

# State of New Jersey



## Department of State

I, the Secretary of State of the State of New Jersey, do hereby Certify that the foregoing is a true copy of Certificate of Incorporation of THE GREENBRIAR II HOMEOWNERS ASSOCIATION

\_\_\_\_\_ and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the \_\_\_\_\_ 24th \_\_\_\_\_ day of \_\_\_\_\_ January \_\_\_\_\_ A. D. \_\_\_\_\_ 1978 \_\_\_\_\_, and now remaining on file and of record therein.



In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at Trenton, this \_\_\_\_\_ 24th \_\_\_\_\_ day of \_\_\_\_\_ January \_\_\_\_\_ A. D. 1978

*George W. Lee*

Ass't Secretary of State

REVIEWED  
SUBJECT [ ]  
NOV 29 1977

CERTIFICATE OF INCORPORATION OF  
THE GREENBRIAR II HOMEOWNERS ASSOCIATION

STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
DIVISION OF REVENUE

We hereby associate ourselves into a corporation not for profit pursuant to the provisions of N.J.S.A., Title 15, for a lawful purpose other than for profit and to that end we do, by this Instrument, certify as follows:

1. The name by which the corporation is to be known in law is "The Greenbriar II Homeowners Association."
2. The period of its duration is perpetual.
3. The purpose for which the corporation is formed is to hold title to, maintain, and administer the common land and facilities, and to provide basic services and maintenance for the exterior of the living units in a residential development to be known as Greenbriar II, and to administer and enforce the covenants and restrictions to be filed on lands and premises located on Burnt Tavern Road, in the Township of Brick, County of Ocean and State of New Jersey, encompassing all lands included within a preliminary subdivision known as "Greenbriar II."
4. The number of incorporators/trustees of this corporation shall be five and the names and post office addresses of the initial board of trustees selected for the first year are as follows:

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RECORDED  
OCEAN COUNTY CLERK'S  
OFFICE

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INDEXED  
OFFICE  
P. H. ...

5-25-77

NAMES

Philip Frank

Sherman I. Hirschfeld

Barry L. Johnston

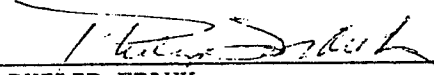
Joan Harding

Nicholas A. D'Apolito


5. The name and post office address of the registered agent of said corporation upon whom process against the corporation may be served is Stewart M. Hutt, Esq., 459 Amboy Avenue, Woodbridge, New Jersey 07095.

6. The members of the corporation shall be the owners residences in the Greenbriar II development. Membership shall be subject to all the provisions of the Declaration of Covenants and Restrictions to be recorded and applicable to the Greenbriar II development and the by-laws of the corporation.

In Witness Whereof, we have hereunto set our hands and seals this 9th day of November, 1977.

  
PHILIP FRANK

  
SHERMAN I. HIRSCHFELD

  
BARRY L. JOHNSTON

*Joan Harding*

JOAN HARDING

*Nicholas A. D'Apollito*

NICHOLAS A. D'APOLITO

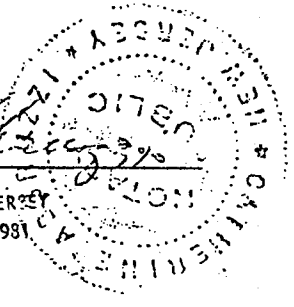
ACKNOWLEDGEMENT

STATE OF NEW JERSEY:  
  : SS.  
COUNTY OF MONMOUTH :

BE IT REMEMBERED, that on this 9th day of November, 1977, before me, the subscriber, A Notary Public of New Jersey, personally appeared PHILIP FRANK, SHERMAN I. HIRSCHFELD, BARRY L. JOHNSTON, JOAN HARDING and NICHOLAS A. D'APOLITO, who, I am satisfied, are the persons named in and who executed the within Instrument, and thereupon they acknowledged that they signed, sealed and delivered the same as their act and deed, for the uses and purposes therein expressed.

