

**DECLARATION OF CONVENTS, CONDITIONS AND RESTRICTIONS  
FOR  
FOXBORO DOWNS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF FOXBORO DOWNS, made as of this 10 day of October, 1995, by CHB, L.C. a Virginia limited liability company, recites and provides as follows:

**RECITALS**

The Declarant is the fee simple owner of certain real property located in Henrico County, Virginia (the "County"), referred to as Foxboro Downs and more particularly described in Exhibit "A" attached hereto and made a part hereof, which real property is hereinafter referred to as the "Subdivision". Declarant desires to provide a common scheme of development, a high consistent quality of maintenance of all common area and private property within and throughout the Subdivision and an organization to facilitate all of the foregoing.

**DECLARATION**

Declarant hereby declares that all of the property described in Exhibit "A" 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 which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

1.01 Area of Common Responsibility. "Area of Common Responsibility" shall mean and refer to those areas which by the terms of this Declaration or other applicable covenants become the responsibility of the Association. Areas of Common Responsibility shall include, without limitation, any landscaped areas located in the public right-of-way or in Planting Strip Easement areas located on certain Lots, BMP area (grass only) and all fencing and signage owned or to be owned by the Association.

1.02. Association. "Association" shall mean and refer to Foxboro Downs Homeowner's Association, its successors and assigns.

1.03. Board of Directors. "Board of Directors" of the Association shall initially be appointed by the Declarant during the Declarant Control Period and then after the expiration of the Declarant Control Period, elected by the members of the Association.

1.04. Declarant. "Declarant" shall mean and refer to CHB, L.C., a Virginia limited liability company, which is the Declarant herein, together with any successors and assigns to all or substantially all of its business of developing the Subdivision. Declarant may designate a successor declarant (or declarants) to take or hold some or all of its respective rights, powers, privileges and obligations as Declarant under this Declaration by written instrument recorded in the Clerk's Office, Circuit Court, Henrico County, Virginia (the "Clerk's Office"). The Association and the Owners shall not enjoy any of the rights, powers, privileges or obligations of the Declarant unless specifically granted or assigned by the Declaration or by written instrument executed by the Declarant and recorded in the Clerk's Office.

1.05. Declarant Control Period. "Declarant Control Period" is defined as the period commencing on the date this Declaration is recorded in the Clerks Office, and ending on the earlier to occur of (i) December 31, 2005, (ii) when ninety percent (90%) of the Lots in the Subdivision have certificates of occupancy issued for the residences constructed thereon and have been conveyed to parties other than the Declarant or builders holding title solely for the purpose of construction and resale, or (iii) when the Declarant voluntarily terminates the Declarant Control Period. (A)

1.06. Improved Lot. "Improved Lot" is defined as a Lot upon which a residence has been deemed to be substantially completed. A residence shall be deemed to be substantially completed upon the earlier to occur of (i) the issuance of a temporary or final certificate of occupancy for the residence, or (ii) twelve (12) months from the date that a building permit for the residence is issued.

1.07. Lot. "Lot" shall mean and refer to any lot shown upon any subdivision plat approved by the County and recorded in the Clerk's Office which effects a subdivision of any land in Foxboro Downs.

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

1.09. Subdivision. "Subdivision" shall mean and refer to Foxboro Downs Subdivision as shown on the Subdivision Plat.

1.10. Subdivision Plat. "Subdivision Plat" shall mean and refer to the subdivision plat dated November 29, 1994 prepared by Youngblood, Tyler + Associates P.C. which is recorded in the Clerk's Office. (E)

## ARTICLE II MEMBERSHIP AND VOTING RIGHTS

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

2.02. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A 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 for 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.

Class B. The Class B member shall be the Declarant, which, during the Declarant Control Period, shall be entitled to twenty (20) votes for each Lot Owned.

2.03. Declarant Control. During the Declarant Control Period, the Declarant shall have the sole and absolute right to appoint in its sole and absolute discretion the members of the Board of Directors.


2.04. Management. The affairs of the Association shall be managed by its Board of Directors which shall elect the officers of the Association.

