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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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Thomas G. Clingan, County Clerk



**AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
CHADWICK SQUARE PARK ASSOCIATION, INC.**

**Glenmont, Town of Bethlehem  
County of Albany  
State of New York 12077**

**DATE OF THIS AMENDED DECLARATION July 21, 2022**

ALL DOCUMENTS IN THIS AMENDED DECLARATION ARE IMPORTANT. IT IS SUGGESTED THAT YOU CONSULT YOUR ATTORNEY OR FINANCIAL ADVISOR BEFORE SIGNING ANY CONTRACT INVOLVING THE SALE OR RESALE OF PROPERTY IN CHADWICK SQUARE. All purchasers of homes in the development should be aware that if they resell their homes, those who purchase from them will also automatically become members of the Association assuming all rights and obligations, and all of the seller's rights cease upon sale. Purchasers will sign at time of purchase an acknowledgement that they are assuming all rights and obligations of said park association.

THIS DOCUMENT WAS ISSUED TO: \_\_\_\_\_

DATE: \_\_\_\_\_

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Committee Disclaimer:

This Amended Declaration was prepared by a committee appointed by the Chadwick Square Park Association, Inc. and was approved by the Association Board of Directors on December 8, 2010. The committee members are not lawyers and take no responsibility for legal issues contained in this document. The Board of Directors of the Chadwick Square Park Association engaged counsel, COFFEY LAW PLLC, Elk Street, Albany, NY, to review the document. If members of the Chadwick Square Park Association, Inc. have any questions about the legality of any of the rules or regulations contained in this amended declaration they should consult an attorney.

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AMENDED AND RESTATED DECLARATION

Revised and approved by the Board of Directors February 24, 2010.

Reviewed by legal counsel and approved with recommended revisions by the Board of Directors, April 28, 2010.

Initial draft revisions mailed to Owners, May 24, 2010.

Public hearing held on initial draft revisions on July 21, 2010.

Final Draft approved by the Board of Directors, August 25, 2010 and mailed to Owners on September 7, 2010.

Owners approve final draft by mail vote ending November 6, 2010.

Adopted by the Board of Directors December 8, 2010

Filed in Albany County Clerk's Office December 13, 2010

Reviewed by legal counsel March 3, 2022.

Public meeting held on draft revisions on March 16, 2022

Final draft approved by the Board of Directors, May 3, 2022 and emailed to Owners/Posted to Website on May 9, 2022.

Owners Approved final draft by vote ending July 1, 2022

Adopted by the Board of Directors July 21, 2022

Filed in Albany County Clerk's Office \_\_\_\_\_

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**AMENDED AND RESTATED DECLARATION of  
COVENANTS, CONDITIONS AND RESTRICTIONS for  
CHADWICK SQUARE PLANNED UNIT DEVELOPMENT**

THIS AMENDED AND RESTATED DECLARATION, made this 21st day of July, 2022 by CHADWICK SQUARE PARK ASSOCIATION, INC., a New York Not- For-Profit Corporation, with an address in the Town of Bethlehem, County of Albany, State of New York.

**WITNESSETH**

**WHEREAS**, a certain DECLARATION OF COVENANTS, CONDITONS AND RESTRICTIONS was filed in the Albany County Clerk's Office on or about February 20, 1980, in Liber 2994 of Deeds at Page 561 covering certain real property more particularly described as:

ALL THAT TRACT, PIECE OR PARCEL OF LAND, situate in the Town of Bethlehem, Albany County, New York, lying Easterly of Wemple Road and being further bounded and. described as follows:

BEGINNING at a point in the Easterly margin of Wemple Road, where said road margin is intersected by the common division line between the lands now or formerly of Thomas McQuade on the South and lands of Newell on the North, said point of beginning also being located approximately 360 feet  $\pm$  as measured along the Easterly margin of Wemple Road from its intersection with the center line of Beacon Road, and runs thence from said point of beginning along the Easterly margin of Wemple Road, North 4 deg. 39 min. 40 sec. East, 1,855.67 feet to a point; thence through the lands now or formerly of Newell the following two (2) courses: South 88 deg. 08 min. 10 sec. East, 304.23 feet to a point; thence North 77 deg. 38 min. 10 sec. East, 509.37 feet to a point in the westerly line of lands now or formerly of Magee; thence along the Westerly line of lands now or formerly of Magee the following two (2) courses: South 31 deg. 10 min. 40 sec. East, 239.73 feet to a point; thence South 4 deg. 36 min. 50 sec. West, 820.12 feet to a point, said point being the Northwest corner of lands now or formerly of Albert McHarg; thence along the Westerly line of lands now or formerly of McHarg, South 5 deg. 21 min. 50 sec. West, 994.70 feet to a point in the Northerly line of lands now or formerly of J. Schoonmaker; thence along said Northerly line, South 85 deg. 31 min. 10 sec. West, 786.70 feet to a point in the Easterly line of lands now or formerly of Thomas McQuade; thence along the Easterly and Northerly line of lands now or formerly of McQuade, North 4 deg. 42 min. 10 sec. East, 138.00 feet to a point, thence South 85 deg. 31 min. 10 sec. West, 150.00 feet to the point or place of beginning and containing 41.80+ acres of land.

**WHEREAS**, certain real property was conveyed by the Michaels Group, Inc. to Chadwick Square Park Association, Inc. on March 26, 1993 by Deed recorded in the Albany County Clerk's Office in Book 2480 Page 896 and more particularly described as follows:

All that certain tract, piece or parcel of land situate, lying and being Easterly of Commonwealth Drive in the Town of Bethlehem, Albany County, New York and being more particularly bounded and described as follows:

BEGINNING at the intersection of the division line between the lands now or formerly of Jakovic on the East and Chadwick Square Section Three on the West with the division line between said Jakovic on the North and land deeded to Rosen-Michaels, Inc. by Warranty Deed of Minard B. Carkner and Viola M. Carkner, his wife, which said deed is dated May 6, 1978 and was recorded in the Albany County Clerk's Office on May 25, 1978 in Liber 2150 of Deeds at Page 209 on the South and runs thence from said point of beginning through Chadwick Square Section Three the following three (3) courses: 1) North 04° 46' 14" West 56.60 feet to a point; 2) thence North 04° 52' 30" East 527.97 feet to a point; and 3) thence North 08° 22' 04" East 74.35 feet to a point on the above first mentioned division line, 658.29 feet to the point or place of beginning and containing 3,590+/- Square Feet of land. The said map of Chadwick Square Section 3 was made by C. T. Male Associates, P.C. and was filed in the Albany County Clerk's Office on June 12, 1986, as Map No. 6424 in drawer Number 172.

**WHEREAS**, the Chadwick Square Park Association, Inc. is a not-for-profit corporation organized under Section 402 of the Not-For-Profit Corporation Law of the State of New York;

**WHEREAS**, by this Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Chadwick Square Park Association, Inc. desires to and does hereby further amend and restate the declaration of covenants, conditions and restrictions filed in the Albany County Clerk's Office on \_\_\_\_\_

**NOW, THEREFORE**, the Chadwick Square Park Association, Inc. for itself, its successors and assigns, declares that the real property described in Article D hereof is and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as "Covenants and Restrictions") hereinafter set forth.

## ARTICLE I DEFINITIONS

### Section 1.01.

Definitions. The following words and terms when used in this Amended and Restated Declaration shall have the following meanings:

- a) **Architectural Committee**: The Architectural Committee, a permanent committee of the Association, established pursuant to Article VI of this Amended and Restated Declaration and Article XIII of the Amended Bylaws.
- b) **Assessments**: Charges for the maintenance, operation and improvement of Association Property as described in Article V of this Amended and Restated Declaration.
- c) **Association**: The Chadwick Square Park Association, Inc., a New York not-for-profit corporation, its successors and/or assigns.
- d) **Association Property/Common Property**: shall mean all lands (including but not limited to green space, open areas and park land) and improvements thereon, excluding homes and lots as defined in "k" and "l" below, heretofore and hereafter owned by or in the possession of the Association.