*Stephen A. ...*

NOTARY PUBLIC OF NEW JERSEY  
My Comm. Exp. July 22, 1981



PREPARED BY: Jay M. Hollander, Esq.

0731...

*Ann C. Arnold*  
ANN C. ARNOLD

GREENBRIAR II HOMEOWNERS ASSOCIATION  
SECOND AMENDMENT TO THE  
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION MADE THIS 5th DAY OF JUNE, 1989 BY THE GREENBRIAR II H.O.A., A CORPORATION OF THE STATE OF NEW JERSEY, HEREINAFTER CALLED THE ASSOCIATION.

WITNESSETH

WHEREAS, THE ASSOCIATION DESIRES TO PROVIDE FOR THE PRESERVATION OF THE VALUES AND AMENITIES IN THE COMMUNITY KNOWN AS GREENBRIAR II AND FOR THE MAINTENANCE OF THE COMMON LAND AND FACILITIES AND TO THIS END DESIRES TO SUBJECT THE REAL PROPERTY DESCRIBED IN ARTICLE II TOGETHER WITH SUCH ADDITIONS AS MAY HEREAFTER BE MADE THERETO (AS PROVIDED IN ARTICLE I) TO THE COVENANTS, RESTRICTIONS, EASEMENTS, CHANGES AND LIENS, HEREINAFTER SET FORTH.

NOW, THEREFORE, THE ASSOCIATION DECLARES THAT THE REAL PROPERTY DESCRIBED IN ARTICLE I, AND SUCH ADDITIONS THERETO AS MAY HEREAFTER BE MADE PURSUANT TO ARTICLE I HEREOF, IS AND SHALL BE HELD, TRANSFERRED, SOLD, CONVEYED AND OCCUPIED SUBJECT TO THE COVENANTS, RESTRICTIONS, EASEMENTS, CHANGES AND LIENS (SOMETIMES REFERRED TO AS THE "DECLARATION", AND/OR "COVENANTS AND RESTRICTIONS") HEREINAFTER SET FORTH.

THE GREENBRIAR II HOMEOWNERS ASSOCIATION SHALL BE THE BENEFICIARY AT ANY AND ALL OF THE COVENANTS AND RESTRICTIONS HEREINAFTER SET FORTH, AND SHALL HAVE THE POWER TO ENFORCE THE SAME BY ANY LAWFUL PROCEDURE WHETHER IN LAW OR EQUITY, OR BY ANY OTHER LAWFUL MEANS.

ARTICLE I

DEFINITIONS

SECTION 1. THE FOLLOWING WORDS, WHEN USED IN THIS DECLARATION OR ANY SUPPLEMENTAL DECLARATION (UNLESS THE CONTEXT SHALL PROHIBIT), SHALL HAVE THE FOLLOWING MEANINGS:

- (a) ASSOCIATION SHALL MEAN AND REFER TO THE GREENBRIAR II HOMEOWNERS ASSOCIATION.