## ARTICLE III COVENANTS FOR MAINTENANCE ASSESSMENTS

3.01. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot 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: (a) annual assessments or charges, (b) special assessments for capital improvements, and (c) such other assessments as may be hereinafter provided. The assessments, together with interest costs, and reasonable attorney's fees, shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment falls due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

3.02. Purpose of Assessments. The assessments levied by the Association shall be used (a) to promote the general appearance of the Subdivision, (b) for the improvement and maintenance of all Areas of Common Responsibility and (c) for such other purposes as may be approved by the Board of Directors.

3.03. Determination of Annual Assessment. The Board of Directors of the Association may, in its sole discretion, fix the annual assessment; however, in no event shall such assessment exceed an amount to be determined as follows:

(a) Until January 1 of the year immediately following the conveyance of the first Improved Lot to an Owner, the maximum annual assessment shall be Forty Dollars (\$40.00) per Lot. 

(b) From and after January 1 of the year immediately following the conveyance of the first Improved Lot to an Owner, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1 of the year immediately following the conveyance of the first Improved Lot to an Owner, the maximum annual assessment may be increased above 10% at a meeting duly called for such purpose by a vote, in person or by proxy, of two-thirds (2/3) of each class of members.

3.04. Special Assessment for Capital Improvements. In addition to the annual assessments authorized in Section 3.03 of this Article, 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 or reconstruction, unexpected repair or replacement of any capital improvement; provided that any such special assessment shall receive the assent, in person or by proxy, of two-thirds (2/3) of each class of members, at a meeting duly called for such purpose.

3.05. Exempt Property. After the commencement of annual assessments as provided in Section 3.03 of this Article;

(a) No Improved Lot or other improved property shall be exempt from assessments; and

(b) Lots which are not Improved Lots shall be exempt from assessment until the earlier to occur of (i) twelve months after commencement of construction of the Improvements thereon (construction shall be deemed to have commenced upon the earlier to occur of (1) obtaining a building permit, or (2) the initial preparation of a foundation) or (ii) the Lot becomes an Improved Lot.

3.06. Notice for any Action Authorized Under Sections 3.03 or 3.04. Written notice of any meeting called for the purpose of taking any action authorized under Section 3.03 or Section 3.04 of this Article III shall be sent to all members not less than thirty (30) days not more than sixty (60) days in advance of such meeting.

3.07. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual basis or such other basis as shall be determined by the Board of Directors.

3.08. Date of Commencement of Annual Assessments; Due Dates. Prior to the commencement of annual assessments, all costs incurred in connection with the Areas of Common Responsibility shall be borne solely by the Declarant. The first annual assessments provided for herein shall commence as to all nonexempt property (as set forth in Section 3.05 of this Article) on the 1st day of January following initial conveyance of an Improved Lot to an Owner. The Board of Directors shall fix the amount of the annual assessment against each Lot (if feasible, at least thirty (30) days in advance of each annual assessment period) an written notice thereof shall be sent to every Owner. The due dates shall be established by the Board of Directors, provided, however, until otherwise established by the Board of Directors, assessments shall be due and payable on an annual basis on June 30th of each year. 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.

3.09. Effect of A Nonpayment of Assessments; Remedies of the Association. The Board of Directors shall have the right to establish reasonable late charges (not to exceed One Dollar (\$1.00) per day) for any assessment not paid within thirty (30) days after the due date; provided, however, if such late charge shall ever be deemed to be in excess of that which is permitted by applicable law, interest shall accrue on such unpaid amount at the highest rate permitted by applicable law. Moreover, if any assessment, or any installment thereof, is not paid within thirty (30) days after the date upon which it is due, the Association may file a memorandum of lien in accordance with the requirements of Section 55-516 of the Code of Virginia, as amended, may initiate proceedings to foreclose the lien against the Owner's property to which it attaches and may bring an action at law against the Owner personally obligated to pay the same. The Association shall be entitled to collect all fees and cost of collection, including attorney's fees, and every Owner by accepting a Deed to property in the Subdivision, whether so expressed in the Deed or not, covenants and agrees to pay the same.