- e) **Authorized Voting Owner:** Owner(s) of each Lot shall be entitled to cast one (1) collective vote per Lot owned in accordance with Section 3.03. The Member entitled to cast the vote for the Lot shall be referred to as the "Authorized Voting Owner". In calculating the number of Authorized Voting Owner(s) for a particular vote, issue and/or meeting. Owners who are not in good standing and/or whose right to vote has been suspended, both in accordance with Section 3.03, shall not be counted as Authorized Voting Owner(s) for that particular vote, issue and/or meeting.
- f) **Board of Directors or the Board:** The Board of Directors elected by the Owners who are in good standing to administer the affairs of the Association.
- g) **Building.** A mailbox hutch and structure which is comprised of two or more Units, together with the garages of such Units if there be such, and such Units being attached one to the other with party walls.
- h) **Bylaws:** The Bylaws of the Association, as the same may be supplemented, extended or amended from time-to-time.
- i) **Commercial Vehicle:** Any vehicle that is used for any commercial purpose, or which has any business advertisement affixed to or mounted on the vehicle.
- j) **Declaration:** This amended and restated document of Covenants, Conditions, and Restrictions as it may, from time to time, be supplemented, extended or further amended in the manner provided for in this Amended and Restated Declaration.
- k) **Home:** Each single-family residence (as evidenced by issuance of a Certificate of Occupancy issued by the Town of Bethlehem) including the garage appurtenant to such Home, if there be one. Unless the context clearly indicates otherwise, the term "Home" shall be deemed to include the term "Lot".
- l) **Lot:** Any portion of the Property, with the exception of the Association Property and Town of Bethlehem property, under the scope of this Amended and Restated Declaration, as shown on the "as built" subdivision map or maps filed within the office of the Albany County Clerk and identified as a separate parcel on the tax records of the Town of Bethlehem. Unless the context clearly indicates otherwise, the term "Lot" includes any Home situated thereon.
- m) **Mortgagee:** Any mortgagee holding a mortgage on a Lot, including where applicable, its representatives, servicing agent, assignees and successors holders of such mortgage.
- n) **Owner:** The record owner of fee simple title to any Lot, whether or not such holder actually resides within such Lot. Every owner shall be treated for all purposes as a single owner for each Lot held, irrespective of whether such ownership is joint, in common, or tenancy by the entirety.
- o) **Property or Development:** All land described in Schedule ""A" and Schedule "B" attached to this Amended and Restated Declaration, and the improvements thereon covered by this Amended and Restated Declaration and such additions as may be made thereto from time to time. Property or Development shall exclude any property deeded to the Town of Bethlehem.
- p) **Resident:** Any person residing on any Lot, which is part of the property whether or not such person is an Owner.
- q) **Rules and Regulations:** The code governing the use and care of the Property as set forth in this Amended and Restated Declaration, and the Bylaws and as promulgated from time to time by the Association Board of Directors.
- r) **Special Meetings:** Special meetings of the Board may be called as deemed necessary by the president or by any two directors after not less than three (3) days notice to each director. Special meetings shall be open to all Owners. The agenda for each special meeting shall be restricted to the specific determined purpose(s) of such meeting and the Board may make,

discuss and vote on such motions or proposals as may relate to the stated purpose(s) of the meeting.

- s) **Subdivision Map or Maps:** The map or maps as filed in office of the Albany County Clerk for the Development
- t) **Unit:** Each single family residence including the garage appurtenant to the residence. The term Unit excludes the Lot.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS AMENDED AND RESTATED DECLARATION**

#### **Section 2.01. Property.**

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Amended and Restated Declaration is located in the Town of Bethlehem, County of Albany and State of New York, and is more particularly described in Schedule "A" and Schedule "B" of this Amended Declaration; excluding property deeded to the Town of Bethlehem.

#### **Section 2.02. Additional Property.**

The Association by the affirmative vote of not less than sixty-seven percent (67%) of the Owners shall have the right to bring additional Property within the scheme of this Amended and Restated Declaration.

The additions shall be made by recording a supplemental declaration, which shall extend the scheme of covenants, conditions and restrictions of this Amended and Restated Declaration to such Additional Property and thereby subject such additional property to assessment for its fair share of the expenses of the Association. Said extending declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Amended and Restated Declaration as may be necessary to reflect the different character, if any, of the Additional Property that is not inconsistent with the provisions of this Amended and Restated Declaration.

Nothing contained in this Amended and Restated Declaration, however, or in any recorded or unrecorded plot, map, picture, drawing, brochure or other representation of a scheme of development shall be construed as requiring the Association to subject land hereafter owned by it to the provisions of this Amended and Restated Declaration.

#### **Section 2.03. Merger.**

Upon a merger or consolidation of the Association with another association in accordance with the Association's Certificate of Incorporation, this Amended and Restated Declaration, the Amended By-Laws or New York State law, 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 this Association as a surviving corporation, or consolidated association, and the Association may administer the Protective Covenants, Conditions and Restrictions established by this Amended and Restated Declaration, together with the Covenants, Conditions and Restrictions established upon any other properties. No such merger or consolidation, however, shall create any revocation, change or addition to the Protective Covenants, Conditions and Restrictions established by this Amended and Restated Declaration, nor negate any existing property rights and easements of the individual home owners that run with the land. Such actions shall require the consent of sixty-seven percent (67%) of the Authorized Votes of the Owners following written notice not less than thirty (30) days nor more than sixty (60) days prior to the date set for voting on the proposed action.

Notwithstanding the above, no merger or consolidation shall occur without the recording of a Supplemental Declaration of Protective Covenants, Conditions, Restrictions, Easements, Charges and Liens with respect to the merger or consolidation in the office of the Albany County Clerk

### **ARTICLE III**

## **THE ASSOCIATION STRUCTURE, MEMBERSHIP, AND PROCEDURES**

This Section has been moved to the CSPA Bylaws, Article IV.

### **ARTICLE IV**

## **PROPERTY RIGHTS AND EASEMENTS**

#### **Section 4.01. Association Property/Common Property.**

The Association Property, as may be designated on maps of Chadwick Square made by C.T. Male Associates, P.C. and portions of deeds conveying such property to the Association, filed in the office of the Albany County Clerk, presently consists of the following:

- a) All green space/common property as shown on the maps of the four sections of the development and all other real property, if any, owned by the Association;
- b) Swimming pool, wading pool, bathhouse and pump house;
- c) ~~Two tennis courts~~ Court Sports: two tennis courts, pickle ball courts and shuffleboard
- d) Parking area adjoining the bath house; and
- e) Foot paths, including the footbridge.

#### **Section 4.02. Rights and Easements.**

The following easements, rights-of-way and other rights reserved herein shall be permanent, shall run with the land and shall be binding upon, and for the benefit of the Association, the Owners, and their successors and assigns:

- a) Every Owner, and such Owner's guests, lessees, and invitees, shall have a right and easement of use and enjoyment in and to all Association Property. Such easements shall be appurtenant to and shall pass with interests of an Owner.
- b) Every Owner shall also have the right of reciprocal use and enjoyment for ingress and egress over and to all Association Property and further shall have common utility and conduit easements as described in Section 4.06 herein.
- c) Each Lot and the Association Property shall be subject to an easement for encroachments created by construction, settling and overhangs of the Homes, or other improvements, as designed or constructed. A valid easement for said encroachments and for the maintenance of same, so long as they stand, shall and does exist.
- d) Owners shall provide a right-of-way over their property for full service of common grounds, including, but not limited to the pool and court sports.
- e) The foregoing rights, easements, rights-of-way and privileges shall be subject to the provisions of the Amended and Restated Declaration, the reciprocal rights of other Owners, and the rights of the Association as set forth in Section 4.03 herein, provided, however, that a

conveyance or encumbrance referred to in Section 4.03(c) hereof shall be subject to said easement of each Owner for ingress and egress.

#### **Section 4.03. Rights of the Association.**

With respect to the Association Property, and in accordance with the Certificate of Incorporation and the By-Laws, the Board of Directors of the Association shall have the right to:

- a) Adopt and promulgate reasonable rules and regulations pertaining to the use of the Association Property.
- b) Promulgate rules and regulations relating to the operation and maintenance of the Association Property.
- c) Establish reasonable admission and other fees for such use of Association Property.
- d) Grant easements or rights-of-way to any public or private utility corporation, governmental agency or political subdivision or cable television franchisee with or without consideration, or contractor performing any work on or near the sports courts and/or swimming pool.
- e) Dedicate or transfer all or any part of the land which it owns for such purposes and subject to such conditions as may be agreed to by the Association and the transferee. Such a conveyance shall require the consent of sixty-seven percent (67%) of all Authorized Voting Owners following not less than ten (10) days nor more than sixty (60) days prior to the date set for voting on the proposed conveyance.
- f) Enter into agreements, reciprocal or otherwise, with other homeowners' associations, condominiums and cooperatives for the use of, or sharing of, Association Property. Such agreements shall not negate any existing property rights of the individual Owners that run with the land. Such agreements shall require the consent of sixty-seven percent (67%) of the Authorized Voting Owners following written notice not less than thirty (30) days nor more than sixty (60) days prior to the date set for voting on the proposed agreement.
- g) Borrow funds from any recognized lending institution. And in conjunction therewith, mortgage its properties. No such mortgage, however, shall encumber or otherwise interfere with the easement of ingress and egress of Owners as described in this Amended and Restated Declaration. The amount, terms, rate or rates of all borrowing and provisions of all agreements with note holders shall be subject to the approval of at least sixty-seven percent (67%) of all Authorized Votes following not less than ten (10) days nor more than sixty (60) days prior to the date set for voting on the proposed association.
- h) Elimination of any Association Property listed in Section 4.01 of this Declaration shall require the consent of sixty-seven percent (67%) of all Authorized Voting Owners following written notice not less than thirty (30) days nor more than sixty (60) days prior to the date set for voting on the proposed elimination.
- i) Except as may be prohibited by law, or the Certificate of Incorporation, this Amended and Restated Declaration or the Amended Bylaws, to contract with any person for the performance of its management and other duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management agreements with trusts, condominiums, cooperatives and other homeowners' associations.
- j) Any recommendations that the sale or use of common property be dedicated to a purpose other than its current purpose be subject to a vote by the owners.

