

HILLTOP PLACE

COMMUNITY PROPERTY DECLARATION

by

Hilltop Place of New London, Incorporated

THIS DECLARATION OF COVENANTS AND RESTRICTIONS, made this 19th day of May, 1971 by HILLTOP PLACE OF NEW LONDON, INCORPORATED, (hereinafter called "Hilltop").

WITNESSETH:

WHEREAS, Hilltop is the owner of the real property described in Appendix A to this Declaration and desires to create thereon an adult residential community with certain private roads and certain community recreational facilities for the benefit of said community and for the benefit of any additions hereafter made thereto pursuant to Section 2 hereof; and

WHEREAS, Hilltop desires to preserve and enhance values in said community and in any such additions by serving and promoting the recreational interests and health, safety and social welfare of the Owners and occupants of said community; and to this end, desires to subject the real property described in said Appendix A, together with any such additions, to the covenants, restrictions, easements, charges and liens hereinafter set forth; and

WHEREAS, Hilltop has caused to be incorporated under the laws of The State of New Hampshire, as a non-profit corporation, the Hilltop Place Community Association, for the purpose of maintaining, operating and administering the said private roads and any community recreational or social facilities constructed or to be constructed, and administering and enforcing these covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created,

NOW THEREFORE, Hilltop declares that the real property described in Appendix A to this Declaration, and such additions thereto as may hereafter be made pursuant to said Section 2 hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth,

Section 1. Definitions. The following words when used in this Community Property Declaration or in any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Declaration" means this Community Property Declaration.
- (b) "Supplemental Declaration" means any declaration of covenants and restrictions which by its terms is expressly made supplemental to this Declaration.

(c) “Community Association” means the Hilltop Place Community Association.

(d) “Property” means all such existing properties and additions thereto, as are subject to this Declaration or to any Supplemental Declaration under the provisions of Section 2 thereof.

(e) “Community Property” means those tracts of land shown and labeled “Community Property” of any recorded plat of the Property entitled “Hilltop Place Community Association” as the same may be amended, from time to time, and any additions thereto, together with any facilities now or hereafter constructed thereon, which are intended to be devoted to the common use and the enjoyment of the Owners of the Property, which are subject to this Declaration or to any Supplemental Declaration under the provisions of Section 2 hereof.

(f) “Unit” means any building or portion of a building situated upon the Property intended for occupancy by a single family and shall include condominium units and any other living units.

(g) “Owner” means the record owner, whether one or more persons or entities, of a fee simple title to any completed Unit. In the case of condominiums, Hilltop shall be considered the Owner of any Units which are completed but not yet sold.

(h) “Member” shall mean and refer to all those Owners who are members of the Community Association as provided in Section 5, hereof. (Amended 6/16/75 - B1252-P384)

(i) “Articles” means the Articles of Agreement of Hilltop Place Community Association.

(j) “By-Laws” means the By-Laws of the Hilltop Place Community Association.

Section 2. Property Subject to this Declaration.

(a) Existing Property. The real property which is hereby subject to this Declaration is located on County Road in New London, New Hampshire and is more particularly described in Appendix A hereto, all of which real property shall hereinafter be referred to as “Existing Property.”

(b) Additions to Existing Property. Hilltop, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development, provided that such additions are in accord with the Development Program which has been prepared prior to the sale of any unit and attached hereto as Appendix B.

Any additions authorized under this Section shall be made by filing of record a Supplementary Declaration with respect to the additional property to be then added, which shall extend the scheme of covenants and restrictions of this Declaration to such additional property.

Such Supplementary Declaration may contain such additions and modifications of the covenants and restrictions contained in the Declaration as may be necessary to reflect the

different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Existing Property.

Until January 1, 1980, the provisions of this sub-section (b) shall not be amended without the written concurrence of Hilltop, its successors and assigns.

(c) Other Additions. Upon approval in writing of the Community Association pursuant to a vote of its Members as provided in its Articles of Incorporation, the Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Supplementary Declaration of Covenants and Restrictions, as described in sub-section (a) (sic) hereof. (*Error; should be sec. (b).*)

Section 3. Maximum Number of Units. Hilltop hereby covenants for itself, its heirs and assigns that no more than one hundred seventy-five (175) single family residential Units shall be constructed on the Existing Property.

