

Shawnee Country Open Spaces Association

Master Deed and By-Laws

Republished August 2010

DECLARATION OF COVENANTS, RESTRICTIONS
EASEMENTS, CHARGES AND LIENS

THIS DECLARATION, made this 19th day of 1976, by SHAWNEE COUNTRY, a New Jersey corporation, hereinafter referred to as “Developer”.

WITNESSETH

WHEREAS, Developer is the owner of the real property referred to in Article III and described in Exhibit “A” of this Declaration, and desires to develop thereon a residential community together with common lands and facilities for recreational purposes for the benefit of such community; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common lands and facilities; and, to this end, desires to subject the real property referred to in Article III and described in Exhibit “A” to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community to create an agency to which will be delegated and assigned the powers of maintains and administering the community facilities, administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated or intends to incorporate under the laws of the State of New Jersey, as a non-profit corporation, SHAWNEE COUNTRY OPEN SPACE ASSOCIATION, INC., for the purposes of the functions aforesaid.

NOW, THEREFORE, the Developer declares that the real properties referred to in Article III hereof and more particularly described in Exhibit “A” attached hereto and forming a part hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as “covenants and restrictions”) hereinafter set forth.

ARTICLE I

DEFINITIONS

Sections 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 Shawnee Country Open Space Association, Inc., its successors and assigns

- (b) "The Properties" shall mean and refer to all properties, both Lots and Common Areas, as are subject to this Declaration, and which are described on Exhibit "A", and on any amendments thereto.
- (c) "Common Areas" shall mean and refer to those areas of land shown on the recorded subdivision plats of The Properties and described in Declarations Exhibit "B" attached hereto and forming a part hereof. Said areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public.
- (d) "Lot" shall mean and refer to any plot of land intended and subdivided for residential use, shown upon the recorded subdivision map of The Properties, but shall not include the Common Areas as herein defined.
- (e) "Owner" shall mean and refer to the record owner, whether one or more persons are entities, of the fee simple title to any Lot but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (f) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1, hereof.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Person who is a record Owner (as defined in Article I) of any Lot which is subjected by this Declaration to assessment by the Association shall be a Member of the Association.

Section 2. Voting Rights. The Association shall have two classes of voting membership, but the votes of both classes shall be counted together, unless otherwise indicated herein.

Class A Class A Members shall be all Owners, excepting the Developer and excepting any other person or entity

which acquires title to all or a substantial portion of The Properties for the purpose of developing thereon a residential community. Class A Members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1 of this Article II. If then more than one person holds such interest or interests in any Lot all such persons shall be Members, and 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 one Lot by a Class A member.

Class B The Class B Member shall be the Developer, its successors and assigns (exclusive of Class A Members). The Class B membership shall be entitled to five votes for each individual Lot which it owns or 205 votes, whichever is greater, provided that upon the happening of either of the following events, whichever first occurs, the class B membership shall cease and be converted to

Class A membership, with the Developer, its successors and assigns then having one (1) vote for each Lot they owned: (a) when the total votes outstanding in the Class A membership equal 103 or (b) on January 1, 1982.

When a purchaser of an individual Lot takes title thereto from the Developer, he becomes a Class A Member and the Membership of the Developer with respect to such Lot shall cease

ARTICLE III

PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. The Properties. The Developer intends hereby to declare all properties, described in Exhibit "A" hereto, both Lots and Common Areas, to *be* subject to this Declaration.

Section 2. Additions to the Properties by the Association. In the event that there no longer is a Class 13 Member, annexation of additional property for use either as Common Areas or Lots shall require the assent of the Class B Member only, so long as same exists, and, if not, then the assent of two-thirds of the Class A Members. If the votes of the Class A Members are required, then such assent must be acquired at a meeting of all members, duly called for this purpose, written notice of which shall be sent to all Members not less than thirty days nor more than sixty days in advance of the *meeting setting* forth the purpose of the meeting. In such event, the presence of Members of or proxies entitled to cast sixty percent (60%) of the votes of the Class A membership shall constitute a quorum. If the required is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the proceeding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting. In the event that two-thirds of the Class A membership is not present in person or by proxy, Members not present may give their written assent to the action taken thereat.