- (b) THE PROPERTIES SHALL MEAN AND REFER TO ALL SUCH EXISTING PROPERTIES AND PERMITTED ADDITIONS THERETO, AS ARE SUBJECT TO THIS DECLARATION UNDER THE PROVISIONS OF ARTICLE II HEREOF.
- (c) COMMON LAND SHALL MEAN AND REFER TO THOSE AREAS OF LAND SHOWN ON ANY RECORDED SUBDIVISION PLOT OF THE PROPERTIES AND INTENDED TO BE DEVOTED TO THE COMMON USE AND ENJOYMENT OF THE OWNERS OF THE PROPERTIES.
- (d) LOT SHALL MEAN AND REFER TO ANY LOT SHOWN ON ANY PRESENT OR FUTURE RECORDED SUBDIVISION MAP OF THE PROPERTIES (WITH THE EXCEPTION OF COMMON LAND AS HERETOFORE DESCRIBED) OR SHOWN ON AN APPROVED SITE DEVELOPMENT PLAN OF THE PROPERTIES.
- (e) LIVING UNIT SHALL MEAN AND REFER TO ANY BUILDING SITUATED UPON THE PROPERTIES DESIGNED AND INTENDED FOR USE AND OCCUPANCY AS A RESIDENCE.
- (f) OWNER SHALL MEAN AND REFER TO THE RECORDED OWNER, WHETHER ONE OR MORE PERSONS OR ENTITIES, OF THE FEE SIMPLE TITLE TO ANY LOT OR LIVING UNIT SITUATED UPON THE PROPERTIES BUT, NOTWITHSTANDING ANY APPLICABLE THEORY OF MORTGAGES, SHALL NOT MEAN OR REFER TO THE MORTGAGEE OF A LOT OR LIVING UNIT.
- (g) MEMBER SHALL MEAN AND REFER TO ALL THOSE OWNERS WHO ARE MEMBERS OF THE ASSOCIATION AS PROVIDED FOR IN THE BY-LAWS.
- (h) FACILITIES SHALL MEAN BUILDINGS, STRUCTURES, FIXTURES, ITEMS OF PERSONALTY, IMPROVEMENTS OF WHATSOEVER NATURE, ASSOCIATED WITH THE COMMON LAND.
- (i) NON-OWNER RESIDENT SHALL MEAN ANY PERMANENT OCCUPANT OF A LIVING UNIT WHO IS NOT A MEMBER OR OWNER.
- (j) OCCUPANT, INVITEE SHALL MEAN ANYONE RIGHTFULLY ON THE PREMISES.
- (k) GUEST SHALL MEAN ANY INVITEE OF A MEMBER, NON-OWNER, RESIDENT, OWNER OR OCCUPANT.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION

SECTION 1. EXISTING PROPERTY

THE REAL PROPERTY WHICH IS, AND SHALL BE HELD, TRANSFERRED, SOLD CONVEYED, AND OCCUPIED SUBJECT TO THIS DECLARATION, IS LOCATED IN BRICK TOWNSHIP, OCEAN COUNTY, AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING ALL OF THE LOTS AND/OR LIVING UNITS AND COMMON LAND AND FACILITIES SHOWN ON THE MAPS OF GREENBRIAR II, AS HEREINAFTER SET FORTH, OR AS SUCH MAPS MAY BE AMENDED AS FOLLOWS:

SECTION 1, Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March, 1978 and Filed in the Ocean County Clerk's office on July 19, 1978 as Map No. C-801.

- SECTION 2 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March, 1978 and Filed in the Ocean County Clerk's office on July 19, 1978 as Map No. D-801.
- SECTION 3 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March, 1978 and Filed in the Ocean County Clerk's office on July 19, 1978 as Map No. E-801.
- SECTION 4 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated December 19, 1978 and Filed in the Ocean County Clerk's office on April 25, 1979 as Map No. F-890.
- SECTION 5 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated December 19, 1978 and Filed in the Ocean County Clerk's office on April 25, 1979 as Map No. D-891.
- SECTION 6 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated December 19, 1978 and Filed in the Ocean County Clerk's office on April 25, 1979 as Map No. E-891.
- SECTION 7 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March 7, 1979 and Filed in the Ocean County Clerk's office on July 26, 1979 as Map No. D-926.
- SECTION 8 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March 7, 1979 and Filed in the Ocean County Clerk's office on July 26, 1979 as Map No. E-926.
- SECTION 9 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March 7, 1979 and Filed in the Ocean County Clerk's office on July 26, 1979 as Map No. F-926.
- SECTION 10 Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated March 7, 1979 and Filed in the Ocean County Clerk's office on July 26, 1979 as Map No. D-927.
- SECTION 11 Brick Township, Ocean County, New Jersey, Prepared by John S. Truhan Associates, Dated November 23, 1983 and Filed in the Ocean County Clerk's office on July 27, 1984 as Map No. H-1405.
- SECTION 12 Brick Township, Ocean County, New Jersey, Prepared by John S. Truhan Associates, Dated March 19, 1984 and Filed in the Ocean County Clerk's office on January 17, 1985 as Map No. G-1481.
- SECTION 13 Brick Township, Ocean County, New Jersey, Prepared by John S. Truhan Associates, Dated December 7, 1984 and Filed in the Ocean County Clerk's office on January 29, 1985 as Map No. G-1553.
- SECTION 14 Brick Township, Ocean County, New Jersey, Prepared by John S. Truhan Associates, Dated May 15, 1985, and Filed in the Ocean County Clerk's office on March 4, 1986 as Map No. G-1634.

