

**AMENDED AND RESTATED  
DECLARATIONS OF  
COVENANTS, EASEMENTS AND  
RESTRICTIONS**

**Made on this 26<sup>th</sup> day of June, 1997**

**by the**

**COVINGTON WOODS HOMEOWNERS' ASSOCIATION,  
INC.**

**P.O. Box 705  
Guilderland, New York 12084**

**(Successor to R.S.R. Associates, Sponsor in Preceding Declarations)**

**AMENDED AND RESTRICTED DECLARATIONS OF  
COVENANTS, EASEMENTS AND RESTRICTIONS**

This Amended and Restated Declaration of Covenants, Easements, and Restrictions is made this 26th day of June, 1997 by the Covington woods Homeowners Association, Inc. (CWhA), the successor to R.S.R. Associates, referred to as the "Sponsor" in preceding Declarations. "The Association," as it will hereafter be referred to, has as its mailing address P.O. box 705, Guilderland, New York 12084.

**WITNESSETH**

**WHEREAS**, the original Sponsor heretofore and on the 8<sup>th</sup> day of August, 1985, did make a declaration of covenants, easements and restrictions pertaining to real property located in the Town of Guilderland, County of Albany, State of New York, more particularly shown on maps entitled Subdivision Plan, Covington Woods, prepared by Standard Engineering and filed in the Albany County Clerk's Office in drawer 172, as Maps 5262-A, 5262-B, 5262-C, and as Map 6309 in Drawer 172, respectively, herein referred to as the "Maps," which Declaration was recorded in the Albany county Clerk's Office on August 29, 1985, in Book 2290 of Deeds at Page 400 and

**WHEREAS**, the Association desires to amend, supplement and restate such Declaration in its entirety to provide as set forth hereinafter, and

**WHEREAS**, the necessary procedures and provisions have been followed in making these amendments, and

**WHEREAS**, the Association and its members, individually, are the owners of certain real property located in the Town of Guilderland, Albany County, State of New York, more particularly shown on Maps, and

**WHEREAS**, the plan for the development of said real property received the approval of the Planning Board of the Town of Guilderland, and

**WHEREAS**, the Association desires to subject all of the lots as shown on the Maps to certain covenants, easements and restrictions hereinafter set for the, each and al of which are for the benefit of said lots and each owner and re enforceable by the Association as hereinafter provided, and

**WHEREAS**, it is necessary for each Owner to be a member of the Association.

**NOW, THEREFORE**, the Association, for itself, its successors and assigns, declares that the lots will be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements and conditions hereinafter set forth.

1. The word "OWNER" as used herein will be deemed to be the record title owner of any lot subject to this Declaration.

The word "LOT" as used herein will be deemed to mean any lot as shown on the Maps.

The word "STREET" as used herein will be deemed to mean any street, highway or other thoroughfare as shown on the Maps, whether designated as street, avenue, boulevard, road, drive or otherwise.

The word "ASSOCIATION" as used herein will mean the Covington Woods Homeowners Association, Inc. a not-for-profit corporation organized under the laws of the State

of New York to provide for the maintenance, preservation and architectural control of a portion of the real property described on the Maps.

The word “COVINGTON” as used herein will mean the real property described on the Maps.

The word ‘FAMILY’ as used herein will have the same definition as that used in the Guilderland Town Zoning Law.

The term SET BACK AREA’ as used herein will have the same definition as that used in the Guilderland Town Zoning Law for the district in which Covington Woods exists. The front yard set back is 35 feet. The side yard setback is 15 feet. The rear yard set back is 35 feet. All of these setbacks are the required minimum.

The word ‘BUILDING’ as used herein will have the same definition as that used in the Guilderland Town Zoning Law as “Any structure which is permanently affixed to the land, as one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animal or chattels.”

Swimming pools and accessory buildings (defined as buildings detached from and subordinate to a main building on the same lot and used for purposed customarily incidental to those of the main building) are governed by Article 29 of the Guilderland Town Zoning Law.

The words KENNELS/STABLES’ as used herein will have the same definition as that used in the Guilderland Town Zoning Law as Kennels – “ the keeping of more than three dogs that are more than six months old for commercial purposed and not related to agriculture.” A stable is “an accessory building in which horses are kept for private use, public hire, remuneration or sale.”

2. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot which is subject to the terms of this Declaration will be obligated to pay his or her share of all costs and expensed incurred by the Association pursuant to this Declaration in connection with the operation of the Association (the “association Expenses”) and maintenance of the common areas and will be a member of the Association. The Board of Directors of the Association annually will assess charges t the Owners to pay Association Expenses in the manner provided for in the By-Laws of the Association. Membership will be appurtenant to and may not be separated from ownership of any Lot so long as said Lot is subject to the terms and provisions of this Declaration. Notwithstanding the aforesaid, this paragraph will not apply to a commercial builder or developer to whom the Sponsor has sold a vacant Lot with the intention that such builder or developer (a “Builder”) construct one or more houses on such Lot for resale to a member of the general public and the Sponsor will remain responsible for Association expenses for Lots so conveyed until such Lot is reconveyed to another entity.