Section 4. Occupancy. The Hilltop Place Community Association is primarily intended as an adult residential community. (Amended 9/23/92 - B1894-P1653)

Section 5. Membership and Voting Rights. Every Owner shall be a Member of Hilltop Place Community Association and shall be entitled to one vote. When more than one person is an Owner of the same Unit, all such persons shall be Members of Hilltop Place Community Association, and the vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Unit.

Section 6. Property Rights in the Community Property.

(a) Members' Easements of Enjoyment. Every member shall have an easement of use and enjoyment, in common with others, in and to the Community Property and such easement shall be appurtenant to and shall pass with the title to every Unit.

(b) Title to Community Property. Hilltop may retain the legal title to the Community Property until such time as it has completed improvements thereon and until such time as, in the opinion of Hilltop, the Community Association is able to maintain the same but, notwithstanding any provisions herein, Hilltop hereby covenants, for itself, its heirs and assigns that it shall convey the Community Property to the Community Association free and clear of all liens and encumbrances, not later than October 1, 1976.

(c) Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(i) The right of Hilltop and of the Community Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Community Property and in support thereof to mortgage the said Property.

(ii) The right of the Community Association to take such steps as are reasonably necessary to protect the Community Property against foreclosures.

(iii) The right of the Community Association, as provided in its Articles and By-Laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30 days) for any infraction of its published rules and regulations.

(iv) Liens and encumbrances presently of record.

(v) The rights of other Owners of Units located in the Existing Property and the rights of the Owners of Units located in any additions hereinafter made pursuant to Section 2(b) to similar easements and the right of any licensees or other persons contracting with the Community Association.

A lease or rental of any Unit shall include the easements which appertain to the Unit leased or rented.

Section 7. Covenant for Maintenance Assessments.

(a) Creation of the Lien and Personal Obligation of Assessments. Hilltop for each completed Unit owned by it, hereby covenants and each subsequent Owner of any Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed, shall be deemed to covenant and agree to pay to Hilltop Place Community Association annual and special assessments to be fixed and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and the costs of collection thereof as hereinafter provided, shall be a charge and a continuing lien upon the Property against which each such assessment is made and shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due.

(b) Purposes of Assessments. The annual assessments levied by the Community Association shall be made and used exclusively for the purposes of promoting the recreation, health, safety and social welfare of the residents of the Property, including, without limitation, the improvement and maintenance of, and the payment of taxes and insurance on the Community Property and the acquisition of labor, equipment, materials, management and supervision for the care, maintenance and operation of the Community Property. Any equipment and materials acquired by the Community Association in accord with this subparagraph may be used to perform any functions delegated to the Community Association by any Hilltop Place Cluster Associations(s) which Cluster Associations(s) shall be charged for the use thereof as determined by the Community Association's Board of Directors. (Amended 10/24/79 - B1359-P924)

Annual assessments may also be made and used for the improvement, care, maintenance and preservation of all or any portion of the Property which is not Community Property if such improvement, care, maintenance or preservation is necessary to prevent or correct an encroachment upon or alleviate a condition of nuisance caused upon the land of any person

which adjoins or abuts said Property and if said encroachment or condition of nuisance is not such that its prevention, correction or alleviation is fairly and equitably chargeable as a Common Expense of one or more of the Cluster Associations under Article II, Section 7, sub-sections (a) through (i) or (k) through (l) of the Cluster Association By-Laws. (Amended 3/29/85 - B1504 P0772)

(c) Annual Assessment. The amount of the annual assessment shall be determined annually by a vote of two-thirds (2/3) of the members who are present in person or by proxy at the Community Association's Budget Meeting. (Amended 05/22/96 - B2022- P1579)

(d) Special Assessments. In addition to the annual assessments authorized herein above, the Community Association may levy special assessments for the purpose of defraying, in whole or in part, any operating loss, or for any purpose set forth under Sub-paragraph (b) of this Section 7 above, provided that any such assessment shall be approved by a vote of two-thirds (2/3) of the members who are present in person or by proxy at a meeting duly called for such purpose, written notice of which shall have been sent to all owners at least thirty (30) days in advance thereof setting forth the purpose of the meeting. (B1359 P924 - 10/24/79)

(e) Quorum. The quorum required for any action authorized by sub-sections (c) and (d) hereof shall be the presence at the meeting in person or by proxy of one-half (1/2) of the Members.