AMENDMENT TO  
SECTION 8

Brick Township, Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated January 30, 1980, and Filed in the Ocean County Clerk's office on April 25, 1980 as Map No. C-1006.

AMENDMENT TO  
SECTION 9

Brick Township Ocean County, New Jersey, Prepared by Fellows, Reed & Weber, Dated January 30, 1980, and Filed in the Ocean County Clerk's office on April 25, 1980 as Map No. A-1007.

SECOND AMEND-  
MENT TO  
SECTION 8

Brick Township, Ocean county, New Jersey, Prepared by Fellows, Reed & Weber, Dated November 10, 1980 and Filed in the Ocean County Clerk's office on January 21, 1981 as Map No. E-1084.

SECTION 2. ADDITIONS TO EXISTING PROPERTY  
ADDITIONAL LANDS MAY BECOME SUBJECT TO THIS DECLARATION IN THE FOLLOWING MANNER:

- (a) ADDITIONS BY AMENDMENT TO DECLARATION  
SUBJECT TO ANY LAWS OR ORDINANCES APPERTAINING THERETO AND UPON APPROVAL OF THE BOARD OF TRUSTEES, OTHER PROPERTIES MAY BE ADDED TO THE SCHEME OF THIS DECLARATION, THE BY-LAWS AND RULES AND REGULATIONS AND BECOME SUBJECT TO THE JURISDICTION OF THE ASSOCIATION SUCH ADDITIONAL PROPERTIES MAY INCLUDE PROPERTIES BEYOND THE PRESENT BOUNDARIES OF THE PROPERTIES AS APPEARS ON THE "PRELIMINARY AND SITE DEVELOPMENT PLAN OF GREENBRIAR II" APPROVED BY THE BRICK TOWNSHIP PLANNING BOARD AND/OR ANY REVISIONS OR AMENDMENT THERETO.
- (b) MERGERS  
UPON A MERGER OR CONSOLIDATION OF THE ASSOCIATION WITH ANOTHER ASSOCIATION, SUBJECT TO ANY LAWS OR ORDINANCES APPERTAINING THERETO AND AS PROVIDED IN ITS CERTIFICATE OF INCORPORATION, ITS PROPERTIES, RIGHTS AND OBLIGATIONS MAY, BY OPERATION OF LAW, BE TRANSFERRED TO ANOTHER SURVIVING OR CONSOLIDATED ASSOCIATION OR, ALTERNATIVELY, THE PROPERTIES, RIGHTS AND OBLIGATIONS OF ANOTHER ASSOCIATION MAY BE ADDED TO THE PROPERTY, RIGHTS AND OBLIGATIONS OF THE ASSOCIATION AS A SURVIVING CORPORATION PURSUANT TO A MERGER, THE SURVIVING OR CONSOLIDATED ASSOCIATION MAY ADMINISTER THE COVENANTS AND RESTRICTIONS ESTABLISHED UPON ANY OTHER PROPERTIES AS ONE SCHEME. NO SUCH MERGER OR CONSOLIDATION, HOWEVER, SHALL EFFECT ANY REVOCATION, CHANGE OR ADDITION TO THE COVENANTS ESTABLISHED BY THIS DECLARATION WITHIN THE EXISTING PROPERTY EXCEPT AS HEREINAFTER PROVIDED.
- (c) RIGHTS OF THOSE IN ADDED PROPERTIES  
ANY PERSON WHO PURCHASES ANY LOT OR LIVING UNIT IN THE PROPERTIES THAT MAY BE SUBSEQUENTLY ADDED, SHALL HAVE VOTING RIGHTS IN THE ASSOCIATION, RIGHTS OF ENJOYMENT TO ALL COMMON LAND AND FACILITIES, AND ANY OTHER BENEFITS EQUAL TO THE OTHER MEMBERS OF THE ASSOCIATION.