2 A . The Association has fee title to certain lands (referred to as “The Common Areas) within the subdivision. These lands were conveyed to the Association by the Sponsor as described in the original Declaration of Covenants, Easements and Restrictions filed by the Sponsor.

The Common Areas Include”

a) 110+/- acres of green space surrounding the subdivision as described on the subdivision map.

b) (4) Circular islands within each of the subdivision Cul de Sacs.

c) (2) Entrance signs and surrounding island plantings located at the entrances of Garnett Land and Covington Place.

d) The Green space located in an East-West direction between Johnston Road and Walnut Lane, crossing over Walnut Lane to the surrounding Green Space described in “a” above.

The Association has the responsibility for the maintenance of the signs, plantings and shrubbery within the Common Areas.

Each owner will grant to the Association and its representatives a right of access for the purpose of maintaining the Common Area.

3. No dwelling, building, fence, inground pool, garage or other structure may be erected, altered, constructed, reconstructed or moved on the Lots until the design and location thereof and accompanying landscaping is approved in writing by the Association pursuant to Paragraph 4 below. If any construction on any Lot is not completed within twelve (12) months of the granting of the approval required by this paragraph, such approval shall be rescinded.

4. Any owner, as the case may be, desiring to make an improvement listed in Paragraph 3 above shall submit a set of building plans to the Association at least thirty (30) days prior to the date such Owner or potential Owner needs a decision. In the event that the Association failed to act on any written, reasonably detailed request for such approval within thirty (30) days after such request is received, such failure to respond will constitute consent to such request.

5. a) The Lots will be used for private residence purposed exclusively, and only one residence shall be erected or maintained for occupation by not more than one family.

b) No noxious or offensive activity will be carried on upon any Lot or Common Area, nor will anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

c) No building or part thereof, or porch, except entrance steps or platforms, bay windows, or eaves or roof overhang, shall be erected or permitted within the setback areas provided. Any structure erected on a Lot will have a minimum front yard set back of 35 feet, as required by the laws, ordinances and regulation of the Town of Guilderland. Variations from this requirement must be approved by the Association and by the Town of Guilderland.

d) A private garage not more than one story in height for the sole use of the residents of the Lot upon which the garage is situated is permissible, provided one does not already exist on the property and provided that the Owner obtains prior architectural approval as provided herein.

e) No building, accessory building, swimming pool, deck or patio or part thereof shall be erected or permitted within fifteen (15) feet of the rear of the lot line. Above ground pools are not permitted.

f) At the rear of each Lot there is hereby reserved an easement of not less than fifteen(15) feet in width for utilities and municipal services, together with all necessary access, ingress and egress for the installation, service, repair and maintenance of such utilities.

g) A ten (10) foot easement is granted and reserved on each side of the exterior Lots of all Townhouse clusters and along the rear of all such Lots for the movement of lawn mower equipment, maintenance and fire protection.

h) Pets must be on a leash in accordance with the laws of the Town of Guilderland.

i) No kennels or stables shall be maintained on the Lots or Common Areas.

j) Pet owners must remove excrement from Lots or Common Areas. The Association may levy an assessment for maintenance of common areas against pet owners who do not remove pet excrement.

k) No air conditioners shall be placed in the window or wall of any structure, where such is visible from the street upon which the house fronts. Placement of antennas, TV communications satellite dishes or solar devices will require prior architectural review approval.

l) All exterior surfaces requiring periodic painting, cleaning, washing or other maintenance, will be given such attention regularly and thoroughly and yards will be maintained so as to ensure a neat and clean appearance at all times.

6. No tent, shack, trailer ( similar structure), boat or motorized vehicle will be used as a dwelling on a Lot or Street either temporarily or permanently. (This does not preclude children from using a tent for recreational purposes for a period of not more than seven days.)

7. No signs, billboards or advertising media will be erected or maintained on the Lots, with the exception of one temporary sign indicating a Lot is for sale or a sign placed under special circumstances approved by the Association not to exceed two days. Signs must be maintained in good repair. No signs or advertising media may be placed in windows.

8. Trucks, trailers, boats, motorcycles and commercial and recreational vehicles will be kept garaged overnight when on or about the Lot. Vehicles will not be parked on the lawn at any time.

9. Only “umbrella” type clotheslines may be erected in the Subdivision. One “umbrella” type clothesline may be maintained on the rear of each Lot in such a manner as to not be visible from the street.

10. All trash and garbage receptacles must be stored out sight from any Street except on the evening before and/or certain day(s) of the week when trash and/or garbage is removed either by the Town of Guilderland or private removal firms.

11. All front lights and outside mail or newspaper box stands will be in conformity with the general style designated by the Association.

12. The color, design or components of a principal exterior building material, a principal exterior building element, garage doors, a fence, or any structure on a Lot may be changed only when the Owner has received the prior written approval of the Association. Approval will not be withheld as long as architectural review determines that the proposed color is not radically different from approved colors. Contrary decisions of the Architectural Review Committee in this regard may be appealed to the Board of Directors of the Association whose decision will be final and binding in all respects.