#### **Section 4.04. Environmental Considerations.**

In carrying out its responsibilities in enforcing the provisions of this Amended and Restated Declaration, the Architectural Committee (as defined in Article VI hereof) shall consider the environmental impact of any

existing or proposed activities on the Property or any portion thereof and on any Owners and Residents. The Association may, at its discretion, establish specifications or guidelines aimed at reducing or eliminating any activities which could have adverse environmental impact, or take affirmative action to improve the quality of the environment, and shall comply with all applicable laws, rules and regulations.

#### **Section 4.05. Distribution of Condemnation Awards.**

In the event all or part of the Association Property is taken in condemnation or eminent domain proceedings, the award from such proceedings shall be paid to the Association. The proceeds shall be distributed in the same manner as insurance proceeds, in accordance with Article VI of this Amended and Restated Declaration.

The President or Secretary of the Board of Directors shall promptly send written notice of any pending condemnation or eminent domain proceedings to all homeowners whose names appear on the books and records of the Association. In the event of any dispute with respect to the allocation of the award, the matter shall be submitted to arbitration in accordance with the arbitration statutes of the State of New York.

#### **Section 4.06. Common Utility and Conduit Easements.**

Every Owner within the same Building shall have a common utility and conduit easement (i.e., pipes, wire conduits, and public utility lines) in common with all other Owners within the same building exclusively for the purpose of exterior maintenance. Any repairs that are necessary will be made at the expense of the Owner exercising their right to said easement. The Owner exercising their right to said easement shall restore, at their expense, the other Owner's property to the satisfaction of the latter Owner. The Owner exercising their right to said easement shall notify the Owner who owns the land subject to the easement in issue, in writing, before exercising access to any such easement.

## **ARTICLE V ASSESSMENTS**

#### **Section 5.01. Creation of the Lien.**

Each Owner of a Lot by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the following which shall collectively be referred to as "Assessments":

- a) Annual Assessments as set forth below;
- b) Special Assessments as set forth below; and
- c) Extraordinary Assessments as set forth below.
- d) Fines for severe negligence of property and liens for evasion of assessment and taxes, and other infractions defined in the governing documents. (See section 5.08, below)

Annual, Special and Extraordinary Assessments shall be fixed, established and collected from time to time as hereinafter provided. Except to the extent prohibited by law, the Association on behalf of all Owners, shall have a lien on each Lot for unpaid Assessments, together with any late fees and/or interest that the Association may assess against such Lot.

#### **Section 5.02. Basis for Annual Assessments.**

The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the budget for the administration of the Association and the maintenance of the Association Property and shall send a copy of the budget and any supplement to the budget to each Owner at least thirty (30) days prior to assessing the Owners thereon. The Board shall determine the total amount required, including the operational items such as insurance, repairs, reserves, maintenance and other operating expenses, as well as charges to cover any deficits from prior years and capital improvements approved by the Board.

The total annual requirements and any supplemental requirements for the operation of the Association shall be allocated among, assessed to and paid by the Owners. Each Owner shall pay an equal portion of said requirements.

**Section 5.03. Purpose of Annual Assessments.**

The purpose of the Annual Assessments shall be to fund the maintenance, repair, replacement and improvement of the Association Property brought under the scope of this Amended and Restated Declaration, including, but not necessarily limited to:

- a) The payment of taxes on the Association Property, if any;
- b) Any utility services to the Association Property which may be commonly metered and/or billed;
- c) All casualty, liability and other insurance covering the Association Property, the officers, directors and members of the Board of Directors and employees, if any;
- d) Common Areas;
- e) The cost of labor, equipment, materials, management and supervision thereof;
- f) Accounting and record keeping of all Association financial transactions and annual financial statements and income tax reporting;
- g) Legal, architectural, engineering and other professional fees and disbursements; and
- h) Such other needs as may arise and which the Board of Directors deems appropriate or desirable.

**Section 5.04. Change in the Annual Assessments.**

- a) Other than as set forth in Section 5.02 above, the Association may change the basis of determining the annual Assessments by obtaining the written consent of Owners by an affirmative vote of not less than sixty seven percent (67%) of all Authorized Voting Owners.
- b) Any increase in the Annual Assessment of 30% or more shall require an affirmative vote of not less than 67% of all Authorized Voting Owners.
- c) Any change in the basis of Assessments shall be equitable and nondiscriminatory.

**Section 5.05. Special Assessments for Improvements.**

In addition to the Annual Assessment, the Association may levy a Special Assessment, for the purpose of defraying, in whole or in part, the cost of any capital improvements, including without limitation, the construction, reconstruction, replacement or repair of a capital nature to the Association Property, including the necessary fixtures and personal property related thereto.

- a) Any Special Assessment for new construction, rather than reconstruction or replacement, of any capital improvement, or for any Special Assessment amounting to more than ten thousand (\$10,000) dollars, requires the consent of Owners by an affirmative vote of sixty-seven (67%) percent of the Authorized Voting Owners cast in person or by proxy at a meeting duly called for this purpose, except when such a Special Assessment is necessary to cure an emergency condition as set forth in Section 5.06 below.
- b) Written notice of such meeting shall be sent to all Owners not less than ten (10) days nor more than sixty (60) days in advance, setting forth the purpose of the meeting. The Association shall establish one (1) or more due dates for each payment or partial payment of each Special Assessment and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the first such due date.

**Section 5.06. Extraordinary Assessments for Emergency Conditions or for Loss Due to Casualty.**

In addition to the Annual Assessments and any Special Assessments, the Board may levy an Extraordinary Assessment for the purpose of defraying, in whole or in part, the cost of repairs or replacement of Association Property or budget deficit resulting from such emergency, including without limitation, the construction, reconstruction, replacement or repair of Association Property, including the necessary fixtures and personal property related thereto, resulting from a property casualty or emergency caused by nature, such as an ice storm or extraordinary snow and/or rain storms not otherwise covered by insurance. Any such Extraordinary Assessment shall not require the consent of Owners. The Board shall establish such Extraordinary Assessment and a schedule of payments and shall notify each Owner thereof, in writing, at least thirty (30) days prior to the date of the first payment

**Section 5.07. Assessments: Personal Obligation of the Owner and Lien on the Home.**

All Assessments shall be paid when due. All sums assessed by the Association, including but not limited to unpaid Assessments, accelerated installments, late charges, and fees/fines for violations of Rules and Regulations as may be established by the By-Laws and fixed by the Board of Directors, shall be the personal obligation of Owner and shall constitute a lien upon the Owner's Lot prior to all other liens except (i) tax or assessment liens on the Lot by the taxing subdivision of any governmental authority, including but not limited to state, county, city, town and school district taxing agencies; and (ii) all sums unpaid on any First Mortgage of record encumbering any Lot. The Association, in its discretion, may record this Lien with the Albany County Clerk's Office.

All Assessments shall be levied on an annual basis and shall be due and payable on a quarterly basis, unless the Board of Directors establishes other periods of payment. The Board shall establish one or more due dates for each payment or partial payment of such assessment and shall notify each owner thereof in writing at least thirty (30) days prior to first such due date. Any Assessment and fees/fines that are not paid within thirty (30) days from the date due shall be deemed past due.

All costs and expenses incurred in collection of past due Assessments, including, but not necessarily limited to, reasonable attorneys' fees, late charges, interest, and fees/fines shall be added to any unpaid Assessment and shall constitute an additional Assessment payable by the delinquent Owner.

**Section 5.08. Lien for Assessments.**

The lien for any past due Assessments may be collected by the Association in accordance with customary collection practices consistent with the laws of the State of New York, including but not limited to obtaining a money judgment against the delinquent Owner and enforcing the same by income execution, attachment or sheriff's sale. The lien may also be foreclosed in like manner as a mortgage on real property, and the Association shall also have the right to recover all costs incurred by it in pursuing such right, including, but not necessarily limited to, accelerated payments, if any, late charges, interest and reasonable attorneys' and collection fees. Each lien shall be updated, extended and/or refiled annually as to principal and interest as deemed necessary by the Board of Directors and in accordance with the law. In the event the proceeds of the foreclosure sale are not sufficient to pay such unpaid Assessments, the unpaid balance shall be assumed by the Association. Nothing contained in this Section 5.08 with regard to the right of the Association to enforce its lien by foreclosure shall prohibit the Association from obtaining a money judgment against the Owner or Owners and the collecting of the same and issuing execution for a sheriff's sale. Every delinquent Owner shall be provided with quarterly statements detailing the amount of the unpaid Assessment(s) with late charges and interest as deemed necessary and appropriate by the Board of Directors.

