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**PELHAMDALE MEWS  
HOME OWNERS ASSOCIATION, INC.**

**DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS**

DECLARANT: PEL DEVEL REALTY GROUP LLC

DATE OF DECLARATION: *SEPTEMBER 20, 2000*

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New York, New York 10016

*CITY OF MOUNT VERNON*

PELHAMDALE MEWS  
HOMEOWNERS ASSOCIATION, INC.

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**DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS**

Declaration made as of this 20<sup>th</sup> day of SEPTEMBER, 2000, by Pel Devel Realty Group LLC, a New York limited liability company, with offices at c/o Cava Construction, Inc., 133 South MacQuesten Parkway, Mount Vernon, New York 10550 hereinafter referred to as "Developer" or "Declarant."

**WITNESSETH:**

WHEREAS, Developer is the owner of the real property described in Article II of this Declaration and shown on the filed subdivision map which Declarant desires to develop as a residential community with various permanent open spaces and other common facilities for the benefit of the Community, as hereinafter defined; and

WHEREAS, Developer desires to provide for the preservation of the values and amenities in the Community and for the maintenance of the open spaces and other common facilities; and, to this end, desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Properties, as hereinafter defined, and each owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Community to create an agency to which should be delegated and assigned the powers of maintaining and administering the Community property and improvements (the "Common Areas") and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer has incorporated Pelhamdale Mews Home Owners Association, Inc. under the Not-For-Profit Corporation Law of the State of New York for the purpose of exercising the aforesaid functions;

NOW THEREFORE, the Developer, for itself, its successors and assigns, declares that the real property described in Article II is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.



## ARTICLE I DEFINITIONS

The following words when used in this Declaration or any supplemental declaration shall, unless the context otherwise prohibits, have the meanings set forth below:

(a) "Additional Phase Property" shall mean and refer to parcels of land adjacent to or in the vicinity of The Properties which Developer may elect to bring into the scheme of this Declaration.

(b) "Association" shall mean and refer to Pelhamdale Mews Home Owners Association, Inc., a New York not-for-profit corporation.

(c) "Common Properties" or "Common Areas" shall mean and refer to certain areas of land other than individual Lots as shown on the filed subdivision map and intended to be devoted to the common use and enjoyment of the Owners of The Properties.

(d) "Developer" or "Declarant" shall mean and refer to Pel Devel Realty Group LLC, a limited liability company, and its successors and assigns, if such successors and assigns should acquire (i) an undeveloped portion of The Properties or (ii) a developed portion of The Properties, provided neither said party nor said party's family members intend to reside therein.

(e) "Development" or "Community" shall mean Pelhamdale Mews, a residential home development being constructed on The Properties.

(f) "Home" shall mean and refer to each two-family residential building situated upon The Properties and the parcel of land upon which such building is constructed.

(g) "Lot" shall mean and refer to any plot of land intended and subdivided for residential uses shown on the subdivision map of The Properties, but shall not include the Common Areas.

(h) "Member" shall mean and refer to each holder of a membership interest in the Association, as such interest is set forth in Article III.

(i) "Owner" shall mean and refer to the record owner of title to any Home. Every Owner shall be treated for all purposes as a single owner, irrespective of whether such ownership is joint, in common or tenancy by the entirety. Where such ownership is joint, in common or tenancy by the entirety, a majority vote of such Owners shall be necessary to cast any vote to which such Owners are entitled, but with the exception of cumulative voting employed in the election of Directors, not more than one vote may be cast with respect to any such Owner.

(j) "Party Wall" shall mean and refer to the entire wall, from front to rear, all or a portion of which is used for support or separation of each adjoining Home, situate or intended to be situate, on the boundary line between adjoining Homes.

(k) "The Properties" shall mean and refer to all properties which are subject to this Declaration.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS DECLARATION**

**Section 1. Properties.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is all that certain plot, piece or parcel of land situate, lying and being in the City of Mount Vernon, County of Westchester and State of New York, being more particularly bounded and described in Exhibit "A" annexed hereto.

