

ARTICLE I
DEFINITIONS

Section 1.01. The following words, phrases or terms when used in this Declaration or any Supplemental Declaration shall have the following meaning:

- A. **Association** shall mean and refer to the not-for profit corporation formed for the purposes of owning and maintaining Association Facilities; preserving the values and amenities of a local community; insuring the residents' and commercial occupants' enjoyment of the specific rights, privileges and easements in the and collecting and disbursing any assessments and charges created for the maintenance of said Association Facilities.
- B. **Association Facilities** shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by or in the possession of a local Association.
- C. **Commercial Occupant** shall mean and refer to each tenant who (i) occupies professional office or commercial space on the Property under a written lease from an Owner in which such tenant is named as lessee, and (ii) delivers an executed copy of such lease, or a memorandum thereof, to the Community Corporation and to the Association.
- D. **Commercial Unit** shall mean and refer to each 3000 square feet or less of any commercial, industrial, or professional building.
- E. **Community Corporation** shall mean and refer to the Ransom Oaks Community Corporation.
- F. **Community Facilities** shall mean and refer to all land, improvements and other properties heretofore or hereafter owned by or in the possession of the Ransom Oaks Community Corporation or any local Association, i.e. Ransom Oaks Facilities and Association Facilities.
- G. **Declaration** shall mean and refer to this document of Protective Covenants, Conditions and Restrictions as in its original form, and as it may from time to time be supplemented, extended or amended in the manner provided for in Article XIII herein.
- H. **Developer** shall mean and refer to Community Development & Land Corp., its successors and assigns.
- I. **Development Period** shall mean and refer to the period between the date on which these Protective Covenants, Conditions and Restrictions are recorded in the Office of the Erie County Clerk and January 1, 2000, unless otherwise stated in a supplemental declaration.
- J. **Exempt Property** shall mean and refer to the following portions or parts of the Property:
1. All land and improvements owned by the United States, the State of New York, the County of Erie, the Town of Amherst or any instrumentality or agency of any such entity, for so long as any such entity, instrumentality or agency shall be the owner thereof;
 2. All land and permanent improvements owned by the Ransom Oaks Community Corporation, or a **successor corporation** (as provided for in Article XIII, Section 13.011 hereof), its successors and assigns, for so long as Ransom Oaks Community Corporation, or successor corporation, shall be the owner thereof;

3. All land, and permanent improvements owned by any local Association or a **successor corporation** (as provided for in Article XIII, Section 13.04 hereof) for so long as such local Association or successor corporation shall be the owner thereof;
4. All land and permanent improvements fully exempt from the State, County, Town and School Real Property Taxes by virtue of applicable law.

K. **Local Community** shall mean and refer to that area designated as such in any supplemental declaration or extension of this Declaration, whether or not such area has its own agency for the ownership, maintenance and administration of Association Facilities.

L. **Lot** shall mean and refer to any portion of the Property identified as a separate parcel on the tax records of the Town of Amherst or shown upon any recorded subdivision map, with the exception of Community Facilities or Association Facilities as heretofore defined.

M. **Multi-family Structure** shall mean and refer to any building containing two or more living units under one roof, except when each such living unit is situated upon its own individual Lot.

N. **Multi-family Unit** shall mean and refer to any living unit within a building or group of buildings containing two or more living units, except when such living unit is situated upon its own individual lot. Condominium and cooperative housing units shall not be deemed Multi-family Units.

O. **Note Holder** shall mean and refer to the holder of any note and all trustees or other representatives of one or more such holders.

P. **Notes** shall mean and refer to all notes, bonds, debentures or other evidences of indebtedness issued and sold by any Association or Ransom Oaks Community Corporation.

Q. **Owner** shall mean and refer to the holder of record title, whether one or more persons or entities, of the fee interest in any Lot, Private Dwelling Unit, Multi-family Unit or Commercial Unit, which is subject to this Declaration and any supplement or amendment thereto, or the record holder of any leasehold estate whether or not such holder actually resides on any part of the Property.

R. **Private Dwelling Unit** shall mean and refer to any living unit except a Multi-family Unit. Condominium and cooperative housing units shall be deemed Private Dwelling Units.

S. **Ransom Oaks** shall mean and refer to all properties covered by this Declaration and any additions to said properties as may be made subject to this Declaration from time to time.

T. **Ransom Oaks Facilities** shall mean and refer to all lands, improvements and other properties heretofore or hereafter owned by or in the possession of the Ransom Oaks Community Corporation, as are subject to this Declaration and any supplemental declaration under the provisions of Article II hereof.

U. **Residents** shall mean and refer to all persons living on the property subject to this Declaration at the time of its recording, or which is added by supplement, extension or amendment to the Declaration.

V. **Structure** shall mean and refer to any thing or device, other than trees, shrubbery less than two (2) feet high if in the form of a hedge and landscaping, the placement of which upon any Lot may affect the appearance of such Lot including, by way of illustration and not of limitation, any building, garage,

porch, shed, greenhouse, bathhouse, coop or cage, covered or uncovered patio, swimming pool, clothes line, radio or television antenna, fence, curbing, paving, wall, hedge more than two (2) feet in height, signboard, or any temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot. **Structure** shall also mean (i) any excavation, fill, ditch, diversion, dam or other thing or device which affects or alters the natural flow of surface waters to, from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel to, from, upon or across any Lot and (ii) any change in the grade of any Lot of more than six inches from that existing at the time of purchase of each Owner.

W. **Tenant** shall mean and refer to an individual who (i) actually resides on the Property under a written lease from an Owner in which such individual is named as lessee, and (ii) delivers an executed copy of such lease, or a memorandum thereof, to the Community Corporation and the Association

X. **Unit** shall mean and refer to any Commercial Unit, Multi-family Unit, or Private Dwelling Unit as defined above.

Y. **Unit Owner** shall mean and refer to the owner of any Unit as defined above.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION
ADDITIONS THERETO

Section 2.01. Existing Property:

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the Town of Amherst, County of Erie and State of New York, and is more particularly described in Schedule A attached hereto and incorporated by reference herein, all of which property shall be hereinafter referred to as **Existing Property**.

Section 2.02. Additions to Existing Property:

The Developer, its successors and assigns, shall have the right to bring additional properties within the scheme of this Declaration.

The additions authorized under this Article shall be made by filing or recording a Declaration with respect to the additional properties which shall extend the scheme of the covenants and restrictions of this Declaration to such properties and thereby subject such additions to assessment for their fair share of the expenses of the Ransom Oaks Community Corporation. Said extending Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration.

ARTICLE III

COMMUNITIES WITHIN RANSOM OAKS

Section 3.01. Creation of Local Communities:

The Developer, its successors and assigns, shall have the right to create local communities within Ransom Oaks and to bring them within the scheme of this Declaration as it relates to membership in the Ransom Oaks Community Corporation and the rights of each Owner, Member, Resident, Tenant and Commercial Occupant in and to the Ransom Oaks Facilities. Each of the local communities may be made up solely of Private Dwelling Units or solely of Multi-family Units or solely of Commercial Units or any combination of the three or of two of the three, as the Developer may determine to be appropriate. Further, each such local community may be created with or without its own association or similar organization to own, maintain and administer facilities. Nothing herein contained shall bind the Developer, its successors or assigns to make or create such communities or associations.