In the event that the Class B Member does still exist, the Class B Member and the Mortgage, hereinafter referred to, shall have the right and power to amend this Declaration, for the purposes of annexation, without need for the assent of any Class A Members, anything to the contrary herein notwithstanding. In the event that one or more annexations of additional property occurs, requires the assent of the Class B Member only, then the Class B Member shall subject such additional property or properties to the terms of this Declaration by amending exhibits A and/or B hereto, as appropriate, and by recording such amendment or amendments in the Clerk's Office of Burlington County, New Jersey.

Annexation of additional property may result in the dilution of the relative voting power of the then current Class A Members.

Section 3. Mergers. Upon a merger or consolidation of the Association with another association 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, by operation of law, be added to the properties, 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 by this Declaration within The Properties together with covenants and restrictions established upon any other properties as one scheme. No merger or consolidation, however, shall affect any revocation, change, or addition to the covenants established by this Declaration within The Properties except as hereinafter provided.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 of this Article IV, every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Areas. The Developer hereby covenants for itself, its heirs and assigns, that it will convey fee title to those Common Areas owned by it to the Association free and clear of all encumbrances and liens, except those created by or pursuant to this Declaration, subject, however, to the following covenant which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the community, the Common Areas and all facilities now or hereafter built or installed thereon shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards.

In the event that the Association is dissolved or ceases to make assessments for the purpose of maintaining the Common Areas, for a minimum period of seventy-five (75) days, then the Association shall be deemed to have dedicated all of the Common Areas to the Township of Medford for public use for park and recreational purposes and related uses, provided that the Township of Medford accepts such dedication.

Section 3. Extent of Members' Easements. The rights and easements created hereby shall be subject to the following:

- (a) the rights of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage said properties, and the rights of such mortgagee in the Common Areas shall be subordinate to the rights of the Owners hereunder;
- (b) the right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure, subject to the limitations on assessment set forth in Article V hereof;
- (c) the right of the 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 exceeding thirty (30) days for any infraction of its published rules and regulations;

- (d) the right of the Association to dedicate or transfer any interest in the Common Areas to any utility for such purposes and subject to such conditions as may be agreed to by the Members, provided, that no such transfer shall be effective unless an instrument signed by Members entitled to cast two-thirds of the votes of the Class A membership or signed by the Class B Member, if any, or by the Mortgagee hereinafter referred to, has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the action is sent to every Member at least sixty (60) days in advance of any action taken;
- (e) the right of the Developer and of the Mortgagee hereinafter referred to, exclusively, so long as there is a Class B Member, and of the Association, if there is no Class B Member, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, Sewer, drainage, fuel oil and other utilities.
- (f) The right, power and authority of the Township of Medford, by its servants, agents or employees, to enter upon the Common Areas for the purpose of maintaining the flow of surface waters by the means it deems to be reasonable.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Developer, for each Lot owned by it within the Properties, hereby covenants and each subsequent Owner of any such Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements; such assessments to be fixed, established, and collected from the time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as are hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Common Areas and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance on the Common Areas and repair, replacement, and additions thereto, and for the cost of labor, equipment, materials, management, and supervision thereof.

Section 3. Basis and Maximum of Annual Assessments. Commencing with the conveyance of the first Lot to an Owner until January 1 of any year immediately following such conveyance, the annual assessment shall be at the rate of SIXTY DOLLARS (\$60.00) per lot, being FIVE DOLLARS (\$5.00)

per month per Lot. All assessments shall be payable monthly. From and after January 1, 1978 the annual assessment may be increased as hereinafter provided for the next succeeding year and at the end of each year thereafter for such succeeding year.