**Section 5.09. Notice of Default.**

The Association, when giving notice to an Owner of a default in paying Assessments, may, at its option, or shall, at the request of a Mortgagee, send a copy of such notice to each such Owner's Mortgagee. In the event of a sale of the Home by the Owner, any unpaid Assessments shall be paid to the Association from the proceeds of the sale. The Mortgagee shall have the right to cure the Owner's default with respect to the payment of said Assessments at any time prior to the time title is conveyed.

**Section 5.10. Assessments Not Paid When Due shall be considered delinquent.**

Assessments not paid within thirty (30) days of the due date shall be considered delinquent and shall bear interest from the due date at the current rate of interest on judgements in New York State law allowed under CPLR § 5004. The Association may bring an action against the Owner personally obligated to pay the assessment, including interest, costs, and reasonable attorney's and collection fees of any such action. No Owner may waive or otherwise escape liability for an assessment by nonuse of the Common Properties or abandonment of the property against which the assessment is applied. When payment methods and/or address for payments is changed.

**Section 5.11. No Exemption or Waiver of Assessments.**

No Owner shall be deemed exempt from payment of any Assessment by waiver of the use or enjoyment of any of the Property or by the abandonment of their Home.

**Section 5.12. Grantee to be Liable with Grantor for Unpaid Assessments.**

In any conveyance of a Lot either by voluntary instrument, operation of law or judicial proceeding in accordance with this Amended and Restated Declaration or the Amended By-Laws, the Grantee of the Home shall be jointly and severally liable along with the Grantor for any unpaid Assessments against the latter, assessed and due up to the time of the grant or conveyance without prejudice to the Grantee's right to receive from the Grantor the amounts paid by the Grantee therefore. However, any such Grantee shall be entitled to a statement from the Board of Directors setting forth the unpaid Assessments against the Grantor and the Grantee shall not be liable for, nor shall the Home conveyed, be subject to a lien for any unpaid Assessments against the Grantor in excess of the amount therein set forth. "Grantee" as used herein shall not include either the holder of a mortgage of record or a purchaser of a Home at a foreclosure sale.

**Section 5.13. Right to Maintain Surplus.**

The Board of Directors shall not be obligated to spend all the sums collected in any fiscal year by way of Assessments or otherwise, and may carry forward as surplus any balances remaining. The Board of Directors, also, shall not be obligated to apply any such surpluses to the reduction of the amount of the Assessments in the succeeding year, but may carry forward from the year to year such surplus as the Board of Directors, in its absolute discretion, may determine what is desirable the greater financial security and the more efficient effectuation of the purposes of the Association.

## **ARTICLE VI ARCHITECTURAL COMMITTEE**

**Section 6.01. Control by Association.**

Enforcement of this Amended Declaration pertaining to the appearance of the Association Property and control over any change in use or any improvements, additions, modifications or alterations to be completed to Association Property or to the exterior of any Home or Lot shall be the responsibility of the Board of Directors who shall appoint the Architectural Committee as provided in Section 6.02 herein.

**Section 6.02. Composition and Function of Architectural Committee.**

- a) The Architectural Committee shall be a committee of the Association. It shall serve in an advisory capacity to the Board of Directors, with final approvals and/ or enforcement resting solely with the Board of Directors.
- b) The Committee shall be composed of three (3) or more persons (as determined by the Board of Directors), who shall be appointed for one year by the Board of Directors, subject to removal, with or without cause, by the affirmative vote of fifty one percent (51%) of the entire Board of Directors.



- c) The Committee shall advise the Board of Directors in writing on the following:
  - 1. All proposed additions, modifications or alterations to the Association structures.
  - 2. Any changes to the exterior of the homes including, but not limited to color, style, materials, fencing, site lighting, and any additional amenities.
  - 3. Perform other such functions as may be assigned by the Board of Directors from time to time.

#### **Section 6.03. Submission of Plans to Architectural Committee.**

No addition, modification or alteration shall be made on or to any portion of the Association structures or to other improvements on Association property, including but not limited to the bridge, tennis courts and pool, nor to the exterior of any Home and associated exterior amenities, including roofs, windows, skylights, garage doors, exterior lighting, walkways, patios, decks, and fences, unless and until a plan or plans thereof, in such form and detail as the Architectural Committee requires, shall have been submitted to and reviewed by the Architectural Committee and approved by the Board of Directors in writing. Ordinary and customary maintenance is not reviewed by the Architectural Committee. If the Architectural Committee recommends that a request be denied, the reasons shall be reviewed by the Board of Directors.

The Architectural Committee shall review the submitted plans for compliance with the Covenants, Conditions, and Restrictions of this Amended Declaration and with written Board Policies, including appropriateness of scale, color, and materials and relationship with existing structures and the surrounding landscape.

#### **Section 6.04. Recommendations of the Architectural Committee for Approval of Plans.**

- a) Upon recommendation by the Architectural Committee to the Board of Directors for approval of any plans submitted pursuant to this Article VI, the Board of Directors shall vote upon such recommendations and either the Board of Directors or the Architectural Committee shall advise the Owner, in writing, or via email, text or phone call, of its decision.
- b) Upon a vote by the Board of Directors for approval, the Secretary shall file a copy of such plans as approved in the Association's permanent records and provide the applicant with a copy of such plans bearing a notation of such approval.
- c) In order to expedite approval of applications for projects determined by the Architectural Committee to be replacement in kind without any changes to existing conditions, the Committee may solicit via e-mail approval from the Board of Directors between regular meetings of the Board. Board members may register by return e-mail their intent to approve or disapprove the application at the next regular Board Meeting. A vote of intention to approve from a majority of the Board Members is necessary for the Owner to proceed with the project. Copies of the e-mails shall be retained until the Board Members vote on the application at the next regular Board Meeting.
- d) Once plans have been approved, they may not be revoked unless the Board of Directors determines that: (i) the work currently being performed is not in substantial conformity with the approved plans(ii) a period of six (6) months has passed from the date of approval of the plans and the alterations, modifications or improvements have not commenced.

#### **Section 6.05. Written Notification of Disapproval.**

In any event, where the Board of Directors disapproves the plans submitted, the Board of Directors or the Architectural Committee shall so notify the applicant in writing, together with a statement of the grounds upon which such action was based, as set forth in Section 6.04 hereof. In any such event, the Architectural Committee shall, if requested and if practicable, make reasonable efforts to assist and advise the applicant so that acceptable plans can be prepared and resubmitted for approval.

Plans could be disapproved for, including, but not limited to:

- a) failure of such plans to comply with Covenants, Conditions and Restrictions contained in this Amended Declaration;
- b) failure to include information in such plans as reasonably requested by the Architectural Committee;
- c) objection to the site plan, exterior design, appearance of materials of any proposed improvements, including but not limited to, colors or color scheme, finish, proportion, and style of architecture;
- d) incompatibility of proposed improvements or use of proposed improvements with existing improvements or uses within the Property;
- e) change in size from the original;
- f) failure of the applicant to furnish to the Architectural Committee proof of insurance, if required.
- g) failure of proposed improvements to comply with zoning, building, health or other governmental laws, codes, ordinances, rules and regulations; or
- h) any other matter which, in the reasonable judgment of the Board of Directors, would render the proposed improvement use or uses inconsistent or incompatible with the general plan of improvement of the Property, including any possible adverse impact on the use and enjoyment of the Property by any other Owner.

#### **Section 6.06. Failure of Committee to Act.**

If any applicant has not received notice from the Board of Directors approving or disapproving any plans within thirty (30) days after submission pursuant to Section 6.03 herein, said applicant may notify the Board of Directors in writing of a demand for a decision on the plans submitted. Such notice shall be sent by certified mail, return receipt requested. The Board of Directors must make a decision within 15 days of receipt of such notice.

#### **Section 6.07. Liability.**

No action taken by the Architectural Committee or any member of a subcommittee, employee or agent thereof, shall entitle any person to rely thereon, with respect to conformity with laws, regulations, codes or ordinances, or with respect to the physical or other condition of any Building or other portion of the Property. Neither the Association, the Board of Directors, the Architectural Committee, nor any owner, subcommittee, employee or agent shall be liable to anyone submitting plans to them for approval, including without limitation, mistakes in judgment, negligence or nonfeasance. Every person or other entity submitting plans to the Architectural Committee agrees, by submission of such plans, to defend, indemnify and hold harmless the Association, the Board of Directors and the Architectural Committee (or any officer, member of a subcommittee, employee or agent thereof) from any action, proceeding, suit or claim arising out of, or in connection with, such submission.

#### **Section 6.08. Right to Develop Rules and Regulations.**

The Architectural Committee may recommend to the Board of Directors rules and regulations governing the form and content of plans to be submitted for approval and governing the approval or disapproval of certain types of alterations, modifications or improvements to the Homes or other property, provided that no such rule or regulation shall be inconsistent with the provisions of this Amended Declaration, the Bylaws or any applicable governmental law, code, ordinance, rule or regulation.