The creation of communities under this Article shall be made by filing or recording Supplemental Declarations of Protective Covenants, Conditions and Restrictions with respect to the properties included in said local communities and thereby subjecting such properties to assessments for the expenses of Community Facilities available for use by the residents and commercial occupants of such local community. Said Supplemental Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the local community and which are not inconsistent with the scheme of this Declaration.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.01. Membership:

The Ransom Oaks Community Corporation shall have as members only Unit Owners, Tenants and Commercial Occupants. All Unit Owners, Tenants and Commercial Occupants shall, upon becoming such, be deemed automatically to have become Members and there shall be no other qualification for membership. Membership shall be appurtenant to, and shall not be separated from, the ownership of any of the interests described in the definitions of the words **Unit Owner, Tenant and Commercial Occupant** as found in Article I of this Declaration.

Section 4.02. Voting Rights in the Community Corporation:

The Ransom Oaks Community Corporation shall have two classes of voting membership:

Class A. Class A Members shall be all those Unit Owners defined elsewhere in this Declaration with the exception of the Developer. The Developer may, however, become a Class A Member upon termination of its Class B membership as hereinafter provided. Class A Members shall be entitled to:

- (a) Three (3) votes for each Private Dwelling Unit; and
- (b) Two (2) votes for each Multi-family Unit; and
- (c) One (1) vote for each Commercial Unit that they own.

Class B. The Developer shall be the sole Class B Member. The Class B Member shall be entitled to 13,000 votes in the Ransom Oaks Community Corporation. The Class B membership shall cease and terminate upon the happening of either of the following events, whichever first occurs:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) On January 1, 1990.

From and after the happening of either of these events whichever first occurs, the Class B Member shall be deemed to be a Class A Member entitled to three (3) votes for each Private Dwelling Unit, two (2) votes for each Multi-family Unit and one (1) vote for each Commercial Unit which it owns.

The Ransom Oaks Community Corporation shall have one class of non-voting membership:

Class C. Class C Members shall be all those non-owner Commercial Occupants and Tenants as defined in Article I of this Declaration.

Section 4.03. Interests in More than One Unit:

If any Member owns or holds more than one Private Dwelling, Multi-family or Commercial Unit, such Member shall be entitled to the appropriate number of votes for each Unit so owned or held.

Section 4.04. Unit Owned or Held by More Than One Person:

When any Private Dwelling, Multi-family or Commercial Unit is owned or held by more than one Member as tenants by the entirety, or in joint tenancy or tenancy in common or any other manner of joint or common ownership or interest, such Members shall collectively be entitled to only that number of votes prescribed herein for such Unit and if such members cannot jointly agree as to how that vote should be cast, no vote shall be allowed with respect to such Unit.

Section 4.05. Holder of Security Interests Not a Member:

Any person or entity that holds an interest in a private Dwelling, Multi-family or Commercial Unit merely as security for the performance of an obligation shall not be a member.

Section 4.06. Restrictions on Voting:

Any Class A Member who is in violation of these Protective Covenants, Conditions and Restrictions, as determined by the Board of Directors of the Community Corporation, shall not be entitled to vote during any period in which such violation continues. Any Class A Member who fails to pay any dues or any special assessment established by the Community Corporation shall not be entitled to vote during any period in which any such dues or assessments are due and unpaid.

Section 4.07. Assigning Right to Vote:

The Developer of Ransom Oaks may assign its membership in the Community Corporation to any person, corporation, association, trust, or other entity, and such assignee, and any future assignee of such membership, may make successive like assignments.

Any Member of the Community Corporation shall be entitled to assign his right to vote, by power of attorney, by proxy or otherwise, provided that such assignment is made pursuant to the By-Laws of the Community Corporation. The By-Laws may require that the assignment specify the meeting or issue to which the assignment applies.

In the case of a corporate Member, an appropriate officer of such corporation may cast votes.

In the case of joint or common ownership any one such member shall be entitled to cast the vote with respect to the particular Unit.

Section 4.08. Voting Regulations:

The Board of Directors of the Community Corporation may make such regulations, consistent with the terms of these Protective Covenants, Conditions and Restrictions and the Certificate of Incorporation and By-Laws of the Community Corporation as it deems advisable for any meeting of its Members, in regard to proof of membership in the Community Corporation, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Members for voting purposes, the establishment of representative voting procedures and such other matters concerning the conduct of meetings and voting as it shall deem fit.

ARTICLE V

PROPERTY RIGHTS

Section 5.01. Dedication of Community Facilities:

The Declarant intends to convey to the Community Corporation, subsequent to the recordation of this Declaration, certain tracts of land within the Property for the use and enjoyment of the Owners, Tenants and Commercial Occupants. Said tracts of land conveyed to the Community Corporation shall hereinafter be referred to as **Ransom Oaks Facilities**. The conveyance of such lands to the Community Corporation shall state that such land has been designated as a Ransom Oaks Facility for the purposes of this Section 5.01. No portion of the Property shall be subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been so designated and the above described conveyance recorded in accordance with the procedure provided herein.

Section 5.02. Right and Easement of Enjoyment:

Every Member, as defined in Article IV herein, shall have a right and easement of enjoyment in and to all Ransom Oaks Facilities, except as restricted pursuant to Section 5.03 herein. Such easements shall be appurtenant to and shall pass with the interests of an Owner as defined in Article I, Section 1.01 hereof. All such rights, easements and privileges shall be subject, however, to the right of the Community Corporation to adopt and promulgate reasonable rules and regulations pertaining to the use of the Ransom Oaks Facilities which shall enhance the preservation of such facilities, the safety and convenience of the users thereof, or which, in the discretion of the Community Corporation, shall serve to promote the best interests of the Members. The Community Corporation shall have the right, with respect to the Ransom Oaks Facilities owned, and in accordance with the Certificate of Incorporation and By-Laws:

- (a) To limit the number of Members or guests of Members to use of the Ransom Oaks Facilities;
- (b) To charge reasonable admission and other fees for the use of the Ransom Oaks Facilities. In establishing such admission and other fees, the Community Corporation may, in its absolute discretion, establish reasonable classifications of Owners, Residents, Tenants, Occupants and guests. Such admission and other fees must be uniform within each such class;
- (c) To borrow money for the purpose of improving Ransom Oaks Facilities and to mortgage said facilities to carry out such improvement;
- (d) To suspend any Member's right to use the Ransom Oaks Facilities for any period during which any dues or any assessments remain unpaid on the property which such Member owns, resides upon or occupies, or during which such Member, or the owner of the property upon which such Member resides or occupies, is in violation of the Protective Covenants, Conditions or Restrictions herein or of any of the rules or regulations adopted and promulgated by the Community Corporation;
- (e) To grant easements or rights-of-way to any public utility corporation or public agency;
- (f) To dedicate or transfer all or any part of the land that it owns to any trust, public agency or authority or to a local Association for such purposes and subject to such conditions as may be agreed to by the Community Corporation and the transferee. Such a conveyance shall require the consent of two-thirds (2/3) of the total votes of all classes of Members of those voting upon written ballot which shall be sent to every Member not less than thirty (30) days nor more than sixty

(60) days in advance of the canvass thereof. In addition, the approval of the Developer will be required for any transfer by the Community Corporation prior to January 1, 2000.