(f) Date of Commencement of Annual Assessments. Due Dates: Each owner shall be obliged to pay the annual assessments made against him to the Community Association and such payments shall be due in equal monthly installments on or before the first day of each month, or on such day of the month as the Board of Directors of the Community Association may determine. Said assessments shall commence on the date that record title to any Unit is transferred to the Owner, or, in the case of any Unit owned by Hilltop, on the date said Unit is completed and ready for occupancy, said assessments to be pro-rated as of the date

record title is transferred or as of the date the Unit is completed and ready for occupancy. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

(g) Certificate of Payment. The Board of Directors, upon demand by any Member liable for an assessment, shall furnish to such Member a certificate in writing signed by a member of said Board, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(h) Effect of Non-Payment of Assessment. Any assessment which is not paid when due, together with such interest thereon and costs of collection thereof as hereinafter provided, shall become a continuing lien on the Unit of the delinquent Owner, which shall bind such property in the hands of said Owner, his heirs, devisees, representatives and assigns. The personal obligation of said Owner to pay such assessment, as opposed to the continuing lien, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

Any assessment which is not paid within thirty (30) days after its due date shall bear interest from said due date at the rate of twelve (12) per cent per annum and the Community Association may bring an action against the Owner personally obligated to pay the same or may foreclose the lien against said property in the manner provided by statute for the foreclosure of power of sale mortgages and there shall be added to the amount of such assessment the cost of processing such action, or foreclosing said lien, including reasonable attorney's fees and said interest.

(i) Subordination of the Lien. The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage now or hereafter placed upon the Properties subject to assessment and to any lien for assessments of any association of Owners of a condominium project located on the Property.

Section 8. Rules and Regulations. The Board of Directors is authorized to adopt from time to time rules and regulations for the use and operation of the Community Property which shall be posted in a conspicuous place on the Community Property and Members shall be required to conduct themselves, and to see that their lessees, renters and guests conduct themselves, in accordance with said rules and regulations.

Section 9. General Provisions.

(a) Duration. The covenants and restrictions of this Declaration as the same may be amended from time to time, shall run with and bind the Units and shall inure to the benefit of and be enforceable by the Community Association and the Owners of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of three-quarters (3/4) of the Units has been recorded, agreeing to terminate them.

(b) Notices. Any notice required to be sent to any owner or member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by first class mail, to the last known address of the person who appears as Owner on the records of the Community Association at the time of such mailing. – (Amended 05/22/96 - B2022-P1579)

(c) Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against his aforesaid Property to enforce any lien created by these covenants; and failure by the Community Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(d) Severability. Invalidation of any one 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.

(e) Amendments. Except as otherwise provided herein, the provisions of this Declaration may be amended from time to time by an instrument in writing signed and acknowledged by three-quarters (3/4) of the total number of Members from time to time, which amendment shall be effective upon recordation at the Merrimack County Registry of Deeds, provided that prior to October 1, 1976, no amendment shall become effective without the written concurrence of Hilltop, its successors and assigns.

IN WITNESS WHEREOF, Hilltop Place of New London, Incorporated has caused its name to be subscribed and its seal to be affixed hereto by Richard E. Mann, Jr., its President, duly authorized this 19th day of May, 1971.

HILLTOP PLACE OF NEW LONDON,
INCORPORATED

/s/ R. P. Bass, Jr.

By: /s/ Richard E. Mann Jr.

STATE OF NEW HAMPSHIRE
Merrimack, ss

On this 19th day of May, 1971, personally appeared the above-named Richard E. Mann, Jr., who acknowledged himself to be the President of Hilltop Place of New London, Incorporated, and that being authorized so to do, he executed the foregoing instrument for the purpose therein contained.

/s/ R. P. Bass, Jr.
Justice of the Peace