The Board of Trustees of the Association may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount, provided that it shall be an affirmative obligation of the Association and its Board of Trustees, to fix such assessments at an amount sufficient to maintain and operate the Common Areas and facilities.

The Developer shall be exempt from the payment of any annual assessment or charge with respect to any Lots owned by it unless the annual assessment levied upon the owners of all other Lots shall be insufficient, in the aggregate, to cover the actual costs of the Association of owning, insuring, and maintaining the Common Areas to the extent imposed upon the Association in this Declaration. In case of any insufficiency, the Developer shall be responsible for the payments of same, not to exceed the total annual assessments and charges it would otherwise be required to pay if this exemption did not exist.

Section 4. Special Assessment for the Capital Improvements. In addition to the annual assessments authorized by Section 3 of this Article V, the Association may levy in any assessment year a special assessment (which must be fixed at a uniform rate for all Lots) applicable to that year only, in an amount no higher than the maximum annual assessment then permitted to be levied hereunder, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided: (1) that in the event that there is no class B Member, that any such assessment shall have the assent of two-thirds of the votes of the Class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty days (30) no more than sixty days (60) in advance of the meeting setting forth the purpose of the meeting; and (2) that a special assessment provided hereunder shall not be levied more frequently than once in a five year (5) period. In the event that the Class B Member does exist, the Class B Member or the Mortgagee hereinafter referred to shall have the right to levy such special assessments, subject to the same five (5) year restriction in (2) above, without the need for other approval, anything to the contrary herein notwithstanding.

Section 5. Change in Maximum of Annual Assessments. The Board of Trustee of the Association may prospectively increase the maximum of the annual assessments (fixed by Section 3 hereof) up to twenty-five percent (25%) above the annual assessment of the then current year, in the event that there is no Class B Member, upon the assent of the two-thirds of the votes of each of the class A Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty days (30) nor more than sixty days (60) in advance of the meeting setting forth the purpose of the meeting. In the event that the Class B Member does exist, the Class B Member of Mortgagee hereinafter referred to shall have the right to so prospectively increase the maximum of the annual assessments, without the need for other approval, anything to the contrary herein notwithstanding.

Section 6. Quorum or any Action Authorized Under Sections 4 and 5. The quorum required for any action authorized by Sections 4 and 5 of this Article V, shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 of this Article V, the presence at the meeting of Members or of proxies, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Section 4 and 5, and the required quorum at such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that such subsequent meeting shall not be held more than sixty days (60) days following the preceding meeting.

Section 7. Date of the Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on the first day of the month following the conveyance of the first Lot from the Developer to an Owner and shall be done and payable in advance on the first day of each calendar month.

At the time of acquiring title to a Lot from the Developer each owner acquiring such title shall deposit with the Association an amount equal to one-fourth of the annual assessment at the time then in effect to provide for the initial costs of maintaining the Association. The aforementioned payment shall not in any way be considered a prepayment of the annual assessment fee.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

Section 8. Duties of the Board of Trustees. In the event of any change in the annual assessments as set forth herein, the Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall, upon demand at any time, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be prima facie evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of lien-Payment of Assessment. The Personal Obligation of the Owner: The Lien; Remedies of Association. If any assessment is not paid at the date when due (being the dates specified in Section 7 hereof), then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal-obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty days (30) after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose

the lien against the property and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee is to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgages now or hereafter placed upon The Properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve property so sold or transferred from liability for any assessments thereafter becoming due, nor from lien of any assessments becoming due and payable after such sale or transfer.

Section 11. Exempt Property. The following properties subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties dedicated to and accepted by a governmental body, agency, or authority, and devoted to public use; (b) all Common Areas as defined in Article I, Section 1, hereof. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected, or maintained upon The Properties, nor shall any exterior addition to or change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, materials, and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Trustees of the Association, or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or, in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with. This Article VI shall not apply to or affect any construction done by the Developer.