**Section 2. Additions to the Properties.** The Developer shall have the right at any time and from time to time to bring within the scheme of this Declaration additional properties located adjacent to the land described in Exhibit "A" annexed hereto in future stages of development and designated as Additional Phase Property. Properties brought within the scheme of the Declaration shall contain no more than a total of 28 Homes.

The Developer, its successors and assigns, shall not be obligated to bring any Additional Phase Property within the scheme of this Declaration unless the owners of such properties intend to use the roads, parking areas or sidewalks in The Properties.

Any Additional Phase Property may be made subject to the scheme of this Declaration, without the consent of the Association or its Members, by the recording in the Westchester County Clerk's office of a supplementary Declaration of Covenants, Restrictions, Easements, Charges and Liens (each a "Supplemental Declaration") which identifies such Additional Phase Property and upon such recordation the scheme of the covenants, restrictions, easements, charges and liens of this Declaration shall automatically be extended to such property.

Any Supplementary Declaration may contain such additions and modifications of this Declaration as may be necessary to reflect the different character, if any, of the Additional Phase Property in question, provided such additions or modifications are not inconsistent with the scheme of this Declaration. In no event, however, shall any Supplementary Declaration revoke the covenants, restrictions, easements, charges and liens established by this Declaration within The Properties.

The provisions of this Declaration may not be amended without the prior written consent of Developer, so long as the Developer shall own any Home or Lot.

## **ARTICLE III**

### **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

The Association shall have one class of membership interest. Each Owner of each Lot shall be a "Member" of the Association.

Each Member is entitled to one vote. When more than one person or entity owns a Lot, the one vote attributable to such Lot shall be exercised as such persons or entity mutually determine but, with the exception of cumulative voting employed in the election of Directors, not more than one vote may be cast with respect to any such Lot. For purposes of this section the word "Home" shall have the same meaning as "Lot" and therefore if there is no Home constructed on a particular Lot in the Development, the Owner of such Lot will still be considered a Member entitled to cast the one vote as set forth above. No Member shall split or divide its votes on any motion, resolution or ballot other than in the cumulative voting procedure employed in the election of Directors.



## **ARTICLE IV** **PROPERTY RIGHTS IN THE PROPERTIES**

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

**Section 2. Title to Common Properties.** Prior to conveyance of title to the first Lot on The Properties, the Developer shall convey to the Association legal title to the Common Properties subject, however, to the following covenant which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the Development, the Common Properties and all facilities now or hereafter built or installed thereon, shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Properties shall include, but not be limited to, the repair of damage to roadways, walkways, parking lots, outdoor lighting and fences and landscape maintenance.

Notwithstanding the provisions of Article XII, Section 2, this Section may not be amended to reduce or eliminate the obligation to maintain and repair the Common Properties.

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

(a) The right of the Association, as provided in its By-Laws, to suspend the enjoyment rights of any Member for a period during which any assessment remains unpaid and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(b) The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast eighty (80%) percent of the eligible votes has been recorded agreeing to such dedication, transfer, purpose or condition and unless written notice of the action is sent to every Member at least ninety (90) days in advance of any action taken; and

(c) The right of the Developer and of the Association to grant and reserve easements and rights-of-way in, through, under, over, upon and across The Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, telephone, cable television, gas and other utilities, and the right of the Developer to grant and reserve easements and rights-of-way, in, through, under, over, upon and across The Properties for the completion of the Developer's work described in Section 1 of Article V hereof.



## **ARTICLE V DEVELOPMENT OF THE PELHAMDALE MEWS**

**Section 1. Pelhamdale Mews.** Developer intends to build up to 28 Homes on a portion of land comprising part of The Properties and may construct up to 3 additional Homes on the Additional Phase Property.

**Section 2. Easement.** Developer does hereby establish and create for the benefit the Association and for all owners from time to time of Lots subject to this Declaration and does hereby give, grant and convey to each of the aforementioned, the following easements, licenses, rights and privileges:

(i) Right-of-way for ingress and egress by vehicles or on foot, in, through, over, under, upon and across the streets, parking areas, roads and walks comprising the Common Properties (as shown on the filed map as they may be built or relocated in the future) for all purposes;

(ii) Rights to connect with, maintain and make use of utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of The Properties; and

(iii) Rights to enter onto and travel through the Lots for the purposes of accessing and maintaining any borderline fence or wall erected between the border of The Properties and the lands adjoining The Properties.