3.10. Subordination of the Lien to Mortgages. The lien for the assessments provided for herein, once perfected, shall be prior to all other subsequent liens and encumbrances except (a) real estate tax liens or that Lot, (b) liens and encumbrances recorded prior to the recordation of the Declaration and (c) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of said lien. Sale or transfer of any Lot shall not affect the assessment lien, except that the sale or transfer of any Lot pursuant to foreclosure on a first mortgage or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE IV ARCHITECTURAL CONTROL

The Board of Directors and the Declarant shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committee established in Section 4.01 of this Article. This Article may not be amended without the

Declarant's written consent so long as the Declarant owns any property within the Subdivision. No construction, which term shall include within its definition, staking, clearing, excavation, grading, and other site work, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements thereof have been fully met, and until the approval of the Architectural Control Committee ("ACC") has been obtained.

4.01. Architectural Control Committee. The ACC shall have exclusive jurisdiction over all original construction, modifications, additions or alterations made on or to all existing improvements and the open space, if any, appurtenant thereto, on all property within the Subdivision. It shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines and application and review procedures, all as part of the Foxboro Downs Building Standards (the "Building Standards"). The Building Standards shall incorporate all restrictions and guidelines relating to development and construction contained in this Declaration as well as restrictions, guidelines and proffered conditions with respect to location and size of structures and other improvements, permissible materials and architectural style, etc. Copies shall be available from the ACC for review. The guidelines and procedures shall be those of the Association, and the ACC shall have sole and full authority to prepare and to amend the Building Standards. The ACC shall make the Building Standards available to Owners, builders, and developers who seek to engage in development of or construction upon property with the Subdivision, and such Owners, builders, and developers who seek to engage in development of or construction upon property with the Subdivision, and such Owners, builders and developers shall conduct their operations strictly in accordance therewith.

4.02. Declarant to Retain Architectural Control. Until one hundred percent (100%) of all property within the Subdivision has been developed as Improved Lots, and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the ACC, which shall consist of at least two (2) but no more than five (5) persons. There shall be no surrender of this right prior to that time except pursuant to written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the ACC.

4.03. No Waiver of Future Approvals. The approval of ACC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters subsequently or additionally submitted for approval or consent.

4.04. Variance. During the Declarant Control Period, the ACC and its sole and absolute discretion should be authorized and empowered to issue written variances from the Building Standards and the provisions of Articles 5, 6, & 7 of this Declaration. After the expiration of the Declarant Control Period the ACC may authorize variances from compliance with any of the provisions of the Buildings Standards when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted,

however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) prevent the committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.05. Review and Control by Architectural Control Committee. No building, fence, garage, swimming pool or other structure shall be erected, placed or altered nor shall a building permit for such improvement be applied for on any unimproved property in the Subdivision until one (1) complete set of professionally drawn and prepared building plans (including elevations), specifications, exterior color and finish samples site plan (showing the proposed location of such building, drives and parking areas), shall have been reviewed and approved in writing by the ACC. In reviewing such materials, the ACC shall consider such things as aesthetic appearance, harmony with surrounding improvements, compliance with this Declaration and any additional criteria adopted by the ACC as part of the building Standards. Approval or disapproval of plans, locations or specifications may be based by the ACC upon any grounds incorporated within the Building Standards including purely aesthetic considerations, which in the sole and uncontrolled discretion of the ACC shall be sufficient. If approval of such plans and specifications is neither granted nor denied within thirty (30) days following receipt by the ACC of written request for approval the plans and specifications shall be deemed to be approved.

## ARTICLE V ENVIRONMENTAL COVENANTS

In order to protect the nature beauty of the vegetation, topography or other natural features within the Subdivision, the following environmental controls are hereby established.

5.01. Excavation. Topographic and vegetation characteristics of any property within the Subdivision shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the ACC.