(d) BENEFITS FOR ALL  
THE COMMON LAND AND FACILITIES IN ANY SUBSEQUENTLY ADDED OR MERGED PROPERTY SHALL BE FOR THE BENEFIT AND USE OF ALL MEMBERS OF THE ASSOCIATION.

(e) ADDED PROPERTY OR CHANGES  
THERE SHALL BE NO ADDITIONAL PROPERTY ADDED NOR AMENDMENT OR CHANGE MADE TO THESE APPROVED DECLARATIONS OF COVENANTS AND RESTRICTIONS, BY-LAWS OR CERTIFICATE OF INCORPORATION WHICH WOULD AFFECT ZONING, SITE PLAN CONSIDERATION OR ANY OTHER ITEM WHICH IS WITHIN THE JURISDICTION OR RIGHT OF REVIEW BY THE BRICK TOWNSHIP PLANNING BOARD OR ANY OTHER MUNICIPAL AGENCY WITHOUT FIRST OBTAINING APPROVAL, IN WRITING BY SAID PLANNING BOARD OR ANY OTHER MUNICIPAL AGENCY.

ARTICLE III  
OWNERSHIP AND RESIDENCY

SECTION I. REQUIREMENTS FOR OWNERSHIP

THE INTENT OF THIS DECLARATION IS TO ESTABLISH AND QUALIFY GREENBRIAR II AS A COMMUNITY PRIMARILY DEDICATED TO RESIDENTS 55 YEARS OF AGE OR OLDER.

- (a) THE PURCHASER OF A HOME IN THIS COMMUNITY SHALL BE NO LESS THAN 55 YEARS OF AGE; PROVIDED HOWEVER, THAT IN THE EVENT A LOT OR LIVING UNIT IS OWNED BY MORE THAN ONE PERSON AS TENANTS BY THE ENTIRETY, ONLY ONE OF SAID PERSONS MUST BE NO LESS THAN 55 YEARS OF AGE.
- (b) THE AGE REQUIREMENT FOR OWNERSHIP SHALL NOT APPLY TO AN OWNER(S) WHO PURCHASES A LIVING UNIT AS A RESIDENCE FOR HIS RELATIVE(S) WHO MEET THE AGE REQUIREMENTS OF THIS DECLARATION.
- (c) ANYONE OVER THE AGE OF 18 MAY RESIDE WITH A RESIDENT WHO MEETS THE AGE REQUIREMENT OF 55 YEARS OF AGE.
- (d) NO RESIDENT UNDER AGE 55 WHO WAS LAWFULLY LIVING IN GREENBRIAR II AS OF FEBRUARY 14, 1989 SHALL BE REQUIRED TO VACATE OCCUPANCY. THE PURPOSE OF THIS IS TO PRESERVE THE RIGHTS OF THOSE RESIDENTS UNDER THE AGE OF 55 AT THE TIME OF FILING OF THE AMENDMENT TO THE DECLARATION OF COVENANTS AND RESTRICTIONS.