**Section 3. Reservation of Easements.** Developer hereby reserves the easements, licenses, rights and privileges of a right-of-way in, through, over, under, upon and across The Properties for the purpose of completing the work described in Section 1 of this Article V and towards this end, reserves the right to grant and reserve easements and rights-of-way in, through, under, over, upon and across The Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, telephone, cable television, gas and other utilities and for any other materials or services necessary for the completion of the aforesaid work. Developer also reserves the right to connect with, maintain and make use of the utility lines, wires, pipes, conduits, cable television lines, sewers and drainage lines which may from time to time be in or along the streets and roads or other areas of The Properties. In addition, Developer and any Selling Agent retained by Developer reserves the right to continue to use The Properties and any sales offices, maintenance building, model homes, unsold Homes, signs, and parking spaces located on The Properties in its efforts to market Homes constructed on The Properties.

**Section 4. Encroachments on Lots or Common Area.** In the event that any portion of any roadway, walkway, parking area, driveway, patio, water lines, sewer lines, drainage lines, electric and gas meters, utility lines, sprinkler system, building or any other structure as originally constructed by Developer encroaches on any Lot or the Common Areas, it shall be deemed that the Owner of such Lot or the Association has granted a perpetual easement to the Owner of the adjoining Lot or the Association as, the case may be, for continuing maintenance and use of such encroaching roadway, walkway, driveway, patio, parking area, water line, sewer lines, drainage lines, electric and gas meters, utility lines, sprinkler system, building or structure. The foregoing shall also apply to any replacements of any such roadway, walkway, driveway, patio, parking area, water lines, electric and gas meters, sewer lines, drainage lines, utility lines, sprinkler system, building or structure if such replacement is constructed in substantial conformance to the original. The encroachment for sewer lines, water lines and utility lines shall also apply to sewer lines, water lines and utility lines which



may run under a building or through an attic area of a building. The foregoing easements shall be perpetual in duration and shall not be subject to change or alteration by an amendment to this Declaration.

**Section 5. Easement for Emergency Access.** Developer does hereby establish an easement of ingress and egress over the roadways, walkways, driveways, parking areas and all other common areas in the Development for the benefit of all emergency vehicles and personnel including but not limited to police, fire and medical purposes.

## **ARTICLE VI**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation.** The Developer, for each Home owned by it within The Properties, hereby covenants and each Owner of a Home 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 such assessments as are fixed by the Association's Board of Directors and assessed to the Members as hereinafter provided. All sums assessed by the Association but unpaid, together with such interest thereon, accruing at the maximum rate allowed by law and the cost of collection thereof as is hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property owned by such Member against which each such assessment is made. Each such assessment, together with interest thereon and cost of collection thereof, as hereinafter provided shall be a personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

**Section 2. Purpose of the Assessment.** The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents in The Properties as a community and in particular for the improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties and of the Homes situated upon The Properties, including, without limiting the foregoing, the payment of taxes (if any), insurance thereon, and repair, replacement and additions thereto, and the cost of labor, equipment, materials, services, management and supervision thereof.

**Section 3. Assessments.** The Association's Board of Directors shall, from time to time, but at least annually, fix and determine the budget representing the sum or sums necessary and adequate for the continued operation of the Association and shall send a copy of the budget and any supplement to the budget to each Member prior to assessing the Members thereon. The Board of Directors 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 of Directors. The total annual requirements and any supplemental requirements shall be allocated between, assessed to, and paid by the Members as follows:

Each Member shall pay a portion of said requirements, the numerator of which shall be one (1) and the denominator of which shall be equal to the number of Homes on The Properties subject to this Declaration. The Developer's obligation for such assessments on unsold Homes subject to this Declaration will be limited to the difference between the actual operating costs of the Association, including reserves on the Common Properties and the assessments levied on owners who have closed title on their Homes. In no event, however, will the Developer be required to make a deficiency contribution in an amount greater than it would otherwise be liable for if it were paying



assessments on unsold Homes. The sum due the Association from each individual Owner shall constitute an assessment of the Board of Directors and unpaid assessments shall constitute liens on the individual Homes and personal obligation of the Owner, subject to foreclosure as hereinafter provided.