Section 5.03. Restricted Use of Certain of the Ransom Oaks Facilities:

Notwithstanding any other provision herein which might be construed to the contrary, should the Developer determine that any of the Ransom Oaks Facilities, such as certain recreational and other facilities would, because of their size and character, best serve the persons who are members of certain local communities within Ransom Oaks or who reside within a certain area of the Property, the Developer shall have, and hereby reserves the right to restrict and limit the use of such Ransom Oaks Facilities to such persons. Though title to such properties be in the name of the Community Corporation, all costs of maintaining, operating and improving said restricted facilities shall be borne by the persons who are members of the local communities or who reside within the certain area of the Property and who are designated as permissive users thereof. The Community Corporation shall assess these costs against the Private Dwelling, Multi-family or Commercial Units of such persons or of the local communities so designated and said costs shall be added to, and become part of, the annual maintenance assessments or charges to which such Private Dwelling, Multi-family, or Commercial Units are subject under Article VI hereof and, as part of such annual assessments or charges, shall be a lien and obligation of the Owners thereof, becoming due and payable in all respects as provided in Article VI.

Section 5.04. Immediate Family and Guests

A Member's right of enjoyment in the Ransom Oaks Facilities shall automatically extend to all members of his immediate family, provided they reside with such Member. No guests shall be entitled to exercise such right of enjoyment, or to any use of Ransom Oaks Facilities, except as provided for in the rules or regulations adopted and promulgated by the Community Corporation.

ARTICLE VI

THE MAINTENANCE ASSESSMENT

Section 6.01. Imposition, Personal Obligation, Lien:

Each Unit Owner, by becoming an owner by the acceptance of a deed or otherwise, whether or not the deed or other conveyance so provides, shall be deemed to covenant and agree to pay to the Community Corporation:

- (1) Annual assessments or charges; and
- (2) Special assessments for capital improvements.

Such assessments shall be fixed, established and collected from time to time as hereinafter provided. These annual and special assessments, together with such interest thereon and costs of collection as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as 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 6.02. Notice and Date of Commencement of Assessments:

The maintenance assessments provided for herein shall commence on the first day of the month designated by the Board of Directors of the Community Corporation to be the month of commencement. The first annual assessments shall be adjusted according to the number of months remaining in the fiscal year as established by the Board of Directors, and such assessments shall thereafter be on a full year basis. The Board of Directors of the Community Corporation shall fix the amounts of the annual assessments against each Unit at least thirty (30) days in advance of each annual assessment period and the Board shall also establish due dates for such assessments. Separate due dates may be established by the Board for partial annual assessments as long as said assessments are established at least thirty (30) days before due. Written notice of the annual assessments shall be sent to every Owner subject thereto.

Section 6.03. Assessments on Specific Units:

The Unit Owner of each Commercial Unit, Multi-family Unit and Private Dwelling Unit shall be liable for the payment of established maintenance assessments and special charges on the first day of the month following the date on which the Unit was occupied for the very first time, which said assessment shall be paid on a pro-rata basis.

Section 6.04. Basis and Maximum of Annual Assessments of the Community Corporation:

The maximum annual maintenance assessments for the Ransom Oaks Community Corporation shall be based upon the following percentages of the total State, County, Town and School Real Property Taxes, exclusive only of special assessments for local improvements, due and payable in the twelve month period preceding the fiscal year for which the maintenance assessment is being charged, and based upon said Taxes being paid on the full assessed value, with no credit being given for a veteran's or any other type of exemption except that no annual maintenance assessment shall be charged to Exempt Property as defined in Article I, Section 1.01 hereof:

Lots used for private dwelling units 7.5%

Lots used for multi-family units 5.0%

Lots used for commercial units 2.5%

If the assessment used by the Town of Amherst in determining the last Tax which was due and payable prior to the beginning of the fiscal year of the Community Corporation was not for a completely constructed building, then the above percentage shall be taken on the total State, County, Town and School Real Property Taxes, exclusive only of special assessments for local improvements, which would be due and payable as provided for above on a fully assessed Unit. The Community Corporation shall attempt to obtain the full tax assessment of such Unit from the Town or Amherst prior to establishing the maintenance assessment for such Unit. If such tax assessment cannot be obtained the Board of Directors shall establish and shall arbitrarily set a figure to be used and the total maintenance assessments paid shall be properly adjusted when the official tax assessment for the completed Unit is determined.

The Board of Directors of the Community Corporation subject to the preservation of the Private Dwelling-Multi-family-Commercial Unit ratio set forth herein, may, after consideration of current maintenance costs and future needs of the Community Corporation, fix the actual assessment for any year at a lesser amount.

Section 6.05. Change in Basis and Maximum of Annual Assessments:

Subject to the limitations of Section 6.08 hereof, the Community Corporation may change the basis and maximum of the assessments provided for in Section 6.04 above in the following manner:

A change in basis or an increase of more than fifty (50) percent in the established maximum assessments if such assessments are based on a dollar amount, or an increase of more than fifty (50) percent in the percentage if such assessments are based on percentage, shall require the consent of two-thirds (2/3) of the total votes of each class of Members voting upon written ballot which shall be sent to all Members at least thirty (30) days in advance of the canvass thereof; and increases of fifty percent or less shall require the consent of two-thirds (2/3) of the total votes of each class of Members voting in person or by proxy or through a representative (as provided in Article IV, Section 4.08 hereof or the By-Laws) at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

If the purpose or method of real property taxation is altered by governmental legislation or otherwise so as to make the basis and/or maximum as set forth in Section 6.04 insufficient to enable the Community Corporation to fund its needs, and, if in the opinion of the Board of Directors of the Community Corporation a change in the basis and/or maximum of the annual assessment cannot be accomplished as provided above, the basis for the annual maximum assessment shall be determined at the discretion of the Board of Directors by either of the following methods:

(1) By changing the percentages set forth in Section 6.04 above so that the new amount of maximum annual assessment on each Unit will equal the amount of the highest maximum assessment which could have been charged in the last preceding five years under the percentages set forth in Section 6.04.

(2) By taking the percentage of the full assessed value of each Unit that would equal in amount the percentages of total taxes as set forth in Section 6.04 for Private Dwelling, Multi-family and Commercial Units. No credit shall be given for a veteran's or any other type of exemption, except that no annual maintenance

assessment shall be charged to Exempt Property as defined in Article I, Section 1.01 hereof.

Section 6.06. Right to Lower Assessment for Persons Over the Age of Sixty-Five:

Notwithstanding any other provision herein, including Sections 6.04 and 6.05, the Board of Directors, may assess Private Dwelling or Multi-family Units occupied by persons over the age of sixty-five years at a rate lower than the rate of assessment levied on other Private Dwelling or Multi-family Units. Such reduction in assessment shall be subject to such qualifications and regulations, which the Board of Directors may establish from time to time.

Section 6.07. Special Assessments for Capital Improvements:

In addition to the annual assessments authorized by Section 6.04 hereof, the Community Corporation 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 any construction or reconstruction of, or unexpected repair or replacement of a described capital improvement to the Ransom Oaks Facilities, including the necessary fixtures and personal property related thereto, subject, however, to the preservation of the Private Dwelling - Multi-family - Commercial Unit ratio as set forth in Section 6.04 hereof and in accordance with the following:

Any special assessment levied in excess of 20% of the maximum annual maintenance assessment for any assessment year shall require the consent of two-thirds (2/3) of the total votes of each class or Members voting upon written ballot which shall be sent to all Members at least thirty (30) days in advance of the canvass thereof; any special assessment levied in the amount of 20% or less of the maximum annual assessment shall require the consent of two-thirds (2/3) of the total votes of each class of Members voting in person or by proxy or through a representative, as provided in Article IV, Section 4.08 hereof or in the By-Laws, at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 6.08. Preservation of Assessment Ratio:

Notwithstanding any other provision herein, except Section 6.06 which pertains to Units occupied by persons over the age of sixty-five years, no assessments levied by the Community Corporation and no change in the basis or maximum for such assessments shall be valid unless the ratio established by Section 6.04 hereof between assessments applicable to each Private Dwelling Unit, Multi-Family Unit and Commercial Unit shall be preserved.

