

<b>GROUNDS</b>			
<b>ITEM</b>	<b>ASSOCIATION RESPONSIBILITY</b>	<b>HOMEOWNER RESPONSIBILITY</b>	<b>TOWN OF PERINTON</b>
Driveways	All - except ice removal	Ice Removal	
Fire Hydrants	All		
Lawn care, including mowing, seeding, edging	All	Watering of lawn in vicinity of unit	
Street Lighting	All		
Roads	All		
Snow Removal	All		
Storm Sewer, Sanitary Sewer, Water Service Laterals	All		
Storm Water Sewer System			All
Trees / Shrubs	All front view foundation and sidewalk shrubs and those planted by the Association	All non-front view shrubs and plantings and Homeowner planted trees, shrubs, and bulbs	
Sidewalks	All - except ice removal	Ice Removal	
Water Mains			All
Mailboxes	All		
Water Lines, Pipes, Drainage Facilities, Conduit, Public Utility Lines	All those owned by the Association and for which the utility company or other entities are not responsible		
Cable and Satellite Service		All	

**ARTICLE XIII  
AMENDMENTS**

**Section 1.** These By-Laws may be amended, at a regular or special meeting of the Members, by a majority of all homeowners. Such vote to be cast in person or by proxy.

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

**ARTICLE XIV  
MISCELLANEOUS**

The fiscal year of the Association shall begin on the first day of January and end of the 31st day of December of every year.

**AMENDMENT NO.1 TO THE  
AMENDED AND RESTATED DECLARATAION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS OF THE ASSOCIATION**

At a meeting duly called and held at which a quorum was present and acting throughout, on October 29, 2003, the members of Harts Woods Homeowners Association, Inc. duly adopted this Amendment No. 1 to the Amended and Restated Declaration of Covenants, Conditions and Restrictions of the Association, which was recorded in the Monroe County Clerk's Office on August 3, 1998 in Liber 9041 of Deeds, at page 584:

ARTICLE VII Covenant for Assessments, Section 5, Rate of Assessment, is hereby amended to read as follows: Maintenance, tax, capital improvements and service assessments must be fixed at a uniform rate for all lots.

The remainder of said Article VII, Section 5, is hereby rescinded.