**Section 4. Due Dates; Duties of the Board of Directors.** All assessments shall be payable monthly in advance as ordered by the Board of Directors. The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Home and shall prepare a roster of the Homes and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member. Upon the written request of a Member or his mortgagee, the Board of Directors shall promptly furnish such Member or his mortgagee with a written statement of the unpaid charges due from such Member,

**Section 5. Effect of Non-Payment of Assessment, The Personal Obligation of the Member; The Lien, Remedies of the Association.** If an assessment is not paid on the date when due, as fixed by the Board of Directors, 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 Member's Home which shall bind the owner of such property, his heirs, devisees, personal representatives, successors and assigns. Such lien shall be prior to all other liens except: (a) tax or assessment liens on the Home by the taxing subdivision of any governmental authority, including but not limited to State, County, City and School District taxing agencies; and (b) all sums unpaid on any first mortgage of record encumbering the Home. The personal obligation of the Member who was the owner of the Home when the assessment fell due to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them. However, as set forth above, the lien for the unpaid assessment shall remain against a Home upon a transfer of title.

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 the maximum permissible rate in the State of New York and the Association may bring an action at law against the Member or former Member personally obligated to pay the same and may foreclose the lien against the property. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the court together with the cost of the action.

## **ARTICLE VII** **ARCHITECTURAL CONTROL**

No building, fence, wall or other structure, or change or alteration to the exterior of the Homes or in the landscaping shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to, or change or alteration thereto, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors or by an architectural committee composed of three or more people appointed by the Board of Directors. In the event the Board of Directors, or its designated committee fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. As set forth



in Article VIII, Section 7(d) of the Association's By-Laws, a two-thirds majority of the Board of Directors or architectural committee shall be required for approval of any addition, change or alteration.

## **ARTICLE VIII** **PARTY WALLS**

**Section 1. General Rules of Law to Apply.** To the extent not inconsistent with the provisions of this Article VIII, the general rule of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions, shall apply to each Party Wall which is built as part of the original construction of the Homes and any replacement thereof.

In the event that any portion of any structure, as originally constructed by Developer, including any Party Wall, shall protrude over an adjoining Lot, such structure or Party Wall shall not be deemed to be an encroachment upon the adjoining Lot or Lots, and the affected Owners shall neither maintain any action for the removal of a Party Wall or projection, nor any action for damages. In the event there is a protrusion as described in the immediately preceding sentence, it shall be deemed that each Owner has granted perpetual easements to the adjoining Owner or Owners for continuing maintenance and use of the projection or Party Wall. The foregoing shall also apply to any replacements of any of the foregoing if such replacement is constructed in substantial conformance with the original structure or Party Wall constructed by Developer. The foregoing easements shall be perpetual in duration and shall not be subject to change or alteration by an amendment to this Declaration.

**Section 2. Sharing of Repair and Maintenance.** The cost of repair and maintenance of a Party Wall shall be shared equally by the Owners who make use of the Party Wall in question.

**Section 3. Destruction by Fire or Other Casualty.** If a Party Wall is damaged or destroyed by fire or other casualty, each Owner who used such Party Wall is responsible for its restoration. Restoration of a Party Wall by an Owner shall be made without prejudice to the right of any such Owner to call for a larger contribution from any other affected Owner under any rule of law regarding liability for negligent or willful acts or omissions.

**Section 4. Weatherproofing.** Notwithstanding any other provisions of this Article, an Owner who, by his negligent or willful act, causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

**Section 5. Right to Contribution Runs with Land.** The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

**Section 6. Arbitration.** In the event of any dispute concerning a Party Wall or the provisions of this Article, each party shall choose one arbitrator from the American Arbitration Association, and such arbitrators shall choose one additional arbitrator, and the decision shall be made by a majority vote of all the arbitrators. The decision of the arbitrators shall be binding and conclusive upon the parties. The cost of such arbitration shall be shared by both parties.