Section 6.09. Effect of Non-Payment of Assessment:

If a maintenance or special assessment is not paid on the due date, as established pursuant to Section 6.02 hereof, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as herein provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such assessment 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 (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at such rate as may be fixed by the Board of Directors from time to time, which rate shall not exceed the maximum rate of interest permitted by New York State law at the time it

is so fixed, and the Community Corporation may bring legal action against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the cost of such proceedings, including reasonable attorneys' fees, and interest.

Section 6.10. Use of Funds:

The assessments levied under this Article shall be used exclusively for the benefit of the Residents and Commercial Occupants of Ransom Oaks, and in particular for the acquisition, improvement and maintenance of the properties, services and facilities devoted to the purpose of promoting the recreation, health, safety and welfare of said Residents and Commercial Occupants including, but not limited to, the payment of taxes and insurance on said properties and facilities and the repair, replacement and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof and for such other needs as may arise.

Section 6.11. Right to Borrow and Mortgage:

In order to fulfill the purposes set forth herein, the Community Corporation may borrow funds from any recognized lending institution and in conjunction therewith mortgage its properties. The amount, terms, rate or rates of all borrowing and the provisions of all agreements with Note Holders shall be determined by the Board of Directors acting in its absolute discretion.

Section 6.12. Repayment of Monies Borrowed:

In order to secure the repayment of any and all sums borrowed from time to time, the Community Corporation is hereby granted the right and power:

- (i) To assign and pledge all revenues received and to be received by it under any provision of this Declaration including, but not limited to, the proceeds of the maintenance assessments thereunder;
- (ii) To enter into agreements with Note Holders with respect to the collection and disbursement of funds including, but not limited to, agreements wherein the Community Corporation covenants:
 - (a) To assess the maintenance assessments on a given day in each year and, subject to the limitation on amount specified in Section 6.04 hereunder, to assess the same at a particular rate or rates;
 - (b) To establish sinking funds and/or other security deposits;
 - (c) To apply all funds received by it first to the payment of all principal and interest, on such loans when due, or to apply the same to such purpose after providing for costs of collection;
 - (d) To establish such collection, payment and lien enforcement procedures as may be required by the Note Holders;
 - (e) To provide for the custody and safeguarding of all funds received by it.

Section 6.13. Right to Contract Duties:

The Community Corporation shall be entitled to contract with any corporation, firm, trust company, bank or other entity for the performance of various duties imposed on it hereunder. The performance by any such entity shall be deemed to be the performance of the Community Corporation. This right shall entitle the

Community Corporation to enter into common management agreements with local Associations, condominiums and cooperatives.

Section 6.14. Right to Maintain Surplus:

The Community Corporation shall not be obligated in any calendar year to spend all the sums collected in such year by way of maintenance assessments, or otherwise, and may carry forward as surplus any balances remaining; nor shall the Community Corporation be obligated to apply any such surpluses to the reduction of the amount of the maintenance assessment in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in its absolute discretion may determine to be desirable for the greater financial security and the effectuation of the purposes of the Community Corporation.

Section 6.15. Assessment Certificates:

Upon written demand of an Owner, the Community Corporation shall, within a reasonable period of time, issue and furnish to said Owner a certificate in writing signed by an officer of the Community Corporation setting forth, as of the date of the Certificate, whether the maintenance assessment and special assessments, if any, have been paid with respect to any specified property and setting forth the amount of such assessments, including interest and costs, if any, due and payable as of such date. A reasonable charge, as determined by the Boards of Directors, may be made for the issuance of these certificates, which charge must be paid at the time that the request is made. Any such certificates, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Community Corporation and any bona fide purchaser of, or lender on, the property in question.

Section 6.16. Subordination of Maintenance Assessment Lien to Mortgages:

The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to said assessments; 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 such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE VII

THE ARCHITECTURAL CONTROL COMMITTEE

Section 7.01. Composition of Architectural Committee:

The Architectural Committee shall be composed of five or more persons, at least one of who shall be a licensed architect or professional engineer registered to practice as such in any state. The Developer shall designate the Committee members during the Development Period and thereafter by the Community Corporation.

Section 7.02. Basis for Disapproval of Plans and/or Specifications:

The Architectural Committee shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration for any of the following reasons:

- (a) The failure of such plans or specifications to comply with any Protective Covenants, Conditions or Restrictions now in effect or hereafter imposed on the Property and which benefit or encumber the Property at the time the Committee acts;
- (b) Failure to include information in such plans and specifications as may have been reasonably requested;
- (c) Objection to the exterior design, appearance or materials of any proposed Structure;
- (d) Incompatibility of any proposed Structure or use with existing Structures or uses upon other Lots in the vicinity;
- (e) Objection to the location of any proposed Structure upon any Lot or with reference to other Lots in the vicinity;
- (f) Objection to the grading plan for any Lot;
- (g) Objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed Structure;
- (h) Objection to parking areas proposed for any Lot on the grounds of (i) incompatibility to proposed uses and Structures on such Lot or (ii) the insufficiency of the size of the parking areas in relation to the proposed use of the Lot; or
- (i) Any other matter which, in the judgment of the Architectural Committee, would render the proposed Structure, Structures use or uses inharmonious with the general plan of improvement of the Property or with Structures or uses located upon other Lots in the vicinity.

Section 7.03. Written Notification of Committee's Actions:

In any case where the Architectural Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant, so that an acceptable proposal can be prepared and submitted for approval.

Upon approval by the Architectural Committee of any plans and specifications submitted pursuant to the provisions herein contained, a copy of such plans and specifications as approved shall be deposited for permanent record with the Architectural Committee, and a copy of such plans and specifications, bearing such approval in writing, shall be returned to the applicant submitting the same.

Section 7.04. Failure of Committee to Act:

If the Owner of the Lot in question has not received notice of the Architectural Committee's decision to approve or disapprove any plans and specifications within 35 days after submission thereof, he may notify the Association of that fact and if such second notice is given, the Architectural Committee's approval shall be deemed to have been granted, unless notice to the contrary is given within the later of the following:

- (a) 35 days of the date on which such second notice was given, or
- (b) 105 days of the date on which the original request for an approval was delivered.

Section 7.05. Construction Not in Accordance with Approved Plans and Specifications:

If any Structure shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the Architectural Committee pursuant to the provisions of this Article VII, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article VII and without the approval required herein and, upon written notice from the Architectural Committee, any such Structure so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or altered, and any such use shall be terminated, so as to extinguish such violation.

If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of such violation fifteen (15) days after the notice of the same, the Community Corporation or the Association shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien upon the Lot in question such lien shall be enforceable in the same manner as a mortgage. The lien provided in this Section 7.05 shall not be valid as against a bona fide purchaser or bona fide mortgagee of the Lot in question unless said lien has been filed or docketed of record in the Office of the Erie County Clerk prior to the recordation of the instrument conveying the Lot in question to such purchaser or subjecting said Lot to such mortgage.