#### **Section 6.09. Delegation of Functions.**

The Architectural Committee may authorize, with the permission of the Board of Directors, individual members of the Architectural Committee to perform any or all of the functions of the Committee. As provided in Section 6.03 herein, the Architectural Committee may, with the approval of the Board of Directors, hire engineers, architects and other consultants reasonably necessary to perform its functions.

## **ARTICLE VII GENERAL COVENANTS AND RESTRICTIONS**

### **Section 7.01. Use of Homes.**

Homes shall be used only for private residential purposes. This shall not prohibit an Owner from maintaining a business within the Home or lot, providing: (1) there shall be no employees or contract workers working from the Home; (2) there shall be no signs or other evidence of the business displayed on the premises or the mail hutch or elsewhere on Association Property; (3) there shall be no extraordinary traffic resulting from the business; (4) the existence or operation of the business is not apparent or detectable by sight, sound, or odor from outside the lot; (5) the business activity does not constitute a nuisance or offensive use as may be determined by the Board of Directors or its managing agent. Business use of the Home may be only by the Owner and only if the Owner is residing in the home. Business use by a Tenant or other non-owner is prohibited.

### **Section 7.02. Roofs.**

Replacement roofs must be in the same style and color as approved by the Board. No roof lines shall be changed from the original construction nor shall the footprint of any Unit or building be changed. An application for replacement must be submitted to the Architectural Committee and approved by the Board of Directors. Additional specifications are set forth in the written Board Policies and should be provided to the contractor prior to obtaining a quote for the work.

### **Section 7.03. Garages and Garage Doors.**

Garages may be used for vehicular parking and personal storage only and may not be modified for any other use. Occupants of Homes are requested, to the extent practicable, to park their motor vehicles in their garage and shall keep the garage door in a closed position, except for ingress and egress, whenever possible.

Replacement doors must be in the same style and color as the original doors. The original color is the color of the wooden trim of the building for neighborhood sections 1 and 2; in sections 3 and 4, the original color is the color of the building's siding. An application including proposed style and color of the new garage door must be submitted to the Architectural Committee and approved by the Board of Directors. Additional specifications may be found in the written Board's written Policies and should be provided to the contractor prior to obtaining a quote for work.

### **Section 7.04. Awnings.**

Use of a single awning to shade a patio or deck area directly at the rear of the Living Room or Dining Room is permitted and must be a retractable design. No side curtains are allowed and a front valance is limited to a maximum nine-inch (9") drop. They shall project no more than twelve feet (12') from the main wall of the Home (not including fireplace housings) when fully extended and its width shall be no more than fourteen feet (14').

Post and frame type awnings installed and/or approved by the Board of Directors prior to 1995 may remain as is. Post and frame type awnings have been installed at 5 and 7 Constitution Drive and at 15 and 17 York Road. Replacement awnings shall be in accordance with Section 7.04 requirements above.

An application for replacement or installation of an awning must be submitted to the Architectural Committee and approved by the Board of Directors. Additional specifications are found in the written Board Policies and should be provided to the contractor prior to obtaining a quote for the work.

Awnings may only be used during the period from April 15th thru November 15th. During the period from November 16th to April 14th post and frame type awnings must be removed from the pipe supports and the retractable awnings must remain retracted and out of use.

Pursuant to Article VI of this Amended Declaration a detailed sketch or drawing showing the exact location and dimensions must be submitted, together with a sample of the fabric to be used, such sample being of the color to be installed, to the Architectural Committee, together with evidence of insurance naming the Owners and the Association as additionally insured, have been received. Additional specifications are found in the written Board Policies

#### **Section 7.05. Decks.**

A deck is an exterior floor surface, extending outward from a structure as an integral part thereof: intended to accommodate multipurpose outdoor activities. An application for replacement or installation of a deck must be submitted to the Architectural Committee and approved by the Board of Directors. Decks are to be built only at the rear of the building.

Decks must be made of wood or of composite materials with the appearance of wood. Installation of a deck may require approval of the Town of Bethlehem Building Department. Prior to submission of plans to the Architectural Committee, the Owner should determine if Town approval is required, obtain approval and submit evidence of approval as part of the submission to the Architectural Committee. If the Town should require proof of approval from the Association before issuing a building permit, the Architectural Committee and the Board of Directors may perform an initial review and give conditional plan approval, a statement of which the Owner may take to the Town. Upon receipt of the building permit, the Owner must resubmit the plans along with the building permit to the Architectural Committee for Board approval.

Decks shall not project more than sixteen feet (16') from the Building, measured perpendicular from the rear main wall Chimney chases and other limited projections from the main wall may not be used as the basis for this measurement Other than railings and/or steps, the maximum height of a deck above existing grade shall be: (a) no higher than the interior floor level of the Home at the point of exit to the deck; or (b) no higher than eight feet (8') above the highest existing grade below the deck surface. Decks are to be built only at the rear of the building.

Railings shall not exceed three feet (3') in height measured from the deck floor. Decks and railings shall be finished and/or sealed in natural wood tones. No white or bright colored paints or stains shall be permitted. Additional specifications may be found in the written Board Policies. ~~section of the "Chadwick Square Park Association Handbook".~~

Scaled drawings and descriptions showing the exact configuration and dimensions of the deck, its location relative to the Building and common property lines and details relative to steps, railings, built-in seating, proposed finish and other details, together with the Town of Bethlehem Building Department approval, if required, and evidence of the contractor's insurance naming the Owner and the Association as additionally insured, should be submitted to the Architectural Committee for approval.

#### **Section 7.06. Patios.**

A patio is a ground level paved area intended to accommodate multipurpose outdoor activities. A patio may be located in the rear yard or incorporated with the entry walkway. A new patio shall be so designed as to not adversely affect the drainage patterns of the neighborhood. An application for replacement or installation must be submitted to the Architectural Committee and approved by the Board of Directors. Entry patio may not exceed 100 square feet in area. No appliances may be left on the front patio overnight. Materials used for the patio shall be of natural earthen, stone, or wood tones. No white or bright colors shall be permitted. No bituminous materials such as asphalt, blacktop, or macadam-like materials are allowed. If the size or configuration of an existing patio, or the materials of which it is constructed, will be changed, proposed dimensions and specifications must be submitted to the Architectural Committee, including the proposed color of the materials. The submission must also include evidence of the contractor's insurance naming the Owners and the Association as additionally insured. In all cases, any change in color proposed for an existing patio must be submitted to the Architectural Committee and approved by the Board of Directors. Additional specifications may be found in the written Board Policies.

**Section 7.07 Fences.**

All replacement fences shall be similar in style to the original fence and be of materials including wood or vinyl/PVC with a natural wood look or of wood stained or dyed to be of a weathered cedar tone. No white or bright colored paints, stains or vinyl/PVC are allowed. Cedar fencing is still preferred. No Homeowner may install a fence extending beyond such Owner's property line into Association Property. Fences of Homes at the end of each Building may not be located more than four feet (4') from the side rear corner of the Building regardless of the location of such Home's property line, but shall not extend beyond the property line. Fences may not exceed five (5) feet in height.

The fence may not extend more than sixteen feet (16') from the main wall of the Home. Chimney chases and other limited projections from the main wall may not be used as the basis for this measurement. Fence enclosures installed after January 1, 1995 may taper from the original height of the fence to a minimum height of four feet (4') within eight feet (8') of each end. The remainder of the rear enclosure fence shall be of uniform height and may include a gate of the same height and style.

Existing fences on the outside of the end Homes may be replaced by evergreen screens which shall be the same length as the fence it replaces, at least five feet (5'), but not more than seven feet (7'), in height and sufficiently dense to provide limited visibility similar to the fence being replaced.

All fences and evergreen screens must be maintained and kept in good condition by the respective Owner, with dead or seriously damaged sections of an evergreen screen replaced with like size and type in a timely manner. Additional specifications relative to maintenance and repair are set forth in the written Board Policies.

Scaled drawings and descriptions showing the exact configuration and dimensions of the fence or evergreen screen, the location relative to the Building and common property lines and details relative to the proposed finish and other details, together with evidence of the contractor's insurance naming the Owner and the Association as additionally insured, must be submitted to the Architectural Committee and approved by the Board of Directors. For installation of more than one section of fence a building permit may be required by the Town of Bethlehem and, if required, must be submitted with the application.

**Section 7.08. Siding.**

Siding on homes may not be painted or replaced without approval of the Board of Directors. An application must be submitted to the Architectural Committee with samples of the color to be used for painting and/or the materials to be used for new siding. A certificate of insurance held by the selected contractor naming Chadwick Square as co-insured must accompany the application along with a building permit, if one is required by the Town of Bethlehem. The proposed project must meet the additional specifications set forth in the written Board Policies.

A building permit is required by the Town of Bethlehem and must be submitted with the application. Additional specifications may be found in the written Board Policies and should be provided to the contractor prior to obtaining a quote for the work.

**Section 7.09. Auxiliary Structures.**

No structures, tents, shacks, trailers, motorized vehicles or motorized homes or campers shall be used for storage or as a dwelling either temporarily or permanently. No trailer or boat shall be stored on any Lot unless garaged.