13. If a roof overhang encroaches the adjoining lot or common areas on any townhouse lots, easements are reserved over the adjoining lot or common area for such purposes.

14. No fence will be maintained about the premises with the following exceptions”  
(1) a properly maintained wooded fence not to exceed five feet in height on the sides behind the

structure, and at the rear of the premises; and (2) a wooden fence not to exceed five feet in height surrounding an inground swimming pool. All the foregoing will be subject to prior written approval of the Architectural Review Committee of the Association and will be maintained in a neat and orderly condition at all times. Contrary decisions of the Architectural Review Committee may be appealed to the Board of Directors of the Association, whose decision will be final and binding in all respects.

15. Party Walls (Townhouses)

(A) General Rules of Law to Apply. Common walls between townhouse lots will constitute party walls, and, to the extent not inconsistent with the provisions of this paragraph, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions will apply thereto. The term “owner” as used in this paragraph is defined as the title holder of each dwelling unit, or premises upon which a dwelling unit is situated.

(B) Sharing the Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall will be in accordance with the general rules of law regarding party and property damage liability.

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

(D) Weather proofing. Notwithstanding any other provision of this paragraph, an owner, by his negligent or willful act, caused the party wall to be exposed to elements, will bear the whole cost of refurbishing the necessary protection against such elements.

16. The Association will have the duty and obligation to:

(A) Enforce provisions of the covenants, restrictions and easements in this Declaration for the benefit of the Association and the Owners; and

(B) Fix, levy, collect and enforce payment of by any lawful means, all charges or assessment pursuant to the terms of the Declaration and the Bylaws necessary for the Association to enforce the provisions of the Declaration and perform its obligations.

17. Violation or breach of any of the covenants, easements, restrictions or conditions herein contained will give the Association or its successors the right of entry upon the property which as to which such violations or breach exist, and to summarily abate and remove, at the expense of the violator thereof any erection, thing, or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof, and the Association or Sponsor will not be liable, or thereby be deemed guilty for any trespass, for such entry, abatement and removal. If the Association incurs attorneys' fees and court costs in connection with the enforcement of this provision, said fees and costs must be paid by the owner, and the Association will have the right to file a lien against the owner in said amount due.

18. All the easements, restrictions, conditions, covenants charges and agreements contained herein will run with the land and continue as such until 50 years from the date of recording of this Declaration, and they will, as they then are in force, be extended from that time for successive periods of twenty (20) years, unless the Board of Directors on behalf of the

Association will by a writing in recordable form, alter, modify or eliminate any or all of these provisions. Upon the dissolution of the Association other than incident to a merger or consolidation, the assets of the Association will be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. Such assets will be granted, conveyed and assigned to any for-profit or not-for-profit corporation, association, trust or other organization to be devoted to such similar purposes.

The conditions, covenants, easements, restrictions, rights and obligations may be amended, modified or rescinded at any time and from time to time by the Association, which will administer, regulate and enforce the various conditions, covenants, easements, restrictions rights and obligations as provided herein; upon the recording of this Amended and Restated Declaration, the Declaration recorded in the Albany county clerk's Office in Book 2290 of Deeds at Page 400 will no longer be effective.

19. The Board of Directors will have the right to grant temporary exemptions or waivers from the covenants if the decision to do so is unanimous among all members of the Board.

20. Invalidation of any one of these covenants, easements, conditions and restrictions by judgment or court order will in no way affect any of the other remaining provisions which will remain in full force and effect.

21. The covenants, easements and restrictions heretofore set forth are not intended to and do not effect any real property other than the Lots and Common Areas and do obligate the Association to impose similar restrictions on other property owned by it.

22. All rights and privileges contained herein whether previously assigned or otherwise, will be vested in the Association which thereafter will be the entity with the power to enforce such rights and privileges with respect to such Lot. The provisions herein contained will bind and be to the benefit of and be enforceable at law and in equity by the entity herein described as being entitled to enforce such rights and privileges, as the case may be, and failure to enforce any of such restrictions or assessments, conditions and covenants herein contained will in no event be deemed a waive of the right to do so thereafter.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed as of the date first above written.

COVINGTON WOODS HOMEOWNERS  
ASSOCIATION, INC.

BY: S/ Ellen Engels  
ELLEN ENGELS, PRESIDENT

STATE OF NEW YORK )  
COUNTY OF SCHENECTADY ) SS:

On the 26th day of June, 1997, before me, the subscriber, personally appeared ELLEN ENGELS, to me personally know, who, being by me duly sworn, did depose and say that she resided in Guilderland, New York, that she if the President of the Board of Directors of the COVINGTON WOODS HOMEOWNERS ASSOCIATION, INC., a not-for-profit corporation, the corporation describe in, and which executed the within instrument, and that she signed her name thereto by like order.

S/Arthur A. Pasquariello  
NOTARY PUBLIC