Section 7.06. Committee's Right to Promulgate Rules; Effect of Committee's Actions:

Provided there is no inconsistency with the provisions of these Protective Covenants, Conditions and Restrictions, the Architectural Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Lots including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or rescinded by the Architectural Committee at any time, and no inclusion in, omission from or amendment of any such rule or statement shall be deemed to bind the Architectural Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Architectural Committee's discretion as to any such matter, but no change of policy shall affect the finality of any

approval granted prior to such change. Approval for use on any Lot of any plans or specifications on any Lot shall not be deemed a waiver of the Architectural Committee's right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications or any of the features or elements are subsequently submitted for use on any other Lot or Lots. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter provided, (i) that the Structures or uses shown or described on or in such plans and specifications do not violate any specific prohibitions contained in any Protective Covenants, Conditions or Restrictions now in effect or hereinafter imposed on the Property and which benefit or encumber the property at the time of construction, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures on and uses of the Lot in question.

Section 7.07. Committee's Right to Separate Itself into Subcommittees:

In order to better accomplish its functions, the Architectural Committee may divide itself into subcommittees having a minimum of three members each, with no limitation on the number of subcommittees upon which a member may serve. Each subcommittee shall have the authority to act for the entire Architectural Committee as long as the number and identity of its members and its functions and scope of authority have been promulgated by a resolution of the entire Architectural Committee. The Architectural Committee or any subcommittee may, by resolution authorize an individual member to act on its behalf in performing certain functions of the Architectural Committee, which functions must be specifically set forth in resolution authorizing the member to act. The approval or disapproval by the individual member will be subject, however to the review of the Architectural Committee or the appropriate subcommittee if, within 35 days after the decision of the individual, a written request is filed to have the matter in question reviewed by the entire Architectural Committee or the appropriate subcommittee. Nothing herein shall be construed to mean that any authorized individual member of the Architectural Committee may not refer a matter to the Architectural Committee as a whole for decision.

Section 7.08. Certificate of Compliance:

Upon approval or plans in the case where construction or alteration has not been completed, and upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Committee, the Architectural Committee shall, upon written request of the Owner thereof, issue a Certificate of Compliance in form suitable for recordation, identifying such Structure and the Lot on which such Structure is placed, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies therewith. Preparation and recording of such certificate shall be at the expense of such Owner. Any Certificate of Compliance issued in accordance with the provisions of this Section 7.08 shall be prima facie evidence of the facts stated therein and, as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot, and the use or uses described therein, comply with all the requirements of this Article VII, and with all other requirements of this Declaration as to which the Architectural Committee exercises any discretionary or interpretive powers.

Section 7.09. Voting of Architectural Committee:

Except as hereinafter provided, the affirmative vote of a majority of the Architectural Committee or any subcommittee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, authorization or approval pursuant to directives or authorizations contained herein.

Section 7.10. Right to Collect Fee for Examination of Plans and Specifications:

The Architectural Committee may charge and collect a reasonable fee not to exceed \$25.00 for the examination of any plans and specifications submitted for approval, payable at the time such plans and specifications are so submitted.

ARTICLE VIII
EASEMENTS

Section 8.01. Easements and Rights-of-Way for Utilities, etc.:

Easements and rights-of-way are hereby expressly reserved to the Developer, its successors and assigns, and to the Community Corporation and the local Association, if any, and if there is no local Association, then also to the owners of all Lots in the particular subdivision in, on, over and under all areas of the Property and such additions thereto as may be made from time to time, whether within the boundaries of residential or commercial Lots or in common areas, for the following purposes:

(a) For the erection, installation, construction and maintenance of (i) poles, wires, lines and conduits, and the necessary or proper attachments in connection with the transmission of electricity, telephone and other utilities and similar facilities and services, and (ii) storm-water drains land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public utility facility, service or function, whether above ground or underground, excluding community antenna television cables and like facilities.

(b) For slope control purposes, including the right to grade and plant slopes and to prevent the doing of any activity which might interfere with slope ratios approved by the Developer, its successors and assigns, or which might create erosion or sliding problems, or change, obstruct or retard drainage flow.

Such easements, and rights-of-way shall include the right of ingress and egress, provided that any damage resulting from the installation, maintenance or repair of the poles, wires, lines, conduits, cables, attachments or drainage facilities shall be promptly repaired or replaced at the expense of the corporation or authority that directed the entry.

Section 8.02. Drainage Easements:

In addition to the above easements and rights-of-way, each owner, by taking title to any portion of the Property, covenants to maintain and repair those drainage facilities that are situated on the premises conveyed. Each and every owner of a Lot shall have the right to enter upon the easement area of any other Lot in the subdivision for the purpose of installing, maintaining and repairing the drainage facilities. Unless required by law, the Town of Amherst shall not be responsible for the maintenance and repair of the drainage facilities and such maintenance and repair shall be the responsibility of the Lot Owners.

Section 8.03. Easements and Rights-of-Way for Community Antenna Television Cables:

Unless prohibited by law, until January 1, 1990, easements and rights-of-way are hereby expressly reserved to the Developer, its successors and assigns in, on, over, and under all areas of the Property and such additions as may be made from time to time for the installation and maintenance of community antenna television cables and other facilities used for similar purposes. After January 1, 1990, such easements and rights-of-way are hereby expressly reserved to the Ransom Oaks Community Corporation, its successors and assigns. Such easements and rights-of-way shall include the right of ingress and egress, provided that any damage resulting from the installation, maintenance or repair of the cables or other facilities shall be promptly repaired or replaced at the expense of the corporation or authority that directed the entry.

**ARTICLE IX
GENERAL COVENANTS AND RESTRICTIONS**

Section 9.01. Change in Use of Buildings or Structures:

No building or structure previously approved by the Architectural Committee shall be used for any purpose other than that for which it was originally approved without the prior written approval of the Architectural Committee.

Section 9.02. Approval to Construct:

No building Structure, alteration, addition or improvement of any character, other than interior alterations not affecting the external appearance of a building or Structure, shall be constructed upon any portion of the Property unless and until a plan of such construction is approved by the Architectural Committee as to quality of workmanship and materials, harmony of external design with surrounding structures, location with respect to topography and finished grade elevation, the effect of the construction on the view from surrounding property and all other factors which will, in the opinion of the Architectural Committee, affect the desirability or suitability of the construction. No construction shall be commenced and no land shall be graded except in accord with such approved plan or a modification thereof similarly approved.

Section 9.03. Construction on Open Space:

No Lot or other parcel of land shown as open space on any filed or recorded map of the Property or on any subsequent filed or recorded map, and which is an area in which no residential dwelling units are permitted, may be subdivided, built upon altered or modified except as provided on such map, or except in accordance with an amended final plan thereof approved as now or hereafter provided by the applicable zoning ordinances. In no event, however, shall any additional residential dwelling units be permitted on land shown on such map as open space, except such land shown as **temporary** open space.