5.02. Trees. To the extent reasonably practical, the clearing of mature trees on Lots shall be limited to those areas required to accommodate the residence to be constructed thereon and its normal and customary accessories, open front yard areas and those limited areas required to permit utility services and driveways. No trees measuring six (6) inches in diameter at a point two (2) feet above ground level which are located more than twenty (20) feet away from the residence or structure constructed on the Lot, shall be removed without the prior written approval of the ACC.

5.03. Landscaping. The Building Standards may impose specific landscaping requirements or landscaping guidelines. Any significant plantings of trees or shrubs intended to act or resulting in a screen between properties or Lots within the Subdivision must be first approved by the Architectural Control Committee.

**ARTICLE VI**  
**RESTRICTIONS APPLICABLE TO CONSTRUCTION**

6.01. General Restrictions. All Lots shall be cleared of all underbrush and debris and shall at all times be maintained in a clean and slightly manner. All construction shall be prosecuted in a neat and orderly manner. Trash and debris shall not be permitted to accumulate upon any property within the Subdivision. Mud debris or trash shall not be allowed to accumulate on any adjacent property or the adjacent streets. All contractors shall store all equipment, machinery and toilet facilities on the Lot in as inconspicuous a place as is practical. All improvements made on any Lot shall be in compliance with the Building Standards as well as all applicable laws, rules and regulations, including, without limitation, all state and local building, fire, health, safety, environmental (including those with respect to erosion and sediment control) and zoning ordinances and regulations.

**ARTICLE VII**  
**USE AND RESTRICTIONS AND RULES**

7.01. Use of Lots. No Lot shall be used except for residential purposes. Only one residence may be constructed on each platted Lot as recorded.

7.02. Signs. No sign of any kind shall be erected or maintained on any Lot prior to the completion of initial constructions on all Lots within the Subdivision except for signs provided or designated by the Declarant and, thereafter, without the approval of the ACC or except as may be required by law. If permission is granted, the ACC reserves the right to restrict the size, color and content of such signs. In addition, one sign of not more than two (2) square feet, or as regulated and permitted by the County Code, advertising the property for sale will be allowed on each Lot.

7.03. Walls and Hedges. No wall, hedge, mass planting or other similar obstruction exceeding three feet in height and no fence of any type or height shall be erected (a) between the street right-of-way and the front edge of any residence constructed on any Lot or (b) except for fences constructed by the Declarant.

7.04. Outbuildings. No trailer, tent, shack, garage, barn or other outbuildings erected on any Lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. Storage sheds, garages and other outbuildings must be of the same type and quality of construction as the dwelling on any respective Lot.

7.05. Trucks, Campers, Boats and Boat Trailers. No commercial vehicles, recreation vehicles, campers, boats or boat trailers shall be parked over 48 hours in any one week on any Lot or driveway so as to be visible from the street.



7.06. Livestock and Poultry. No live cattle, hogs, goats, livestock or poultry of any kind shall be allowed on any Lot, nor shall any noxious or offensive trade or activity be carried on thereon, nor shall anything be done thereon which shall be or become an annoyance or nuisance to a good residential neighborhood. Household pets may be kept on the Lot in reasonable numbers (as pursuant to the Henrico County Code) as pets for the sole pleasure and use of the occupants, but not for any commercial use or purposes.

7.07. Garbage. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall be kept in sanitary containers located or screened so as to be concealed from view of the neighboring Lots and the street.

7.08. Clotheslines. No clotheslines or similar type structures shall be permitted on any Lot so as to be visible from the street.

7.09. External Lighting. No external lighting shall be installed or utilized on any property within the Subdivision which is of such character, intensity or location as to interfere with the use, enjoyment and privacy of any Lot or owner in the near vicinity. No neon or flashing lights shall be permitted. All external lighting shall be approved by the ACC, as appropriate, as to size, location, color, and intensity.

7.10. Swimming Pools. No swimming pool whether in ground or above ground, whether permanent or temporary, shall be installed upon any Lot without the prior written consent of the ACC. The ACC shall require that all swimming pools be adequately screened from the view of adjacent lots and streets.

7.11. Structure Changes. No exterior changes including but not limited to paint, siding, roof, shall be permitted unless approved by the ACC.