**Non-Permanent Structures:** Non-permanent structures are permitted, including swings, sand boxes and kiddie pools. Additionally, one small utility garden tool storage cabinet at the rear of the unit. Fire pits are allowed if gas operated (no wood burning) and at least 10' from the home. Hot tubs are not allowed. Additional specifications may be found in the written Board Policies.

**Section 7.10. Air Conditioners.**

No individual window air conditioners or "through the wall" units may be installed. Additional standards may be found in the written Board Policies.

**Section 7.11. Antennas and Satellite ~~Television~~ Dishes.**

Antennas and satellite dishes may be installed. An application for installation or replacement must be submitted to the Architectural Committee and approved by the Board of Directors. No TV, AM, FM, CB or short wave antennas are to be visible. Only one (1) satellite television dish not more than eighteen inches (18") in diameter may be installed in the most inconspicuous location possible. Dishes will not be permitted on a front or side roof visible from the street or in any location where any part of the dish is visible above the roof line as seen from the street. Dishes may be located on a chimney chase, rear exterior wall or rear roof. A description and dimension of the dish and the proposed location, and if installation is to be made by an independent contractor, evidence of the contractor's insurance naming the Owners and the Association as additionally insured, must be submitted to the Architectural Committee for approval, pursuant to Article VI of this Amended and Restated Declaration. Additional specifications may be found in the written Board Policies.

**Section 7.12. Outdoor Sporting Equipment.**

No basketball backboards may be permanently installed and no outdoor sporting equipment may be left outside on the lot overnight. Additional requirements may be found in the written Board Policies.

**Section 7.13. Utility Meters.**

Exterior utility meters and visible piping shall be painted the same color as the side of the appurtenant Home. Shrubbery and/or greenery screening may be used in addition to painting, but cannot be used as a substitute for painting. With review by the Architectural Committee and approval by the Board of Directors, lattice screening of utility meters will be permitted. Additional specifications may be found in the written Board Policies.

**Section 7.14. Window Replacement.**

Replacement windows must be of an architectural style similar to existing windows in both appearance and size, with flush windows being replaced with flush windows and projecting windows being replaced with projecting windows. If the style is no longer manufactured, the Board of Directors may, at its discretion, approve a different style compatible with the neighborhood. The colors must be consistent with the original colors, i.e., windows of Homes south of the drainage easement as close as possible to the original "almond" color and windows of Homes north of the drainage easement white. An application must be submitted to the Architectural Committee and approved by the Board of Directors. Additional specifications may be found in the written Board Policies and should be provided to the contractor prior to obtaining a quote for the work.

Manufacturer's specifications, including photos and descriptive drawings of the specific window(s) to be used for each separately identified window and other details, together with evidence of the contractor's insurance naming the Owners and the Association as additionally insured, must be submitted to the Architectural Committee for approval pursuant to Article VI of this Amended Declaration.

**Section 7.15. Exterior Lighting.**

~~Replacement~~ of Post lamps and lighting fixtures attached to the exterior walls of the Home must be of like architectural style, black finish, size and appearance as originally installed. No post lamp may be relocated from its existing position on the Lot unless relocation would result in bringing the post more in line with other post lamps on the street. If the post is being moved, an application must be submitted to the Architectural Committee and approved by the Board of Directors. Spot or flood lamps are prohibited. Walkway lights are permitted. Manufacturer's specifications, including photos of the replacement post lamps and/or lighting fixtures with identifying locations and other details, must be submitted to the Architectural Committee for approval and approved by the Board of Directors. Additional specifications may be found in the written Board Policies.

**Section 7.16. Maintaining Utility Service.**

Regardless of whether a Home is occupied, the Owner thereof shall be responsible for maintaining sufficient heat within the Home to prevent potential water line freeze-up which could cause damage to the adjacent Home or Homes. Additional specifications may be found in the written Board Policies.

**Section 7.17. Home Identification.**

Identification of Home number and/or name of occupant may only be placed in such area designated by the Board of Directors. The type and color of such identifications shall be as specified by the Architectural Committee. Additional specifications may be found in the written board policies

**Section 7.18. Cats and Dogs.**

Each home unit shall have the right to have two (2) pets, either cats or dogs. In accordance with the Town of Bethlehem leash laws, dogs must be kept in control on a leash or otherwise restrained. To avoid damage to lawns and shrubs, dogs should be walked in the roadway areas and, in accordance with the Town law, droppings must be promptly removed from all areas in Chadwick Square, public and private, and properly disposed of. Pets may not be kept out of doors overnight nor allowed to create a disturbance. Additional specifications may be found in the written Board Policies. For owners who currently have more than 2 pets, this section does not impact their current situation. However, replacement or addition of pets will only be permitted for a maximum combination of two cats or dogs in the household. Pet owners should dispose of all pet droppings in their own trash receptacles.

**Section 7.19. Parking.**

- a) Motor Vehicles. Parking motor vehicles shall be limited exclusively to the garage and the driveway. Parking on Town of Bethlehem roads is governed and enforced by the town.
- b) Commercial Vehicles. Commercial Vehicles must be garaged if they: {1) display a commercial license plate(2) display text, logos, advertisements, or other identifying material; or (3) carry tools, machinery, equipment, materials, or other business paraphernalia visible from outside the vehicle. This requirement does not apply to Commercial Vehicles belonging to individuals or commercial entities rendering a commercial service to an Owner during regular business hours or responding on an emergency basis.
- c) Recreational Vehicles. Recreational vehicles, including but not limited to, all terrain vehicles, motor bikes, minibikes, snowmobiles, boats, jet skis, trailers, campers, golf carts or other such vehicles must be kept garaged when on or about the premises. Additional specifications may be found in the written Board Policies.

**Section 7.20. Advertising and Signs.**

No signs of any type, including, but not limited to, political signs, for sale signs, contractor signs or business identification signs are permitted on any Home, garage, in any windows and/or doors, on any Lot or Association Property. Real estate open house signs may be displayed on the day of the open house. Signs required by statute are allowed. Additional specifications may be found in the Board Policies and should be provided to the contractor.

**Section 7.21. Outdoor Storage.**

No storage of personal property, materials or equipment outside the Home except that: (a) seasonal outdoor furniture, grills and the like may be stored on the rear patio or deck area no higher than the privacy fence, nor extending more than 16 feet from the rear wall of the buildings(b) no more than one (1) cord of wood (4'x 8'x 4') may be stored on any Lot, and such shall be confined to the rear patio area or rear yard and shall be stacked no higher than the privacy fence. Additional requirements specifications may be found in the written Board Policies.

**Section 7.22. Outdoor Repair Work.**

No extensive repair work on any motorized vehicles, boats, or trailers shall be permitted on any Lot. Additional specifications may be found in the written Board Policies.

**Section 7.23. Noxious or Offensive Activity.**

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done therein which may be or may become an annoyance or nuisance to the neighborhood. No unreasonable noise is allowed during quiet hours in accordance with Town of Bethlehem regulations (11pm to 7am as of 01/22). Additional specifications may be found in the written Board Policies.

**Section 7.24. Refuse Disposal.**

All refuse will be stored in covered containers either within the home, garage or rear yard, but generally not in view from adjacent Lots and/or Homes or roadways. Such containers may be placed at curbside within twenty-four (24) hours of a scheduled pickup. Emptied containers shall be removed from curbside by the end of the designated pickup day. No refuse, including grass clippings, lawn rakings, cuttings from trees or shrubs, tires or any other waste materials, is permitted to be deposited on any other Lot or on any Association Property. Each Owner and/or occupant is responsible for proper disposal of all refuse off the Property. Additional specifications may be found in the written Board Policies.

**Section 7.25. Clotheslines.**

One retractable umbrella type clothesline may be used within 16' of the rear wall of the home and retracted when not in use. Additional specifications may be found in the written Board Policies.

**Section 7.26. Flammable Substances.**

No flammable, toxic or hazardous materials, substances or articles deemed hazardous to life, limb or property shall be placed or stored in any Home, including the garage, or on, in, under or over any lot, except in such form and quantity as customarily found in homes for residential purposes. Such substances shall be kept in the original container or a container designed for such storage and kept away from open flames and sources of combustion such as gas space heaters and water heaters. Additional specifications may be found in the written Board Policies.

**Section 7.27 Solar Panels.**

Solar panels may be installed so long as they comply with the NYS Solar Right Act of 2021, and the regulations of the Town of Bethlehem. An application for replacement or installation must be submitted to the Architectural Committee after it has been approved by the Town. Approved by the Board of Directors should be provided to the contractor prior to obtaining a quote for the work.

**Section 7.28. Emergency Power Generators.**

Gas powered, portable generators will be permitted for residents who choose to have alternative source of power during outages. The generators must be muffled to reduced noise.