Section 9.04. Maintenance Covenants:

Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair including, but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting or other appropriate external care of all buildings, and other improvements, all in a manner and with such frequency as is consistent with good property management unless said painting or other external care is the responsibility of an Association. If, in the opinion of the Architectural Committee, any Owner fails to perform the duties imposed by this Section 9.04, the Community Corporation or the Association, if any, after approval by a two thirds (2/3) decision of the Board of Directors of the Association, or after fifteen (15) days written notice to the Owner to remedy the condition in question, shall have the right, through its agents and employees, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien upon the Lot in question, which lien shall be enforceable in the same manner as a mortgage.

Section 9.05. Enforcement of Lien for Maintenance Cost:

The lien provided in Section 9.04 above shall not be valid as against a bona fide purchaser, or bona fide mortgagee, of the Lot in question unless said lien shall have been filed or docketed of record in the Office of the Erie County Clerk prior to the recordation of the deed conveying the Lot in question to such purchaser or prior to the recordation of the mortgage through which the purchaser obtains title by reason of foreclosure.

Section 9.06. Advertising and Signs:

No sign or other advertising device of any nature shall be placed on display to the public view on any Lot, except temporary signs, not more than five feet square in size, advertising the property for sale or rent, and except for temporary signs erected by or with the permission of the Developer in connection with the construction, lease, sale of buildings and Lots or other parcels of the Property. The Architectural Committee may, in its discretion, adopt and promulgate additional rules and regulations relating to signs that may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the property zoned for industrial or commercial uses upon approval of the Architectural Committee, as to the color, location, nature, size and other characteristics of such signs and devices.

Section 9.07. Animals, Birds and Insects:

No animals, birds or insects shall be kept or maintained on any Lot except for domestic purposes. Under no circumstances shall any commercial or business enterprise involving the use of animals, birds or insects be conducted on the Property without the express written consent of the Architectural Committee. The Architectural Committee may, from time to time, impose reasonable regulations setting forth the type and number of animals, birds and insects that may be kept on any Lot and may restrict certain types of animals, birds or insects entirely.

Section 9.08. Trailer and Boat Storage:

No boats, boat trailers, house trailers, trailers, campers, snowmobiles or any similar items shall be permitted to be stored on any Lot for more than fourteen (14) days unless garaged or screened in a manner acceptable to the Architectural Committee.

Section 9.09. Fences and Walls on The Properties:

No fence or wall of any kind shall be erected, begun or permitted to remain upon any portion of the Property unless approved by the Architectural Committee.

Section 9.10. Garbage and Refuse Disposal:

No lumber, metals, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction of any approved Structure. Trash, garbage or other waste shall not be kept except in sanitary containers. If trash or other refuse is to be disposed of by being picked up and carried away on a regularly scheduled basis, containers may be placed in the open, on any day that a pick-up is to be made, at such place on the Lot so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such a manner so that they cannot be seen from adjacent and surrounding property. The Architectural Committee may, in its discretion, adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the Property. All incinerators or other equipment for the storage or disposal of trash, garbage or other waste shall be kept in a clean and sanitary condition.

Section 9.11. Sewage Disposal Systems:

No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Town of Amherst and the County of Erie. Approval of such system as installed shall be obtained from such authority and from the Architectural Committee.

Section 9.12. No Above Surface Utilities Without Approval:

No facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be maintained, without the prior written approval of the Architectural Committee.

Section 9.13. Noxious or Offensive Activities:

No noxious or offensive activity shall be carried upon any portion of the Property, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood or to the residents therein.

Section 9.14. Party Walls:

Each wall that is built as a part of the original construction of any building located on the Property that is placed on the dividing line between two or more Lots shall constitute a party wall. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty any owner who has used the wall may restore it and if the other owners thereafter make use of the wall they shall contribute to the cost of restoration in proportion to such use, which right of contribution shall, however, be without prejudice to the right of any owner to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this paragraph, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. In the event any dispute arises concerning a party wall, each owner shall choose one arbitrator, who shall choose an additional arbitrator, and their decision with respect to the dispute shall be by a majority and shall be binding upon the owners and enforceable in any court having jurisdiction over them.

To the extent not inconsistent with the provisions of this paragraph, the law of the State of New York regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 9.15. Pipes Oil and Mining Operations:

No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No Lot shall be used for the purpose of boring, drilling, refining, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth. No derrick or other structure designed for use in boring for oil or natural gas or any other mineral shall be erected, maintained or permitted on any Lot.

Section 9.16. Protective Screening

Where protective screening areas, screen planting, fences, or walls are shown on any filed plat or map, the Community Corporation shall maintain the same, unless a local Association, for the protection of adjacent property, owns such areas. No building or Structure, except such planting, fence or wall, shall be placed or permitted to remain in such area. No vehicular access shall be permitted over such area except for the purpose of installing and maintaining screening, utilities and drainage facilities, if any.

Section 9.17. Residence Not in Dwelling House:

No temporary building, trailer, basement, tent, shack, barn, outbuilding, shed, garage, or building in the course of construction or other structure not a dwelling house shall be used, temporarily or permanently, as a residence on any Lot.

Section 9.18. Refuse Near Parks and Water Courses:

No material or refuse shall be placed or stored on any Lot within twenty (20) feet of the property line of any part or the edge of any water course or body of water, except that clean fill may be placed nearer to the same provided that the natural water course is not altered or blocked by such fill.

Section 9.19. Sight Obstructions to Vehicular Traffic:

No fence, wall, tree, hedge, or shrub planting shall be maintained, in such manner as to obstruct sight lines for vehicular traffic.

Section 9.20. Television and Radio Antennas:

No outside television or radio antenna shall be erected on any Lot unless and until the Architectural Committee has first granted permission for the same.

Section 9.21. Community Antenna Television Cables:

No community antenna television cables or other similar facilities shall be erected or installed on any Lot except under the easement and right-of-way reserved in Section 8.03 of this Declaration.

Section 9.22. Trees:

Except as may be required to remove sight line obstructions for vehicular traffic, no tree having a diameter of four (4) inches or more, as measured from a point two feet above ground level, shall be removed from any Lot without the express written authorization of the Community Corporation. The Community Corporation, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property. If it shall deem it appropriate, the Community Corporation may mark certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this section, the Community Corporation and the Architectural Committee and the respective agents of each may come upon any Lot during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither the Community Corporation nor the Architectural Committee, nor their respective agents, shall be deemed to have committed a trespass or wrongful act by reason of such entry or inspection.

Section 9.23. Use and Maintenance of Slope Control Areas:

Within any slope control area shown on any filed map or plat, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel of the Property and all improvements thereon shall be maintained continuously by the owner of the Lot or parcel, except in those cases where a public authority or utility company is responsible for such improvements.

Section 9.24. Trimming or Pruning at Expense of Owner of Lot:

If the Community Corporation, the local Association or the Architectural Committee determine that it is necessary to trim or prune any tree, hedge or other planting because of its location or the height to which or the manner in which it is permitted to grow is detrimental to the adjoining property or obscures the view of street traffic or is unattractive in appearance, the Community Corporation or the Association shall notify the Owner of the Lot who shall be obliged to remedy the situation. If the Owner fails to remedy the situation within fifteen (15) days after such notice is given, then the Community Corporation or the Association may take such remedial action at the expense of the Owner. The Community Corporation and the Association shall each further have the right, upon like notice and conditions, to care for vacant or unimproved Lots, to remove grass, weeds and rubbish therefrom and to do any and all things necessary or desirable in the opinion of the Architectural Committee to keep such property in a neat and clean condition, all at the cost and expense of the Owner, such cost and expense to be paid to the Community Corporation or the local Association upon demand, and if not paid within thirty days thereof, then to become a lien upon the property affected, equal in priority to the lien provided for in Article XIII Section 13.03 hereof.