ARTICLE VII

USE OF PROPERTY

Section 1. Uses and Structures

- (a) General. No dwelling shall be used for any purposes except as a private dwelling for one family, nor shall any business of any kind be conducted therein. No boats, boat trailers, campers or house trailers, motorized vacation homes, snowmobiles or snowmobile trailers, airplanes or any other motorized or non-motorized vehicle shall be parked (i) in the Common Areas, or (ii) on any Lot unless inside a closed door garage. No business or trade of any kind or noxious or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
- (b) Lots. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars. No detached garage, carport or accessory building may be erected. No attached additions to the dwelling may be erected without the approval of the Board of Trustees of the Association or the architectural committee appointed by the Board.
- (c) Common Areas. None of the Common Areas shall be used except for open space, park and recreational purposes. No building except as hereinafter stated shall be erected, placed or permitted to remain on any part of the Common Areas except swimming pool(s), tennis court(s), baseball field(s), or football field(s), or like facility. Notwithstanding anything herein to the contrary, no development of any recreational facility shall exist within fifty (50) feet of the outbound perimeter of the Common Areas. So much of such perimeter area shall be maintained in its natural state as may be practicable and shall constitute a type of buffer zone between adjoining Lots and the Common Areas.

No Fence, mass planting or wall shall be erected or placed on any part of the Common Areas. In addition thereto, no plantings of grass nor placing of sod shall be permitted in any part of the Common Areas as it is the specific purpose hereof to maintain the Common Areas in their natural state.

This Section 1 shall not preclude or restrict the Developer from engaging in the business of the sale of Lots and/or improvements thereon on any Lot.

Section 2. Alterations and Additions. No building, structures, dwelling, garage, carport or breezeway shall be erected nor shall any alteration or addition to or repainting of the exterior thereof be made unless it shall conform in architecture, material and color to the dwelling as originally constructed by the Developer.

This Section 2 shall not apply to or affect any construction done by the Developer.

Section 3. Cost and Size of Dwelling. No dwelling shall be erected on any Lot at a cost of less than FORTY THOUSAND DOLLARS (\$40,000.00), based upon cost levels prevailing on the date this Declaration is recorded, it being the intention and purpose of this covenant to assure that all dwellings shall be a quality of workmanship and materials substantially the same as or better than that which can be produced on the date this Declaration is recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story open porches, garages and Comports, shall be not less than fifteen hundred (1500) square feet for a one-story dwelling, nor less than one thousand fifty (1050) square feet for a dwelling of more than one story.

This section shall not apply to or affect any construction done by the Developer.

Section 4. Signs. No sign of any kind shall be displayed to the public view on or in any dwelling or lot or Common Area except a one-family name sign of not more than one hundred and forty-four square inches, except those signs deemed necessary by the original Developer, his successors or assigns, during the completion of the original development, and not more than one (1) sign per Lot of not more than five (5) square feet advertising the property for sale or rent.

Section 5. Drilling and Mining. No drilling, oil operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot or Common Area nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any Lot or Common Area. No derrick or structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot of Common Area.

Section 6. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept in any dwelling or on any Lot or Common Area, except that dogs, cats, or other domesticated household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose and provided that not more than two (2) pets in the aggregate may be kept in any such dwelling or Lot.

Section 7. Garbage and Rubbish. Garbage and rubbish shall not be dumped or allowed to remain on any Lot or Common Area, but shall be stored within the dwelling units. If contained in a close receptacle, it may be placed outside the dwelling for collection in accordance with the regulations of the collecting agency and the Association.

This Section 7 shall not apply to or affect the Developer during the course of construction.

Section 8. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the intersecting street lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway. Trees shall be permitted to remain within such distance of such intersections provided the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 9. Antennas. No radio, television or other tower, pole or antenna, or similar structure, shall be erected on any part of any Lot, except that a radio or television mast or antenna may be placed upon the

roof or other part of any dwelling for the reception or transmission of radio or television, provided it does not protrude more than ten (10) feet above the highest part of the said roof.