## ARTICLE IX EXTERIOR MAINTENANCE

**Section 1. Exterior Maintenance.** The Association shall provide maintenance of the Common Areas. The Association shall also be responsible for landscape maintenance for the Common Areas, maintenance of any fence on The Properties installed by Developer of the Association bordering The Properties, snow removal from the Common Area parking lots and maintenance of the walks, parking spaces and facilities comprising the Common Properties. Each Owner is responsible for snow removal of his own driveway and walk.

**Section 2. Disrepair of Lots.** In the event the Owner of any Lot shall fail to maintain his/her Home and the improvements situated on such Lot in a manner satisfactory to the Board of Directors of the Association, including but not limited to the situation where such maintenance functions are not otherwise directed by the provisions of this Declaration to be performed by the Association, upon direction of the Board of Directors, it shall have the right, through its agents and employees to enter upon the Lot upon which said Home is located and to repair, maintain and restore the Lot and the Home and any other improvements erected thereon. The cost of such maintenance shall be added to and become part of the assessments to which such Home is subject.

**Section 3. Access at Reasonable Hours.** For the purpose solely of performing the maintenance required by this Article, the Association, through its duly authorized agents and employees, shall have the right on reasonable notice to enter upon any Home at reasonable hours, on any day except Sundays and holidays (except that in an emergency situation such notice need not be given).

## ARTICLE X INSURANCE

**Section 1. Common Areas.** The Board of Directors shall maintain public liability insurance, to the extent obtainable, covering each Member and their respective lessees and occupants and the managing agent, if any, against liability for any negligent act of commission or omission attributable to the Association which occurs on or in the Common Properties. To the extent obtainable, the Board of Directors shall also be required to obtain the following insurance: (a) fire insurance with extended coverage, water damage, vandalism and malicious mischief endorsements, insuring the facilities on the Common Properties, in an amount equal to their full replacement values and (b) workmen's compensation insurance. All insurance premiums for Common Area coverage shall be paid for by the Association.

**Section 2. Homes.** Each Owner shall be required to obtain and maintain adequate insurance of his Home which shall insure the property for its full replacement value with no deductions for depreciation against loss by fire or other hazards. Such insurance shall be issued in an amount equal to the full replacement value for the Home as determined by the Board of Directors. Such insurance shall be written in the manner designated by the Association and shall name the Board of Directors as an additional insured. Each Owner shall be required to supply the Board of Directors with evidence of insurance coverage on his Home which complies with the provisions of this Section.

**A. Adequate Insurance Not Obtained.** If the insurance provided under this Section has not otherwise been adequately obtained by any Owner, as determined by the Board of Directors, then the Board of Directors may obtain such insurance coverage. Such insurance shall be sufficient to cover the full replacement cost of the Home. The purpose of such insurance will be to protect, preserve and provide for the continued maintenance and support of each Home including



Party Walls, connected exterior roofs and other parts of the overall structure. Insurance obtained by the Board of Directors shall be written in the name of the Association. Premiums for insurance obtained by the Board of Directors, as provided hereinabove, shall not be a part of the common assessment or expense but shall be an individual assessment payable in accordance with the provisions of Article VI of this Declaration.

**B. Repair or Replacement of Damaged or Destroyed Property.** Each Owner shall be required to reconstruct or repair any Home destroyed by fire or other casualty. The insurance proceeds on policies secured either by an Owner or the Board of Directors shall be deposited in a bank or other financial institution, subject to withdrawal only by the signature of an agent duly authorized by the Board of Directors. If no cleanup, repair or rebuilding has been contracted for, or otherwise substantially started by the Owner, with the cooperation of the Board of Directors within thirty (30) days of the receipt of the insurance proceeds, the Board of Directors shall have the right to initiate the cleanup, repair or rebuilding of the damaged or destroyed portions of the structure and/or exterior of the unit, in a good and workmanlike manner in conformance with the original plans and specifications. The Board of Directors may advertise for sealed bids from any licensed contractors and may then negotiate with said contractors. The contractor or contractors selected to perform the work shall provide assurance satisfactory to the Board of Directors, that the contractor in question has the financial ability to perform such repair or rebuilding. In the event the insurance proceeds are insufficient to fully pay the costs of repairing and/or rebuilding the damaged or destroyed portions in a good and workmanlike manner, the Board of Directors shall levy a special assessment against the Owner of the damaged or destroyed Home in the amount of such deficiency. Until such time as the special assessment is paid, the Board of Directors may borrow funds or impose a special assessment against the Members to pay for such reconstruction and cleanup. The cost of such borrowing including interest, legal fees, etc. shall be paid by the Owner of the damaged or destroyed Home. If the insurance proceeds exceed the cost of repairing and/or rebuilding, such excess shall be paid to the Owner of the damaged or destroyed Home and/or such Owner's mortgagee as may be required by the Owner's mortgage. The Board of Directors shall have the right to enter the Lot or Home in question to effectuate necessary repairs and/or rebuilding.