7.12. Antennae. No exterior antennas, aerials, satellite disks, or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained on any Lot or attached to or installed on the exterior portion of any building or structure on any Lot without the prior written consent of the ACC.

7.13. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on the exterior of any Lot. No exterior sculpture, fountains, bird houses, bird baths or other decorative embellishments or other similar items shall be permitted unless approved by the ACC.

7.13. Resubdivision. No Lot shall be subdivided, partitioned in kind or its boundary lines otherwise changed, nor shall application for same be made to the County or any court of the Commonwealth of Virginia, unless with the prior written consent of ACC. However, the Declarant expressly reserves for itself, its successors and assigns, subject to the approval of the County, the right to replat or resubdivide any Lot or other property owned by it in order to create a modified Lot or property and to take such other steps as are reasonable necessary to make such Lots and property suitable as a building site, including, but not limited to, relocation of easements,

walkways and right-of-way, or to remove gaps and gores between the property boundaries. This Section shall not be deemed to prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot, however, the resulting Lot, if combined by an Owner other than the Declarant, shall retain the vote and assessment unit, of two (2) Lots combined.

## ARTICLE VIII EASEMENTS

8.01. Planting Strip Easement. A planting strip easement which shall be located at the entrance of Foxboro Downs and identified on the landscape plan (the "Planting Strip Easement") is hereby reserved, for the benefit of all Owners, the Declarant and the Association. The use of the Planting Strip Easement shall be restricted in that there shall be permitted no improvements in any portion of such easement, including, but not limited to, roads, roadways or structures, except to the extent necessary for utility easements, signage, any fence or wall erected by the Declarant and other purposes as may be required by the County Planning Commission or by any other governmental body, agency, commission, board department or official of the County.

Existing vegetation and underbrush may be removed from the Planting Strip Easement, and if so removed, additional planting may be added. Where the placement of utility easements within the Planting Strip Easement results in the inability to provide adequate screening within the Planting Strip Easement, additional planting may be provide adjacent to the Planting Strip Easement to provide appropriate screening for uses on the property. In addition to the Planting Strip Easement reserved hereby, the Declarant reserves for itself and the Association a perpetual easement to go over and upon such Lots as are subject to the Planting Strip Easement for the purpose of effecting the maintenance, removal and planting as is permitted by this Section.

8.02. Easement for Utilities. Declarant reserves unto itself, its successors and assigns, a perpetual easement and right on, over and under the streets and roads of the Subdivision and over the easement areas designated on the Plat to install, maintain and use underground electric, cable television and telephone wires, cables, conduits, drainage ways, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities as may be necessary or desirable to serve the Subdivision. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

8.03. Duties of the Association. In addition to all easements conveyed and reserved herein, there are reserved for the benefit of and granted to the Association such easements as would be necessary to perform the duties and obligations of the association set forth in this Declaration.

8.04. Priority of Easements. Each of the easements hereinabove referred shall be deemed to have been established or reserved upon the recordation of this Declaration and shall hence forth be deemed to be easements and covenants running with the land for the use and benefit of the Lots, as the case may be, exterior to all other encumbrances which may hereafter be applied against or in favor of the Subdivision or any portion thereof.

## ARTICLE IX ENFORCEMENT

9.01. Fines. The Board of Directors shall have the right to impose reasonable fines, in accordance to the Virginia Properties Owner's Association law, (not to exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature), which shall constitute a lien upon the property of the violating owner and which shall be deemed to be an assessment against the owner's Lot for the purposes of giving to the Association the right to perfect and enforce such lien pursuant to the provisions of Section 55-516 of the Code of Virginia (as amended), and to suspend an Owner's right to vote for violation of any duty proposed under this Declaration, the By-Laws, to any rules and regulations duly adopted thereunder; provided, however, nothing wherein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. If any Owner or occupant of a Lot violates this Declaration, the By-Laws, or a rule or regulation and a fine is imposed, the fine shall be assessed against the Owner within the time period set by the Board of Directors, and the Owner shall pay the fine upon notice from the Association. The failure of the Board of Directors to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the board of Directors to do so thereafter.