Section 10. Easements. Perpetual easements for the installation and maintenance of sewer, water, gas and drainage facilities, for the benefit of the adjoining land owners and/or the municipality and/or municipal or private utility company ultimately operating such facilities, are reserved as shown on the subdivision Map of The Properties filed with the County Clerk of Burlington County, New Jersey; also easements in general in and over each Lot for the installation of electric, gas and telephone facilities. No building or structure shall be erected within the easement areas occupied by such facilities.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Duration and Amendment. 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, until December 31, 2005, unless otherwise expressly limited herein, after which time said covenants shall be automatically extended for successive period of ten (10) years each unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded two (2) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken. Unless specifically prohibited herein, this Declaration may be amended by the written approval of Owners holding not less than ninety percent (90%) of the votes of the membership at any time until December 31, 2005 and thereafter by the written approval of owners holding not less than two-thirds of the votes of the membership. In addition, the approval of the Township of Medford shall be necessary for any amendment to the restrictive covenants herein. Any amendment must be properly recorded to be effective. Provided, nevertheless, the Class B Member and the Mortgagee hereinafter referred to shall have the sole right to amend this Declaration so long as there is a Class B Member, anything to the contrary herein notwithstanding.

Section 2. Notices. Any notice required to be sent to any Member or Owner 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 Owner of the records of the Association at the time of such mailing.

Section 3. Enforcement. The Association, or any Owner shall have the right to enforce these covenants and restrictions by proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction, to restrain violation, to require specific performance and/or to 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. The expense of enforcement by the Association shall be chargeable to the owner of the Lot violating these covenants and restrictions shall constitute a lien on the Lot, collectable in the same manner as assessments hereunder. Any Owner, by the acceptance of a

Deed of conveyance, shall be deemed to have agreed to all of the restrictive covenants recited herein, and shall be bound to such covenants together with his heirs administrators, successors or assigns.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect the validity of any other provisions, which shall remain in full force and effect.

Section 5. Mortgagee's Interest. So long as the present holders (being First Pennsylvania Bank N.A., or their successors and assigns (the "Mortgagee")) of that certain Mortgage upon the Properties recorded in the Office of the Clerk of Burlington County, New Jersey in Mortgage Book 1187, at Page 632, (the "Mortgage") have an "interest" in any part of the Properties, the provisions of the following paragraphs shall be a part of the Declaration and the By-Laws governing the administration of Shawnee Country Open Space Association, Inc. (the "By-Laws") and shall supersede any inconsistent provisions contained in the Declaration and By-Laws. The Mortgagee's "interest" in the Properties shall include, but shall not be limited to (a) such Mortgagee's interest as Mortgagee under the Mortgage, as it may be amended, modified or extended from time to time; and (b) such Mortgagee's interest as mortgagee under any future mortgages that might be granted on part or all of the Properties, excluding, however, any long term permanent mortgages that might be granted to an individual purchaser of a Lots and (c) the ownership or possession of any portion of the Properties by reason of foreclosure sale, deed in lieu of fore closure, receivership, court order, proceeding as mortgagee in possession, purchase, lease or otherwise, notwithstanding anything contained in this Declaration or the By-Laws to the contrary.