**Section 3. Directors And Officers.** The Board of Directors may, in its sole discretion, obtain and maintain a policy of directors and officers insurance to protect the members of the Board of Directors from personal liability and to protect the Association from the costs of indemnifying the members of the Board of Directors. All insurance premiums for any policy of directors and officers insurance maintained by the Board of Directors shall be paid for by the Association.

## **ARTICLE XI** **USE OF PROPERTY**

The use of a Home by a Member or other occupant shall be subject to the rules, regulations and provisions of this Declaration, the By-Laws and Rules and Regulations of the Board of Directors and the following covenants and restrictions:

- (a) The Home and area restricted to the Member's use shall be maintained in good repair and overall appearance.
- (b) Any Member who mortgages or sells his Home shall immediately notify the Board of Directors of the name and address of his mortgagee or the new Owner.



- (c) The Board of Directors shall, at the request of a mortgagee of a Home, report any delinquent assessments due from the Owner of such Home.
- (d) No nuisances shall be allowed upon The Properties nor shall any use or practice be allowed which is a source of annoyance to residents or which interferes with the peaceful possession and proper use of The Properties by its residents.
- (e) No improper, offensive or unlawful use shall be made of The Properties nor any part thereof and all applicable laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed.
- (f) Regulations promulgated by the Board of Directors concerning the use of the Common Properties shall be observed by the Members.
- (g) The association charges and assessments shall be paid when due.
- (h) All dogs, cats, and other pets must be leashed and shall not be permitted to run loose. Owners shall be responsible for picking up and disposing of their pet's waste and for any damage caused by their pets to the Common Areas.
- (i) No resident of the Community shall post any advertisement or posters of any kind including "for sale" or "for rent" signs in or on The Properties except as authorized by the Board of Directors.
- (j) No fence or gate shall be erected on The Properties without the prior written consent of the Board of Directors.
- (k) No television or radio antenna or any other type of receiving or transmitting antenna or structure shall be erected on the exterior of Homes or on any Lot without the prior written consent of the Board of Directors.
- (l) No Owner shall move, remove, add or otherwise change the landscaping on Common Area or on his Lot without the consent of the Board of Directors.
- (m) No Owner shall paint the exterior surfaces of windows, walls or doors opening out of his Home.
- (n) No person shall park a vehicle or otherwise obstruct any resident's use of ingress or egress to any garage or parking space nor may any vehicle be parked on the roadways when such parking would obstruct access by emergency or service vehicles. The driveway in front of each garage is restricted in use to the Owner of the Home in which such garage is located.
- (o) No Owner shall install or permit to be installed any window mounted, or through the wall mounted air conditioning unit in his Home.
- (p) No repair of motor vehicles shall be made in any of the roadways, driveways or parking areas of the Development, nor shall such areas be used for storage parking of any boat, trailer, camper, bus, truck or commercial vehicle without the written permission of the Board of Directors.



- (q) No person shall be permitted to use the recreational facilities of the Association, if any, except in accordance with the rules and regulations established by the Board of Directors.
- (r) No Owner shall make or permit any disturbing noises in any building or do or permit anything to be done therein, which will interfere with the rights, comforts or conveniences of other Owners.
- (s) Homes may be used for residential purposes only in accordance with applicable zoning regulations.
- (t) The Common Areas shall not be obstructed, littered, defaced or misused in any manner.
- (u) Every Member shall be liable for any and all damage to the Common Area and the property of the Association which shall be caused by said Owner or such other person for whose conduct he is legally responsible.
- (v) No alterations to a Home are permitted which would impair the structural soundness of any Party Wall, reduce the levels of fire safety in any Home, or diminish the heat and sound insulation between Homes.
- (w) It is prohibited to hang garments, rugs, towels or the like, or to string clothes lines on any portion of the Home, Lot or Common Areas which may be seen from any portion of The Properties.
- (x) No Owner may install a storm door on his Home other than a style, color and make approved by the Board of Directors.