SECTION 2. RIGHTS, DUTIES AND OBLIGATIONS

THE VESTING OF OWNERSHIP BY TRANSFER OF TITLE INTO ANY OWNER OF A LOT OR LIVING UNIT SHALL VEST IN SAID OWNER ALL OF THE RIGHTS DESCRIBED HEREIN TO THE USE AND ENJOYMENT OF THE COMMON LAND AND FACILITIES AND SHALL MAKE SAID OWNER A BENEFICIARY OF EACH OF THE RESTRICTIVE COVENANTS AND BY-LAWS OF THE ASSOCIATION. THE VESTING OF TITLE UNTO THE OWNER, AND AS PART OF THE CONSIDERATION GIVEN BY THE OWNER THEREFORE SHALL CREATE A DUTY AND OBLIGATION ON SAID OWNER TO COMPLY WITH EACH AND EVERY COVENANT AND RESTRICTION, BY-LAW, AND ANY AND ALL RULES AND REGULATIONS PROMULGATED BY THE ASSOCIATION.

THE RIGHT AND ENJOYMENT OF ALL COMMON LAND AND FACILITIES SHALL EXTEND TO AND INCLUDE ALL GUESTS, OCCUPANTS, RESIDENTS, INVITEES, LESSEES, ETC., AND SUCH RIGHT OF ENJOYMENT SHALL CARRY WITH IT A CORRESPONDING OBLIGATION TO ABIDE BY AND COMPLY WITH ALL OF THE PROVISIONS OF THE DECLARATION OF COVENANTS AND RESTRICTIONS, THE BY-LAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.

ARTICLE IV  
RESTRICTIONS

ALL LOT AND/OR LIVING UNIT OWNERS, AS WELL AS GUESTS, RESIDENTS, OCCUPANTS, LESSEES, ETC. IN ADDITION TO ANY OTHER OBLIGATION, DUTY, RIGHT AND LIMITATION IMPOSED UPON THEM BY THIS DECLARATION, THE CERTIFICATE OF INCORPORATION, BY-LAWS OF THE ASSOCIATION AND RULES AND REGULATIONS THAT MAY BE PROMULGATED BY THE ASSOCIATION, SHALL BE SUBJECT TO AND AGREE TO ABIDE BY THE FOLLOWING RESTRICTIVE COVENANTS WHICH SHALL BE APPLICABLE TO ALL LOT AND/OR LIVING UNIT OWNERS, OCCUPANTS, GUESTS, INVITEES, TENANTS, RESIDENTS AND LESSEES, ETC. TO WIT:

- SECTION 1.        NO LIVING UNIT SHALL BE USED FOR ANY PURPOSE OTHER THAN A SINGLE FAMILY RESIDENCE OR DWELLING.
- SECTION 2.        NO EXTERIOR RADIO, TELEVISION OR ELECTRONIC ANTENNA, AERIAL OR SATELLITE DISH SHALL BE ERECTED, MAINTAINED OR OPERATED UPON ANY OF THE LOTS OR BUILDINGS OR STRUCTURES LOCATED THEREON, AND THE ERECTION, MAINTENANCE OR OPERATION OF ANY OF THE SAME IS PROHIBITED EXCEPT AS REQUIRED BY A COMMUNITY ANTENNA SYSTEM.
- SECTION 3.        NO SIGNS OF ANY NATURE WHATSOEVER SHALL BE ERECTED OR DISPLAYED UPON ANY OF THE PROPERTY.
- SECTION 4.        NO CLOTHING, BEDDING OR OTHER SIMILAR ITEMS, SHALL BE AIRED OR DRIED IN ANY OUTDOOR AREA.
- SECTION 5.        NO ANIMALS, LIVESTOCK OR POULTRY OF ANY KIND SHALL BE RAISED, BRED OR KEPT ON ANY LOT, EXCEPT THAT NO MORE THAN 2 CATS OR 2 DOGS OR OTHER HOUSEHOLD PETS MAY BE KEPT PROVIDED THEY ARE NOT KEPT BRED OR MAINTAINED FOR ANY COMMERCIAL PURPOSE. NO DOMESTIC ANIMAL SHALL BE PERMITTED TO RUN LOOSE ON THE PROPERTIES.
- SECTION 6.        NO INDIVIDUAL WATER SUPPLY SYSTEM SHALL BE PERMITTED ON ANY LOT.
- SECTION 7.        EASEMENTS FOR INSTALLATION AND MAINTENANCE OF UTILITIES, DRAINAGE FACILITIES, TV CABLE LINES AND SPRINKLER SYSTEM ARE RESERVED BY THE ASSOCIATION.
- SECTION 8.        NO STRUCTURE OF A TEMPORARY CHARACTER, TRAILER, TENT, SHACK, GARAGE, BARN OR OTHER OUT BUILDING SHALL BE USED ON ANY LOT AT ANY TIME AS RESIDENCE EITHER TEMPORARILY OR PERMANENTLY. ALL TRAILERS, CAMPERS, MOTOR HOMES AND BOATS SHALL BE STORED IN AN AREA DESIGNATED BY THE ASSOCIATION.