Section 9.25. Water Supply Systems:

No individual water supply system shall be permitted on any Lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the Town of Amherst and the County of Erie. Approval of such system as installed shall be obtained from such authority and from the Architectural Committee.

Section 9.26. Relief for Breach or Violation:

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, and any person or entity entitled to enforce any provision hereof shall be entitled to relief by way of injunction as well as any other available relief either at law or in equity.

ARTICLE X

RESIDENTIAL PROTECTIVE COVENANTS AND RESTRICTIONS

Section 10.01. Residential Use Only:

Property zoned for residential purposes shall be used only for residential purposes and purposes incidental and accessory thereto except that, with the written approval of the Architectural Committee, any Lot may be used for a model home or for a real estate office during the Development Period of Ransom Oaks.

Section 10.02. No Division of Lots Without Approval:

No Lot shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise without the prior written approval of the Architectural Committee.

Section 10.03. Commercial and Professional Activity on Residential Property:

No profession or home industry shall be conducted in or on any part of a Lot or in any improvement thereon on the Property without the specific written approval of the Architectural Committee. The Architectural Committee in its discretion, upon consideration of the circumstances in each case, and particularly the effect on surrounding property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry. No such profession or home industry shall be permitted, however, unless it is considered by the Architectural Committee to be compatible with a high quality residential neighborhood. The activities which may be permitted by the Architectural Committee in its discretion shall include, by way of illustration but not of limitation, the following: music, art and dancing classes; day nurseries and schools; medical, dental and legal offices; fraternal or social club meeting places; seamstress services.

Section 10.04. Machinery:

No machinery shall be placed or operated upon any residential Lot except such machinery as is usual in maintenance of a private residence.

Section 10.05. Repair Work:

No extensive repair work, including, but not limited to dismantling of any motor vehicles, boats or machines of any kind, shall be permitted outdoors on any Lot.

Section 10.06. Violation of Protective Covenants and Restrictions with Authorization of Architectural Committee:

Notwithstanding other provisions herein the Architectural Committee may authorize any Owner with respect to his Lot to:

- (a) Maintain a sign other than as expressly permitted herein;
- (b) Locate Structures other than the principal dwelling house within set-back areas; or
- (c) Use Structures other than the principal dwelling house for residence purposes on a temporary basis.

ARTICLE XI
COMMERCIAL PROTECTIVE COVENANTS AND RESTRICTIONS

Section 11.01. Limitation on Use:

Property zoned for commercial purposes shall be used only for one or more of the following purposes:

- (1) Business and professional offices;
- (2) Facilities for the retail sales of goods and services, banks and other financial institutions;
- (3) Facilities for the cleaning and laundering of clothes and automobiles;
- (4) Places of worship;
- (5) Community, civic, social, and cultural clubs and centers, libraries, nursery and other schools, including schools of special instruction; medical centers, hospitals, and clinics; nursing, care, rest, and convalescent homes, and charitable institutions not of a correctional nature; mortuaries;
- (6) Restaurants, hotels and motels, theatres, and recreational facilities and sports arenas, including skating rinks and bowling alleys; marinas;
- (7) Public transportation terminals, stations, and rights-of-way; automobile parking facilities and gasoline stations;
- (8) Facilities maintained by any governmental authority for administrative, cultural, educational, health, or welfare purposes;
- (9) Residential purposes; and
- (10) Such uses, whether or not incidental or accessory to any of the foregoing, as the Architectural Committee may approve.

Section 11.02. Residential Use:

The Property zoned for commercial purposes and which is used for residential purposes shall also be subject, while so used, to the Residential Protective Covenants and Restrictions in Article X hereof.

ARTICLE XII
WATERFRONT AREAS AND WATERWAYS

Section 12.01. Additional Restrictions on Waterfront Property and Waterways:

Any Lot which shall abut upon any lake, stream, creek, brook, canal or other waterway, hereinafter collectively referred to as **Waterways**, shall be subject to the following additional restrictions:

(a) Erection of Docks, etc.:

No wharf, pier, dock, bulkhead, barge, piling, float or other structure shall be built or maintained upon any waterfront site without the specific written approval of Ransom Oaks Community Corporation and the Architectural Committee.

(b) Construction of Canals:

No boat canal shall be constructed upon any Lot nor shall any facility or device be constructed or installed upon any Lot, which shall in any way alter the course of natural or established boundaries of any Waterway or which shall involve or result in the removal of water from any Waterway.

(c) Boat Storage:

No boat or boat trailer shall be stored on any Lot in such manner as to be visible, from surrounding properties or from the abutting Waterway.

(d) Vehicle Parking and Storage:

No vehicle shall be parked or stored within twenty feet of the waterfront.

(e) Boat Mooring:

No boat shall be moored so as to obstruct navigation on any Waterway.

Section 12.02. No Disposal of Refuse Into Waterways:

No garbage, trash or other refuse of any kind shall be dumped, disposed of or placed into any Waterway.

Section 12.03. Boats:

No powerboat, whether powered by an inboard or outboard motor, except a boat powered by an electric motor, and no boat longer than fifteen (15) feet, shall be operated upon any Waterway. The operation of all boats shall conform to all rules and regulations promulgated by Ransom Oaks Community Corporation concerning the use of boats.

Section 12.04. Use of Waterways:

All use of Waterways, including, but not limited to boating, swimming, ice skating, water skiing, fishing and as a source of water for landscape maintenance shall be subject to the rules and regulations of the Community Corporation or Association which owns such Waterway.

ARTICLE XIII

ENFORCEMENT, AMENDMENT AND DURATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS

Section 13.01. Enforceable by:

The Protective Covenants, Conditions and Restrictions contained in this Declaration and in any supplemental declaration shall bind the Property and shall be construed as running with the land and shall inure to the benefit of and be enforceable by the Declarant, the Developer of Ransom Oaks, the Ransom Oaks Community Corporation and any local Association, each of which shall be deemed the agent for all of its members for such purposes, and by the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, by actions at law or by suits in equity.

Section 13.02. No Waiver by Failure to Enforce:

The failure of any person or organization to enforce any protective covenant, condition or restriction herein contained shall in no event be construed as a waiver of the right by that or any other person or organization to do so thereafter, as to the same violation or breach occurring prior or subsequent thereto. No liability shall attach to the Declarant or to the Developer of Ransom Oaks or to any other person or organization for failure to enforce such protective covenants, conditions or restrictions.

Section 13.03. Entry to Enforce:

Violation or breach of any protective covenant, condition or restriction herein contained shall give the Declarant, the Developer of Ransom Oaks, the Community Corporation or the local Association, their respective legal representatives, heirs, successors and assigns, in addition to all other remedies, the right to enter upon the land upon or as to which such violation or breach exists, and summarily to abate and remove any erection, thing or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof, using such force as may be reasonably necessary, at the expense of the Owner thereof, and neither the persons entering, abating or removing, nor the organization directing the entry, abatement or removal shall be deemed liable for any manner of trespass for such action. The Owner shall pay on demand the cost and expense of such abatement or removal, which cost shall include attorneys' fees and other costs in connection with seeking a court order. The cost of such abatement or removal shall, when due, become a lien upon the portion of the Property affected. Nothing contained in this Section 13.03 shall be deemed to affect or limit the right of the Owners of the Lots within the Property to enforce covenants or restrictions by appropriate judicial proceedings.