## **ARTICLE XII**

### **GENERAL PROVISIONS**

**Section 1. Beneficiaries of Easements, Rights and Privileges.** The easements, licenses, rights or privileges established, created and granted by this Declaration shall be for the benefit of and restricted solely to, the Association and the Owners of Homes constructed on The Properties; and any Owner may also grant the benefit of such easement, license, right or privilege to his tenants and guests and their immediate families for the duration of their tenancies or visits, subject, in the case of the Common Properties, to the Rules and Regulations of the Board of Directors, but the same is not intended nor shall it be construed as creating any rights in or for the benefit of the general public.

**Section 2. Duration and Amendment.** Unless expressly limited herein, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by, the Association, any Member, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until December 31, 2049. Thereafter, the covenants and restrictions of this Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by sixty six and two-thirds (66-2/3%) of the Owners has been recorded at least ninety days prior to the applicable termination date, agreeing to terminate said covenants and restrictions in whole or in part. Notwithstanding the foregoing, the easements,

licenses, rights and privileges established and created with respect to The Properties by Section 2 of Article V shall be perpetual, run with the land, and shall survive any termination of this Declaration and any destruction, reconstruction and relocation of the physical structure, unless said provision is abrogated by the unanimous written consent of all the Owners. Unless specifically prohibited herein, this Declaration may be amended by an instrument signed by Members holding not less than sixty six and two-thirds (66-2/3%) of the votes of the membership. Any amendment must be properly recorded to be effective.

**Section 3. Disposition of Assets Upon Dissolution of Association.** Upon dissolution of the Association, its real and personal assets, including the Common Properties, shall be dedicated to an appropriate public agency or utility to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. In the event such dedication is refused, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the Association. No such disposition of such assets shall be effective to divest or diminish any right or title to any Member vested in him under the licenses, covenants and easements of this Declaration, or under any subsequently recorded covenants, deeds or other documents applicable to The Properties, except as may be otherwise provided in this Declaration or said covenants, deeds or other documents, as the case may be, nor shall any other party under any such deeds, covenants or other documents be deprived of any rights thereunder on account of such disposition.

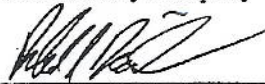
**Section 4. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by certified mail return receipt requested, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 5. Administration.** The administration of the Association shall be in accordance with the provisions of the Association By-Laws which are made a part of this Declaration and attached hereto as Exhibit "B".

**Section 6. Applicability of Certain Provisions to the Developer.** The provisions of Article IV, Section 3; Article VII; Article IX, Section 2; Article IX, Section 3; Article X, Section 2; and Article XI shall not apply to the Developer.

**Section 7. Severability.** Invalidity of any of the covenants, limitations or provisions of this Declaration by judgment or court order shall in no way affect any of the remaining provisions hereof and the same shall continue in full force and effect.

PEL DEVEL REALTY GROUP LLC,  
a limited liability company

By: 

Name: Robert G. Friedman  
Title: Managing Member



STATE OF NEW YORK     )  
                                  : ss.:  
COUNTY OF NEW YORK    )

On the 20<sup>th</sup> day of September, 2000, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert G. Friedman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument the individual, or the person upon behalf of which the individual acted, executed the instrument.