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RESTRICTIONS

- SECTION 9. NO OIL DRILLING, OIL DEVELOPMENT OPERATIONS, OIL REFINING, QUARRYING OR MINING OPERATIONS OF ANY KIND SHALL BE PERMITTED UPON OR IN ANY LOT, NOR SHALL OIL WELLS, TANKS, TUNNELS, MINERAL EXCAVATIONS OR SHAFTS BE PERMITTED UPON OR IN ANY LOT. NO DERRICK OR OTHER STRUCTURE DESIGNED FOR USE IN BORING FOR OIL OR NATURAL GAS SHALL BE ERECTED, MAINTAINED OR PERMITTED UPON ANY LOT.
- SECTION 10. NO LOT SHALL BE USED OR MAINTAINED AS A DUMPING GROUND FOR RUBBISH. TRASH, GARBAGE OR OTHER WASTE SHALL NOT BE KEPT EXCEPT IN SANITARY CONTAINERS AND STORED INDOORS. ANY CONTRACTOR, REPAIRMAN OR OTHER PERSON RETAINED BY A UNIT OWNER TO PERFORM WORK ON ANY DWELLING UNIT OR COMMON AREA SHALL CLEAN UP ALL RUBBISH AT THE CONCLUSION OF EACH WORK DAY.
- SECTION 11. NO NOXIOUS OR OFFENSIVE ACTIVITY SHALL BE CARRIED ON UPON ANY LOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY BE OR MAY BECOME AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD.
- SECTION 12. NO INDIVIDUAL SEWAGE DISPOSAL SYSTEM SHALL BE PERMITTED ON ANY LOT.
- SECTION 13. NO BUILDING, FENCE, WALL, WALKWAY, HEDGE, TREES, BUSHES, EXCAVATION OR GRADING OPERATION OR OTHER STRUCTURE SHALL BE COMMENCED, 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, HEIGHTS, MATERIALS AND LOCATION OF SAME SHALL HAVE BEEN SUBMITTED TO AND APPROVED IN WRITING BY THE ARCHITECTURAL CONTROL COMMITTEE.
- SECTION 14. NO LOT OWNER, MEMBER, GUEST, LESSEE, RESIDENT, OCCUPANT, INVITEE, ETC. SHALL COMMENCE ANY DIGGING OR EARTH MOVING OR RE-GRADING OPERATIONS OF ANY NATURE WHATSOEVER WITHOUT FIRST OBTAINING PERMISSION OF THE ARCHITECTURAL CONTROL COMMITTEE. THIS SECTION IS INTENDED AS A PROTECTION AGAINST INADVERTANT DISRUPTION OF UNDERGROUND SERVICES AND CREATION OF A NUISANCE TO ADJOINING PROPERTY OWNERS.

ARTICLE V  
GENERAL PROVISIONS

SECTION 1.