- (a) Wherever the consent of the Developer is required under the Declaration or the By-Laws, the written consent and joinder of the Mortgagee shall also be required.
- (b) Wherever the Declaration or the By-Laws permit or authorize the vote of the Developer, such voting rights shall be deemed to be vested in the Mortgagee if the Mortgagee shall have first given written notice to the Association that the Mortgagee holds the irrevocable proxy of the Developer.
- (c) At any time that the Mortgagee may become the owner of more than 50 percent of the Lots, either through foreclosure or by taking a deed in lieu of foreclosure, the Mortgagee shall have the right, at its option, to terminate unilaterally the Declaration.
- (d) The Board of Directors shall be required to give the Mortgagee written notice of any default by the Developer under the Declaration or By-Laws and shall be prohibited from instituting any suit or exercising any other remedy against the Developer for any such default until it has given the Mortgagee prior written notice of its intention to file such suit or exercise such remedy. If the default is curable by the payment of money, the Mortgagee shall have the right to cure any such default within ten (10) days of receipt of such notice. If the default cannot be cured by the payment of money, the Board shall not commence suit against the Developer if, within thirty (30) days of its giving prior written notice to the Mortgagee, the Mortgagee has commenced to cure the default by obtaining possession, commencing foreclosure proceedings, or taking any other action reasonably intended to cure the default, and proceeds with reasonable diligence to complete curing such default.

- (e) The Mortgagee shall be given written notice of (i) any meeting of the Board, or the Members, together with the agenda of such meeting; (ii) any damage to the Common Areas and improvements thereon in excess of \$10,000.00 and (iii) any notice from any insurance company of an intent to cancel, invalidate or suspend any policy covering the Common Areas.
- (f) No amendment shall be made to the Declaration or By-Laws without the Mortgagee's joinder and written consent to such amendment.
- (g) The Mortgagee shall be given written notice of any amendment to the Declaration or By-Laws.
- (h) If the Mortgagee should acquire title to any Lot or Lots through foreclosure proceedings or by deed in lieu of foreclosure, the Mortgagee shall not be liable for any unpaid assessments against such Lot or Lots which accrued prior to such conveyance to the Mortgagee.
- (i) If the Mortgagee either declares the Developer to be in default under the Mortgagee, assumes possession of the property subject to the lien of the Mortgage or acquires title to the unsold Lots upon foreclosure sale, or by deed in lieu of foreclosure, or otherwise, the Mortgagee and its successors and assigns shall have and enjoy all of the rights, privileges and immunities granted to the Developer under the Declaration and By-Laws; provided that such provision will not in any way limit the provisions of paragraph h above.
- (j) The insurance policy shall provide that it will not be canceled, invalidated or suspended without at least ten (10) days notice to the Board, all Owners and the Mortgagee.
- (k) In the event that the tendered proceeds of casualty or fire insurance maintained by the Board upon any part of the Common Areas are less than the cost of the repairs to the Common areas, the Board must obtain the written approval of the Mortgagee to the final adjustment of the loss.
- (l) The form of such insurance policies, the amount of the coverage, and the selection of the carrier must be approved by the Mortgagee in writing.
- (m) The Mortgagee shall be given written notice of any action, suit, or claim of lien against the Association, the Board, the owners, or the Developer and shall have the right, but not the obligation, to take part in the defense of any such action, suit or claim of lien.
- (n) The Board will forward a copy of the annual report and the financial statements of the Association to the Mortgagee at the time that the Board distributes such documents to Owners.
- (o) The Mortgagee shall have the right to inspect the books and records of the Board and the manager.

- (p) Notwithstanding anything in the Declaration or By-Laws to the contrary, the Mortgagee is not responsible for any actions or omissions of the Developer in connection with the construction of this project or with the Declaration or By-Laws.
- (q) No property may be added to the Common Areas, nor may any easements to utilities or other persons be entities by granted over, under, through or across the Common Areas, without the prior written consent of the Mortgagee.
- (r) No consent of the Mortgagee to the Declaration or By-Laws shall impair or diminish the priority of the lien of the Mortgage, and the security interests collateral thereto, on the Lots, and the lien of the mortgage and the security interests collateral thereto shall be prior to any lien or claim lien of the Association against a Lot.

WITNESS WHEREOF, the undersigned, being the Developer, has caused its seal to be hereunto affixed and these presents to be signed by its officer thereunto duly authorized the day and year first above written.

SHAWNEE COUNTRY,

By:

Attest:

Secretary