## **ARTICLE VIII RESPONSIBILITY FOR MAINTENANCE, REPAIRS, IMPROVEMENTS AND REPLACEMENTS**

**Section 8.01. Association Responsibilities.**

Except as specifically otherwise provided in Section 7.01, all maintenance, repairs, improvements and replacements of the Association Property shall be the responsibility of (and unless otherwise set forth), an expense of the Association. Association responsibilities for maintenance, repairs, and/or replacements shall include, but not necessarily be limited to, the following:

- a) Facilities and equipment consisting of, but not necessarily limited to swimming pool, pool house, pool-side furniture, sports court and equipment, the foot bridge, foot paths, hutches, mail boxes and street signs.



- b) The maintenance of all shrubbery and other plantings installed at the direction of the Board of Directors or its managing agent on the Property.
- c) Except as otherwise provided, the cost of all maintenance, repairs, improvements and/or replacements that are the responsibility of the Association shall be a common expense.

#### **Section 8.02. Responsibility of the Individual Home Owner.**

Except as specifically otherwise provided in this Article, all maintenance, repairs, improvements and replacements on the Home Owner's Lot shall be the responsibility of, and the sole expense of the Owner. The Association shall not be responsible for the maintenance, repair or replacement of any sewer lines, water lines or other utility lines. Home Owner's responsibilities for maintenance, repairs, improvements and replacements shall include, but not necessarily be limited to, the following in accordance with the policies of the association (i.e., styles, colors, materials):

- a) Siding; gutters and downspouts; roofs; painting or staining of the home's siding or exterior trim, the exterior of windows and the exterior of doors which open from a Home; painting or staining, repairing and replacement of patio fences and decks maintaining walkways; repairing and resurfacing of driveways; caulking of windows; repairing or replacing stoops, stairs or steps, window panes, screens, and doors.
- b) Except as provided in Section 8.01 herein, the Association shall not be responsible for: (i) the maintenance, repair or replacement of any Buildings, structures or landscaped areas not owned by the Association; or (ii) the maintenance, repair and replacements of any sewer lines, water lines or other utility lines.
- c) The cost of any maintenance, repair or replacement made pursuant to Section 8.01 herein, but which is occasioned by a negligent or willful act or omission of an Owner, an owner's family members, guests, lessees, licensees or invitees, as the case may be, shall be made at the sole cost and expense of such Owner, and shall not be regarded as a common expense.

#### **Section 8.03. Quality of Maintenance and Repairs.**

All maintenance, repair and replacement shall be of a quality and appearance consistent with the current specifications of the Board of Directors as found in the written Board Policies.

## **ARTICLE IX INSURANCE**

#### **Section 9.01. Insurance to be Carried.**

The Board of Directors or its managing agent shall obtain and maintain (i) fire and casualty insurance on Association structures; (ii) liability insurance; (iii) Directors' and Officers' liability insurance, and liability insurance to cover all committee members; (iv) fidelity bond and (v) workers' compensation and disability benefits insurance, if required by law; and (vi) other such insurance as the Board of Directors deems appropriate and/or necessary.

It is the responsibility of each homeowner to procure insurance to cover themselves properly for any loss of property, and any liability that may be imposed by Law.

## **ARTICLE X LEASING OF HOMES**

#### **Section 10.01. Leasing of Homes.**

The leasing of a Home shall be subject to the following:

- a) Owner shall provide the Association with names of tenants. The owner of the home shall notify the managing agent, secretary or treasurer of the Association of the name(s) of the lessees, the length of the lease and the address to which the dues and other Association business should be sent. Only one lease per Home shall be permitted at any one time.
- b) Owner Responsible for Lessee. The Owner of the Home leased shall be responsible for full compliance by the lessee of the covenants, conditions and restrictions of this Amended and Restated Declaration. the By-Laws, Rules and Regulations, resolutions and decisions and such Owner shall be solely responsible for providing the lessee with all of the foregoing at the time of the signing of the lease and prior to occupancy by the lessee.
- c) Subleasing. There shall be no subleasing of any Home at any time.

Violations by the lessee shall be considered violations of the owner and shall be subject to violation charges, established by the Board of Directors or its managing agent, payable by the Owner of the Home occupied by the lessee in violation. All litigation costs, fees and any dues related to the tenancy are the sole responsibility of the Owner of the Home occupied by such lessee. Charges imposed for violations shall be liens upon the Owner and such Owner's Home collectible in the same manner as Assessments as set forth in Article V of this Amended and Restated Declaration.

## **ARTICLE XI AMENDING OF DECLARATION**

### **Section 11.01. Amending.**

Subject to other provisions of this Amended and Restated Declaration, this Amended and Restated Declaration may be modified, altered or amended at any duly called meeting of Owners, provided that:

- a) Written notice of the time and location of the meeting, to consider amending the Declaration containing a full statement of the proposed modifications, alteration or amendment has been sent to all Owners no less than thirty (30) days nor more than sixty (60) days prior to the date of the meeting; and
- b) At least sixty-seven percent (67%) or more of the total Authorized Voting Owners approve the change in writing; and
- c) An instrument evidencing the change is duly recorded in the office of the Albany County Clerk. Such instrument need not contain a written consent of the required number of Owners, but shall contain a certification by the Board of Directors that the consents required by this Section 9.01 for such change have been received and filed with the Board of Directors.

### **Section 11.02. Proposal by Owners.**

At any time, Owners may propose an amendment to the Declaration of Covenants, Conditions and Restrictions by submitting such proposal in writing, in person, via mail and/or electronically, to the secretary of the Board. Amendments proposed for voting at an annual or special meeting of the owners must be submitted at least one hundred and twenty (120) days prior to the scheduled date of the meeting. The secretary will acknowledge receipt of the proposal, including date of receipt, in writing via mail and/or electronically. The Board shall complete a review of each proposed amendment no later than sixty (60) days from the date of receipt or by the date of the next regularly scheduled Board meeting after the date of receipt, whichever last occurs, to determine the effect of such proposal on the existing Declaration and may, during that time period, appoint an ad-hoc committee for the purpose of assisting the Board in such review. Based on its review, the Board may:

- a) determine that the proposed amendment is acceptable in its original form and present it to the Owners for a vote in accordance with Section 11.01 of this Article; or
- b) determine that the proposed amendment is not acceptable in its original form for presentation to the Owners, and assist the Owner(s) submitting the proposed amendment in developing an

acceptable modified proposal prior to presenting the proposal to the Owners for a vote in accordance with Section 11.01 of this Article; or

- c) determine that the proposed amendment is inconsistent with any of the governing documents or is otherwise inappropriate for presentation to the Owners for a vote and provide written notification to the Owner(s) submitting the proposal explaining why the proposal will not be presented to the Owners for a vote.

#### **Section 11.03. Re-submission by Petition.**

If the Board determines, in accordance with Section 11.02. (c) of this Article, that a proposed amendment is inappropriate for presentation to the Owners for a vote, the Owner(s) submitting the original proposal may, not later than forty-five (45) days prior to an Annual or Special Meeting of the Owners at which the submitting Owner(s) wish to have the proposal presented for a vote of the Owners, resubmit the proposal to the Board, in its original or modified form, together with a petition signed by not less than forty-five (45) Owners. In the event of such a resubmission, the Board shall present the resubmitted proposal to the Owners for a vote in accordance with Section 11.01 of this Article.

## **ARTICLE XII GENERAL CONDITIONS**

#### **Section 12.01. Conflict with Municipal Laws.**

The Covenants, Conditions and Restrictions set forth herein 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 any deed or lease.

#### **Section 12.02. Change of Conditions.**

The provisions of this Amended and Restated Declaration may be amended only in the manner provided under Article XI.

## **ARTICLE XIII DURATION**

#### **Section 13.01. Duration.**

The covenants and restrictions of this Amended and Restated Declaration shall run with and bind the land, and shall be reviewed every successive ten years from the date this Amended and Restated Declaration is recorded.

#### **Section 13.02. Amending the Declaration.**

The Amended and Restated Declaration may be further amended during the ten (10) year period by an instrument approved in writing by not less than sixty-seven (67%) percent of the Owners. Any Amended Declaration must be recorded.

## **ARTICLE XIV ENFORCEMENT AND COMPLIANCE**

#### **Section 14.01. Enforcement.**

The Association, while a party of interest, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, fine, liens and charges, now or hereafter imposed by the provision of this Amended Declaration. Failure by the Association or its managing agent to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so hereafter.

#### **Section 14.02. Owner Obligations.**

In the event an Owner has a contract to sell their Home, the Owner shall notify the Association (the Treasurer) in writing of the contemplated closing date and provide the Association with their attorney's name, if any, and Amended & Restated Declaration of Covenants, Conditions and Restrictions

the name and contact information for the buyer/potential owner. Upon receipt of notification from the Owner-seller, the Association or its managing agent shall, within fifteen (15) days of receipt of such request, issue a certificate in writing, signed by the Treasurer or designee of the Board of Directors, setting forth with respect to such Home, as of the date of such certificate: (i) whether the Assessments due have been paid; (ii) the amount of such Assessments, including interest and costs, if any, due and payable as of such date; and (iii) whether any other amounts, fees/fines or charges are owing to the Association, e.g., for Special Assessments or for the cost of extinguishing a violation of this. As provided for in Bylaws, Article XI, Section 2(d), the Association or its management company will only issue such a certificate after the Owner-seller has presented a signed statement verifying that the Owner-seller has transferred the following Association documents to the buyer or advised the buyer where the documents can be located if kept electronically: (1) Certificate of Incorporation; (2) the Amended Declaration; and (4) written Board policies.