(a) Notice. Prior to imposition of any fine hereunder, the Board of Directors or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed fine to be imposed, (iii) a period of not less than fourteen (14) days within which the alleged violator may present a written request to the Board of Directors for its delegate for a hearing; and (iv) a statement that the proposed fine shall be imposed as contained in the notice unless a challenge is begun within fourteen (14) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) Hearing. If a hearing is requested in a timely manner, the hearing shall be held before the Board of Directors, or a committee thereof, affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any fine imposed hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or agent who delivered such notice. The notice requirement shall be deemed satisfied is the alleged violator appears at the meeting. the minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The Board of Director may, but shall not be obligated to, suspend any proposed fine if the violation is cured within the fourteen

(14) day period. Such suspension shall not constitute a waiver of the right to impose fines as a result of future violations of the same or other provisions and rules by any party.

9.02. Additional Enforcement Rights. The Declarant and 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 Declarant or the Association to enforce any covenant or restriction herein contained shall not be construed or deemed a waiver of the right to do so thereafter. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect to enforce any provision of this Declaration, the By-Laws, or the rules and regulations of the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

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

## ARTICLE X TERM AND AMENDMENT

10.01. Amendments by the Declarant. During the Declarant Control Period, the Declarant may unilaterally record amendments to this Declaration in the Clerk's Office to effect (a) technical deletions, addition and revisions to this Declaration which correct, clarify or further the intent of this Declaration by which do not alter the substantive rights of the Owners, and (b) release from this Declaration, and terminate this Declaration as to any portion of the Subdivision which is not a Lot.

10.02. Term and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a period of fifty (50) years from the recordation of this Declaration in the Clerk's Office after which the term of this Declaration shall be automatically extended for successive periods of ten (10) years, unless an approved instrument terminating this Declaration is recorded in the Clerk's Office. This Declaration may be amended or terminated at any time by an instrument approved by more than two-thirds (2/3) of the votes entitled to be cast by all of the members of the Association. Any amendment or termination of this Declaration to be effective must (i) be executed by the president of the Association and be attested to by the secretary of the association, (ii) have attached to it the sworn affidavit of the secretary of the Association stating that the amendment was approved by the requisite number of votes of the members of the Association, and (iii) be recorded in the Clerk's Office.

10.03. Declarant's Rights. Any or all of the special rights and obligations of the Declarant may be transferred to other parties, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is pursuant to a written instrument signed by the Declarant and duly

recorded in the Clerk's Office. So long as Declarant continues to have rights under this paragraph, no party shall record any declaration of covenants, conditions, and restrictions or similar instrument affecting any portion of the Subdivision without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant. This Section shall terminate upon the earlier of (a) twenty-five (25) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement by which the Declarant terminates its rights hereunder.

WITNESS the following signature: CHB, L.C. a Virginia limited liability company

By: William E Goode

Title: MEMBER

STATE OF VIRGINIA

STATE AT LARGE, to-wit:

The foregoing instrument was personally acknowledge before me this

10 day of October, 1995, in the County of Henrico, Virginia by

William E Goode as Member of CHB, L.C. a Virginia limited

liability company.

My commission expires: JUN 21, 1999

Thomas H. Allen  
Notary of Public

VIRGINIA  
IN THE CLERK'S OFFICE OF  
HENRICO COUNTY  
CIRCUIT COURT ON THE 11TH DAY OF  
OCTOBER, 1995 AT 08:39AM  
INSTRUMENT #31304 WAS RECEIVED  
UPON CERTIFICATION OF ACKNOWLEDGEMENT  
THERE TO ANNEXED; ADMITTED TO RECORD  
THE STATE TAX IMPOSED BY SEC. 58.  
OF THE VIRGINIA CODE; HAS BEEN PAID  
THE AMOUNT OF: \$ .00  
STATE: \$ .00 LOCAL:  
TESTE: YVONNE G. SMITH  
(CLERK OF CIRCUIT COURT)