RICKI BOOTH  
NOTARY PUBLIC, State of New York  
No. 01805085197  
Qualified in New York County  
Commission Expires Sept. 15, 2001

  
Notary Public

My Commission Expires:

EXHIBIT A

DESCRIPTION FOR NORTHEASTERLY SIDE OF PELHAMDALE AVENUE:

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Mt. Vernon, County of Westchester and State of New York, being known as and by all of lots 101-113 inclusive and all of Maple Avenue as shown on a certain map entitled, "SubDivision Map of Pelhamdale Mews, Town of Eastchester, Westchester County, New York", said map having been filed in the Office of the Register of Westchester County on June 21, 2000, as Map No. 26569, said lots and parts of lots being bounded and described as follows:

Beginning at the corner formed by the intersection of the Northeasterly side of Pelhamdale Avenue and land now or formerly of New York, New Haven and Hartford Railroads;

Running Thence South 66 degrees 23 minutes 25 seconds East, along the land now or formerly of New York, New Haven and Hartford Railroads, 371.74 feet to a point;

Thence South 50 degrees 49 minutes 25 seconds East, still along the land now or formerly of said railroads, 198.12 feet to the Southerly side of Maple Avenue, as shown on the aforesaid map;

Thence South 45 degrees 34 minutes 00 seconds West, along the Southeasterly side of Maple Avenue 161.05 feet to the Northeasterly side of Pelhamdale Avenue;

Thence North 44 degrees 26 minutes 00 seconds West along the Northeasterly side of Pelhamdale Avenue 541.67 feet to the point or place of beginning.



EXHIBIT A

DESCRIPTION FOR NORTHWESTERLY PORTION OF PROPERTY ALONG THE  
SOUTHEASTERLY SIDE OF PELHAMDALE AVENUE"

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Mt. Vernon, County of Westchester and State of New York, being known as and by all of lots 124-131 inclusive and part of lots 41,42,43, and 44 on a certain map entitled, "Sub-Division Map of Pelhamdale Mews, Town of Eastchester, Westchester County, New York", said map having been filed in the Office of the Register of Westchester County on June 21, 2000, as Map No. 26569, said lots and parts of lots being bounded and described as follows:

Beginning at a point on the Southwesterly side of Pelhamdale Avenue, distant 67.00 feet Southeasterly from the corner formed by the intersection of the Southwesterly side of Pelhamdale Avenue and the Southeasterly side of Grandview Avenue;

Running Thence South 44 degrees 26 minutes 00 seconds East, along the Southwesterly side of Pelhamdale Avenue 233.00 feet to a point;

Thence South 45 degrees 34 minutes 00 seconds West, 100.00 feet to a point;

Thence North 44 degrees 26 minutes 00 seconds West, 233.00 feet to a point;

Thence North 45 degrees 34 minutes 00 seconds East 100.00 feet to the Southwesterly side of Pelhamdale Avenue, the point or place of beginning.

EXHIBIT A

DESCRIPTION FOR SOUTHEASTERLY PORTION OF PROPERTY ALONG THE  
SOUTHEASTERLY SIDE OF PELHAMDALE AVENUE

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Mount Vernon, County of Westchester and State of New York, being known as and by all of lots 114-122 inclusive and lot 11, as shown on a certain map entitled, "Sub-Division Map of Pelhamdale Mews," Town of Eastchester, Westchester County, New York, said map having been filed in the Office of the Register of the County of Westchester on June 21, 2000 as Map No. 26569, said lots and parts of lots being bounded and described as follows:

Beginning at a point on the Southwesterly side of Pelhamdale Avenue distant 325.00 feet Southeasterly from the corner formed by the intersection of the Southwesterly side of Pelhamdale Avenue and the Southeasterly side of Grandview Avenue;

Running Thence South 44 degrees 26 minutes 00 seconds East, along the Southwesterly side of Pelhamdale Avenue, 275.00 feet to a point;

Thence South 45 degrees 34 minutes 00 seconds West, 100.00 feet to a point;

Thence North 44 degrees 26 minutes 00 seconds West 25.00 feet to a point;

Thence South 45 degrees 34 minutes 00 seconds West 100.00 feet to a point;

Thence North 44 degrees 26 minutes 00 seconds West 15.00 feet to a point;

Thence North 45 degrees 34 minutes 00 seconds East 100.00 feet to a point;

Thence North 44 degrees 26 minutes 00 seconds East 235.00 feet to a point;

Thence North 45 degrees 34 minutes 00 seconds East 100.00 feet to the Southwesterly side of Pelhamdale Avenue, the point of place of beginning.