Each person or entity acquiring an interest in a Home or otherwise occupying any portion of the Property (whether or not the deed, lease or any other instrument incorporates or refers to this Amended Declaration) agrees for themselves and for their heirs, successors and assigns, to observe, perform and be bound by the provisions of this Amended and Restated Declaration, including personal responsibility for the payment of all charges which become due while they are the Owner thereof: and also covenants to incorporate this Amended and Restated Declaration by reference in any deed, lease or other instrument further transferring an interest in such Home or other portion of the Property.

#### **Section 14.03. Board of Directors.**

Obligations. Enforcement of the provisions of this Amended Declaration and Association Bylaws shall be the responsibility of the Board of Directors and its managing agent. The Board and its managing agent shall take such actions necessary to achieve enforcement and compliance with these documents according to the Chadwick Square Community Compliance Procedures found in the written Board Policies

#### **Section 14.04. No Waiver by Failure to Enforce.**

The failure of any beneficiary hereof to enforce any provision of this Amended and Restated Declaration shall in no event be construed as a waiver of the right by that beneficiary or any other to do so thereafter, as to the same or a similar violation occurring prior or subsequent thereto.

#### **Section 14.05. Obligations and Lien for Cost of Enforcement by Association.**

If the Board of Directors or its managing agent successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Amended and Restated Declaration, the Amended By-Laws or Rules and Regulations promulgated hereunder or there under, the costs of such action, including legal fees, shall become a binding, personal obligation of the violator. If such violator is: (a) an Owner; or (b) any family member, lessee, guest, or invitee of the tenant of the Owner; or (c) a family member or guest of the tenant of the Owner; or (d) a guest or invitee of any member of such Owner's family or any family member of the lessee of such Owner, such costs shall also be a lien upon the Lot or other portion of the Property owned by such Owner, if any.

## **ARTICLE XV GENERAL**

#### **Section 15.01. Headings and Captions.**

The headings and captions contained in this Amended and Restated Declaration are for convenience only and shall not affect the meaning or interpretations of the content thereof.

#### **Section 15.02. Invalidity of 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.

**Section 15.03. Gender.**

(Section deleted; no longer relevant based on gender neutrality in wording).

**Section 15.04. Notice.**

All notices hereunder shall be in writing and, if required to be timely, shall be sent by certified mail, return receipt, addressed, if to the Board of Directors, to the office of the managing agent or the Board of Directors, and if to an Owner or Mortgagee, to the address of such Owner as appears on the books of the Association or its managing agent. All notices shall be deemed to have been given when mailed, except notices of change of address, which shall be deemed to have been given when received. Whenever any notice is required to be given under the provisions of this Amended and Restated Declaration, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed the equivalent of such notice.

**Section 15.05. Right of Association to Transfer Interest.**

Notwithstanding any other provision herein to the contrary, the Association and its successors, shall at all times have the absolute right to fully transfer, convey and assign its right, title and interest under this Amended and Restated Declaration to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such transfer shall be effective unless an instrument has been signed by at least sixty-seven percent (67%) of the Owners of the Association agreeing to such sale or transfer. Upon such assignment, the successor corporation shall have all the rights and be subject to all the duties of the Association as set forth in this Amended and Restated Declaration and shall be deemed to have agreed to be bound by all provisions hereof, to the same extent as if the successor corporation had been an original party and all references herein to the Board of Directors shall be deemed to refer to the Board of Directors of such successor corporation. Any such assignment shall be accepted by the successor corporation under a written agreement pursuant to which the successor corporation expressly assumes all the duties and obligations of the Association.

If, for any reason, the Association shall cease to exist without having first assigned its rights hereunder to a successor corporation, the Covenants, Conditions and Restrictions imposed hereunder shall, nevertheless, continue and any Owner may petition a court of competent jurisdiction to appoint a trustee for the purpose of organizing a not-for-profit corporation to take over the duties and responsibilities of the Association, such corporation to exist, subject to the conditions provided for herein, with respect to an assignment and delegation to a successor corporation.

IN WITNESS WHEREOF, the undersigned, being the Owner of real property subject to this Amended and Restated Declaration, set their hands and seals the date stated below.

CHADWICK SQUARE PARK ASSOCIATION, INC.

BY: Uriel M. Ojo  
Uriel Ojo, Secretary

STATE OF NEW YORK)

COUNTY OF ALBANY) ss.:

On the 25<sup>th</sup> day of July, 2022, before me duly sworn, did depose and say that (s)he resides at 11 York Road, Glenmont, New York 12077; that (s)he is the Secretary of CHADWICK SQUARE PARK ASSOCIATION, INC., the corporation described in, and which executed the above instrument; that (s)he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that (s)he signed (her)his name thereto by like order.

Further, (s)he did depose and say that this Amended Declaration and all Schedules thereto were voted upon in accordance with Article XI. Section 11.01, of this Amended Declaration by written ballot of the Owners during the voting period ending on July 1, 2022 and that percent (73%) of the total Authorized Voting Owners consented to this amended document.

Colleen A. Hummel  
Notary Public

COLLEEN A. HUMMEL  
Notary Public, State of New York  
Qualified in Albany County  
No. 01HU6061493  
Commission Expires July 16, 2023

## **SCHEDULE A DESCRIPTION OF PROPERTY**

ALL THAT TRACT, PIECE OR PARCEL OF LAND, situate in the Town of Bethlehem, Albany County, New York, lying Easterly of Wemple Road and being further bounded and described as follows:

BEGINNING at a point in the Easterly margin of Wemple Road, where said road margin is intersected by the common division line between the lands now or formerly of Thomas McQuade on the South and lands of Newell on the North, said point of beginning also being located approximately 360 feet +/- as measured along the Easterly margin of Wemple Road from its intersection with the center line of Beacon Road, and runs thence from said point of beginning along the Easterly margin of Wemple Road, North 4 deg. 39 min. 40 sec. East, 1,855.67 feet to a point; thence through the lands now or formerly of Newell the following two (2) courses: South 88 deg. 08 min. 10 sec. East, 304.23 feet to a point; thence North 77 deg. 38 min. 10 sec. East, 509.37 feet to a point in the westerly line of lands now or formerly of Magee; thence along the Westerly line of lands now or formerly of Magee the following two (2) courses: South 31 deg. 10 min 40 sec. East, 239.73 feet to a point; thence South 4 deg. 36 min. 50 sec. West, 820.12 feet to a point, said point being the Northwest corner of lands now or formerly of Albert McHarg; thence along the Westerly line of lands now or formerly of McHarg, South 5 deg. 21 min. 50 sec. West, 994.70 feet to a point in the Northerly line of lands now or formerly of J. Schoonmaker; thence along said Northerly line, South 85 deg. 31 min. 10 sec. West, 786.70 feet to a point in the Easterly line of lands now or formerly of Thomas McQuade; thence along the Easterly and Northerly line of lands now or formerly of McQuade, North 4 deg. 42 min. 10 sec. East, 138.00 feet to a point; thence South 85 deg. 31 min. 10 sec. West, 150 00 feet to the point or place of beginning and containing 41.80+acres of land.

## **SCHEDULE B DESCRIPTION OF PROPERTY**

Description of lands conveyed by the Michaels Group, Inc. to Chadwick Square Park Association, Inc. March 26, 1993 and filed in Book 2480 Page 896 in Albany County on March 29, 1993.

All that certain tract, piece or parcel of land situate, lying and being Easterly of Commonwealth Drive in the Town of Bethlehem, Albany County, New York and being more particularly bounded and described as follows:

BEGINNING at the intersection of the division line between the lands now or formerly of Jakovic on the East and Chadwick Square Section Three on the West with the division line between said Jakovic on the North and land deeded to Rosen-Michaels, Inc. by Warranty Deed of Minard B. Carkner and Viola M. Carkner, his wife, which said deed is dated May 6, 1978 and was recorded in the Albany County Clerk's Office on May 25, 1978 in Liber 2150 of Deeds at Page 209 on the South and runs thence from said point of beginning through Chadwick Square Section Three the following three (3) courses: 1) North 02° 46' 14" West 56.60 feet to a point; 2) thence North 04° 52' 30" East 527.97 feet to a point; and 3) thence North 08° 22' 04" East 74.35 feet to a point on the above first mentioned division line, 658.29 feet to the point or place of beginning and containing 3,590+/- Square Feet of land. The said map of Chadwick Square Section 3 was made by CT. Male Associates, P.C and was filed in the Albany County Clerk's Office on June 12, 1986, as Map No. 6424 in drawer Number 172.

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