ASSOCIATION MEMBERSHIP

ALL PROPERTY OWNERS SHALL AUTOMATICALLY BECOME MEMBERS OF THE ASSOCIATION AND SHALL THEREUPON BE SUBJECT TO ITS BY-LAWS AND RULES AND REGULATIONS. OWNERSHIP OF A LIVING UNIT, AND MEMBERSHIP IN THE ASSOCIATION SHALL GIVE THE BENEFITS AND PRIVILEGES AS WELL AS THE DUTIES AND OBLIGATIONS AS DEFINED IN OTHER PROVISIONS OF THIS DECLARATION. NO PROPERTY OWNER SHALL HAVE THE RIGHT TO TERMINATE HIS MEMBERSHIP IN THE ASSOCIATION EXCEPT BY SALE OR TRANSFER OF THE LIVING UNIT. MEMBERSHIP IN THE ASSOCIATION IS NON-TRANSFERABLE AND ANY ATTEMPT TO TRANSFER SHALL BE NULL AND VOID.

SECTION 2.

DURATION

THE COVENANTS AND RESTRICTIONS OF THIS DECLARATION SHALL RUN WITH AND BIND THE LAND AND SHALL INURE TO THE BENEFIT OF AND BE ENFORCEABLE BY THE ASSOCIATION OR THE OWNER OF ANY LAND SUBJECT TO THIS DECLARATION, THEIR RESPECTIVE LEGAL REPRESENTATIVES, HEIRS, SUCCESSORS AND ASSIGNS, UNLESS A MAJORITY OF THE THEN OWNERS OF THE LIVING UNITS EXPRESS AGREEMENT TO CHANGE SAID COVENANTS AND RESTRICTIONS BY VOTING BY BALLOT AT A POLLING PLACE. THE AGREEMENT TO CHANGE SHALL BE RECORDED AT LEAST THIRTY DAYS IN ADVANCE OF THE EFFECTIVE DATE.

SECTION 3.

NOTICES

ANY NOTICE REQUIRED TO BE SENT TO ANY MEMBER OR RESIDENT UNDER THE PROVISIONS OF THIS DECLARATION SHALL BE DEEMED TO HAVE BEEN PROPERLY SENT WHEN MAILED, POSTPAID, TO THE LAST KNOWN ADDRESS OF THE PERSON WHO APPEARS AS MEMBER OR RESIDENT ON THE RECORDS OF THE ASSOCIATION AT THE TIME OF SUCH MAILING.

SECTION 4.

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 OR RECOVER DAMAGES, AND AGAINST THE LAND TO ENFORCE ANY LIEN CREATED BY THESE COVENANTS; AND FAILURE BY THE 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.

ARTICLE V  
GENERAL PROVISIONS


SECTION 5.        SEVERABILITY  
INVALIDATION OF ANY OF THESE COVENANTS OR RESTRICTIONS SHALL IN NO WISE AFFECT ANY OTHER PROVISIONS WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 6.        AFFIRMATION & RATIFICATION  
THE DECLARATION OF COVENANTS AND RESTRICTIONS DATED JULY 20, 1978 AND THE AMENDMENT DATED FEBRUARY 14, 1989 ARE HEREBY AFFIRMED AND RATIFIED. TO THE EXTENT THAT THIS SECOND AMENDMENT CONTRADICTS THE PROVISIONS OF THE FIRST AMENDMENT AND THE ORIGINAL DECLARATION DATED JULY 20, 1978, THE PROVISIONS OF THIS AMENDMENT SHALL TAKE PRECEDENCE.

SECTION 7.        EFFECTIVE  
THESE CHANGES SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM THE DATE OF FILING HEREOF.

IN WITNESS THEREOF, SAID DECLARANT HAS CAUSED THIS INSTRUMENT TO BE EXECUTED IN ITS CORPORATE NAME BY ITS PROPER CORPORATE OFFICERS, AND ITS CORPORATE SEAL TO BE AFFIXED, THE DAY AND YEAR FIRST ABOVE WRITTEN.

GREENBRIAR II HOMEOWNERS ASSOCIATION

  
\_\_\_\_\_  
PRESIDENT, BOARD OF TRUSTEES  
EVELYN M. TULLY

  
\_\_\_\_\_  
SECRETARY, BOARD OF TRUSTEES  
EVELYN L. KLAPPHOLZ