Section 13.04. No Reverter:

No protective covenant, condition or restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

Section 13.05. Future Owners Bound:

Each grantee accepting a deed, lease or other instrument conveying any interest in any Lot or any portion of the Property, whether or not said deed, lease or other instrument incorporates or refers to these Protective Covenants, Conditions and Restrictions, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by these Protective Covenants, Conditions and Restrictions including personal responsibility for the payment of all charges that may become

liens against his property and which become due while he is the owner thereof, and also covenants to incorporate these Protective Covenants, Conditions and Restrictions by reference in any deed or other conveyance of all or any portion of his interest in any real property subject hereto.

Section 13.06. Inspection Rights:

Any agent of the Developer, the Community Corporation, the local Association or the Architectural Committee may at any reasonable time or times enter upon and inspect any Lot and the exterior of any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures thereon are in compliance with these Protective Covenants, Conditions and Restrictions; and neither the Developer, the Community Corporation, the Association nor the Architectural Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

Section 13.07. Amending:

Unless otherwise specifically provided for herein, these Protective Covenants, Conditions and Restrictions may be amended as follows:

(a) Prior to January 1, 1990: by an instrument signed by the Developer and the Owners having not less than three-fourths (3/4) of the votes of all Units which are subject to this Declaration.

(b) On and after January 1, 1990 and prior to January 1, 2000: by an instrument signed by the Owners having not less than three-fourths (3/4) or the votes of all Units that are subject to this Declaration.

(c) On and after January 1, 2000: by an instrument signed by the Owners having not less than two-thirds (2/3) of the votes of all Units which are subject to these Protective Covenants, Conditions and Restrictions.

In voting for such amendments, the Owner of each Private Dwelling Unit shall have three (3) votes. The Owner of each Multi-family Unit shall have two (2) votes and the Owner of each Commercial Unit shall have one (1) vote.

The Owners of every Private Dwelling Unit, Multi-family Unit and Commercial Unit must receive written notice of every proposed amendment at least sixty (60) days prior to the date set for voting on said proposed amendment.

Section 13.08. When Amendment Becomes Effective:

Any amendment to these Protective Covenants, Conditions and Restrictions shall not become effective until the instrument evidencing such change has been duly recorded in the Office of the Clerk of the County of Erie.

Section 13.09. Duration:

These Protective Covenants, Conditions and Restrictions shall, unless amended as hereinafter provided, continue with full force and effect against both the Property and the Owners thereof until December 31, 2010, and shall, as then in force, be automatically and without further notice, extended for successive periods of ten years, except that after December 31, 2010, these Protective Covenants, Conditions and Restrictions may be terminated by an instrument signed by Members entitled to cast not less than two-thirds (2/3) of the votes of all Units.

Section 13.10. Construction and Interpretation:

Ransom Oaks Community Corporation and any local Association shall have the right to construe and interpret the provisions of the Protective Covenants, Conditions and Restrictions and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, their construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof. Subject to the foregoing, the Architectural Committee shall have the right to determine all questions arising in connection with its functions as set forth herein and construe and interpret the Protective Covenants, Conditions and Restrictions with respect thereto, and likewise its construction or interpretation shall be final and binding in the absence of an adjudication by a court of competent jurisdiction to the contrary.

Any conflict in construction or interpretation between Ransom Oaks Community Corporation or the Architectural Committee and any other person or entity entitled to enforce the provisions hereof shall be resolved in favor of the construction or interpretation of the Community Corporation or the Architectural Committee if the Committee is acting within its authority. The Ransom Oaks Community Corporation and the local Associations and the Architectural Committee, to the extent specifically provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules and regulations, and in making any findings, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Community Corporation, the Association and the Architectural Committee shall take into consideration the best interest of the Owners, Tenants and Commercial Occupants and of the Property to the end that the Property shall be preserved and maintained as a high quality community.

In granting any permit, authorization, or approval, as herein provided, the Community Corporation, the Association and the Architectural Committee may impose any conditions or limitations thereon as they shall deem advisable under the circumstances in each case in light of the considerations set forth in the immediately preceding paragraph hereof.

Section 13.11. Conflict with Municipal Laws:

These Protective Covenants, Conditions and Restrictions shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, ordinances, rules or regulations of any governmental authority, or by specific restrictions imposed by and deed or lease. In the event of any conflict, the most restrictive provision of such laws, ordinances, rules, regulations, deeds, lease or these Protective Covenants, Conditions and Restrictions shall be taken to govern and control.

Section 13.12. Attorney's Fees:

Any party to a proceeding who succeeds in enforcing a restriction or enjoining the violation of a restriction against a Lot Owner may be awarded a reasonable attorneys' fee against such Lot Owner.

Section 13.13. Change of Conditions:

No change of conditions or circumstances shall operate to amend any of the provisions of these Protective Covenants, Conditions and Restrictions, and the same may be amended only in the manner provided herein.

Section 13.14. Invalidity of Agreement or Declaration:

The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provision hereof.

ARTICLE XIV
GENERAL

Section 14.01. Heading and Captions:

The headings and captions contained in these Protective Covenants, Conditions and Restrictions are for convenience only and shall not affect the meaning or interpretations of the content thereof.

Section 14.02. Right Reserved to Impose Additional Protective Covenants:

The Declarant reserves the right to record additional protective covenants and restrictions prior to the conveyance or any lands encumbered by these Protective Covenants, Conditions and Restrictions.

Section 14.03. Notice:

Any notice required to be sent to any Member, Owner, Tenant or Occupant under the provisions of the Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as Member, Owner, Tenant or Occupant on the records of the Community Corporation or the local Association, whichever is sending such notice, at the time of such mailing.

Section 14.04. Right of Community Corporation and Association to Transfer:

Notwithstanding any other provision herein to the contrary, the Community Corporation and all local Associations, their heirs and successors, shall at all times have the absolute right to transfer, convey and assign their right, title and interest under this Declaration to any successor not-for-profit corporation or trust, and upon such assignment the successor corporation or trust shall have all the rights and be subject to all the duties of said Community Corporation or Association as set forth in this Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation or trust had been an original party and all references herein to Board of Directors shall refer to the Board of Directors (or Trustees) of such successor corporation or trust. Any such assignment shall be accepted by the successor corporation or trust under a written agreement pursuant to which the successor corporation or trust expressly assumes all the duties and obligations of the Community Corporation or the Association, whichever it is succeeding. If, for any reason the Community Corporation or the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation or trust, the covenants, easements, charges and liens imposed hereunder shall nevertheless continue and any Owner may petition the court of competent jurisdiction to have a trustee appointed for the purpose of organizing a non-profit corporation or trust to take over the duties and responsibilities of the corporation ceasing to exist, subject to the conditions provided for herein with respect to an assignment and delegation to a successor corporation or trust.

Section 14.05. Transfer of Functions:

Unless otherwise specifically prohibited herein or within the Certificates of Incorporation or By-Laws of either the Community Corporation or the local Association, any and all functions of the Community Corporation, in so far as they affect the members of the local Association, shall be fully transferable, in whole or in part to the local Association and any and all functions of the local Association shall be fully transferable in whole or in part of the Community Corporation.