

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
NEWTON MANOR SUBDIVISION**

**THIS DECLARATION**, made on the date hereinafter set forth by **NEWTON MANOR, L.L.C., a Maryland Limited Liability Company**, hereinafter referred to as "Declarant".

IMP TO SURE Y 5.00  
RECORDING FEE 75.00  
TOTAL 80.00  
Rest SHOC Rcpt # 57775

**WITNESSETH:**

EWA TLC Bk # 2255  
Oct 22, 2002 09:39 am

**WHEREAS**, Declarant the owner of certain property in the County of St. Mary's, State of Maryland, which is more particularly described as:

206 acres, as described in a deed dated March 29, 2002 to Newton Manor, L.L.C., and recorded among the Land Records for St. Mary's County, Maryland, at Liber EWA No. 1782, Folio 732.

**WHEREAS**, Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in said community and for the maintenance of the properties and improvements thereon and to this end desires to subject the real property described to easements, restrictions, covenants and conditions.

**WHEREAS**, Declarant has incorporated or intends to incorporate under the Laws of the State of Maryland as a non-profit corporation known as Newton Manor Homeowners Association, Inc., for the purpose of exercising the functions provided by this Declaration.

**NOW THEREFORE**, Declarant hereby declares that all of the lots in the subdivision described above shall be held, sold and conveyed subject to the aforesaid "Covenants, Conditions and Restrictions" and to the following additional easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**

**DEFINITIONS**

**Section 1. "Association"** shall mean and refer to the **Newton Manor Homeowners Association, Inc.**, its successors and assigns.

**Section 2. "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**Section 3. "Properties"** shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

**Section 4. "Open Space" or "Common Area"** shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by

the Association at the time of the conveyance of the first lot is described as follows:

**a.** Open Space 'A', consisting of 7.54 acres, as shown on the plats entitled "Newton Manor Subdivision", as prepared by McCrone, dated November 9, 2001, and recorded among the Plat Records for St. Mary's County, Maryland at Liber EWA No. 54, Folio 109.

**b.** Open Space 'B', consisting of 29.14 acres, as shown on the plats entitled "Newton Manor Subdivision", as prepared by McCrone, dated November 9, 2001, and recorded among the Plat Records for St. Mary's County, Maryland at Liber EWA No. 54, Folio 109.

**Section 5.** "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Open Space Area.

**Section 6.** "Declarant" shall mean and refer to Newton Manor, L.L.C., its successors and assigns, if such successors and assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

## ARTICLE II

### NEWTON MANOR HOMEOWNERS ASSOCIATION, INC.

**Section 1.** **Establishment of the Association.** After the recording of this document, the Newton Manor Homeowners Association, Inc., hereinafter the Association, shall be established. Except as specified herein, the form, members, duties and responsibilities of the Association and certain other

matters relating to it shall be as set forth in the Articles of Incorporation of the Association.

**Section 2. Membership.** Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

**Section 3. Voting Rights.** The Association shall have two (2) classes of voting membership:

**Class A.** Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B member(s) shall be Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equals the total votes outstanding in Class B membership, or

(b) on December 31, 2008.

**ARTICLE III****PROPERTY RIGHTS IN THE COMMON AREA (Open Space)**

**Section 1. Owners' Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees and assessments for the use of any open space, recreation area or facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use the recreational facilities by an owner for any period during which any assessment against his or her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

**Section 2. Delegation of Use.** Any Owner may delegate, in accordance with the By-Laws of the Association, right of enjoyment to the Common Area

and facilities to the members of his or her family, his or her tenants, or contract purchasers who reside on the property.

**Section 3. Obligations of the Association.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with standards to be set by the Architectural Control Committee.

#### ARTICLE IV

#### COVENANTS FOR MAINTENANCE ASSESSMENTS BY THE ASSOCIATION

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot owned within the properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when

the assessment fell due. The personal obligation for delinquent assessments shall also pass to his successors in title upon transfer of ownership of the Lot.

**Section 2. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residences in the Properties and of the homes situated upon the Properties, including but not limited to, costs involved in the enforcement of the Covenants, Conditions and Restrictions, and for the improvement and maintenance of the Common Area.

**Section 3. Maximum Annual Assessment.** At such time as the Declarant conveys the Common Areas to the Association, the maximum annual assessment per Lot shall be One Hundred and No/100 Dollars (\$100.00), payable on January 1st of each given year.

(a) The maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of membership.

(b) The maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix an annual assessment at an amount not in excess of the maximum.

**Section 4. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any

assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all lots and shall be collected on a monthly basis.



**Section 7. Date of Commencement of Annual Assessments: Due**

**Dates.** The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 8. Effect of Nonpayment of Assessments: Remedies of the**

**Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The By-Laws may provide for a late charge of Fifteen Dollars (\$15.00) or one-tenth (1/10) of an installment or assessment, whichever is greater, provided it only applies once to each installment and is only imposed if the delinquency has continued for at least fifteen (15) days. The Association may bring an action at law against the Owner personally obligated to pay the same,

or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

**Section 9. Subordination of the Lien to Mortgages and Deeds of Trust.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of a mortgage or deed of trust or any proceeding or transfer in lieu thereof, shall extinguish the lien or such assessments as to payments which shall become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE V

### USE OF PROPERTY

**Section 1. Maintenance of the Property.** Each owner shall keep all Lots owned by him or her and all improvements therein or thereon, in good order and repair, and free of debris, including but not limited to, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, the removal of all snow and ice from the sidewalks located on their property, even if said sidewalks are located within the easements, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with

good property management. In the event an Owner of any Lot in the Properties shall fail to maintain the premises and improvements situated thereon as provided in Article V, Section 1 hereof, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

**Section 2. Protective Covenants.** The following covenants shall apply to all Lots:

(a) No lot, or any portion thereof, shall be used for any purpose other than a single family private residence. All property designated for residential use shall be used, improved and devoted exclusively to residential use. (Each living unit shall be occupied solely and exclusively by a single individual or by a single family unit). Nothing herein shall be deemed to prevent an Owner from leasing a Living Unit subject to all of the provisions of the Declaration.

(b) No noxious or offensive acts shall be conducted in or upon or suffered to be conducted in or upon any Lot; nor shall any nuisance be maintained or permitted to exist or operate upon any property so as to be detrimental to any other property in the vicinity thereof or to its occupants.

(c) No temporary building, trailer, garage, or building in the course of construction or other temporary structure shall be used temporarily or permanently, as a residence of any Lot.

(d) No lumber, metals, building materials, refuse or trash shall be kept stored or allowed to accumulate on any Lot, except building materials during the course of construction of an approved structure. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pick-up is to be made, in such a place so as to provide access to persons making such pick-up. At all other times, such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. The Board of Directors, at its discretion, may adopt and promulgate reasonable rules and regulations regarding size, shape, color and type of containers permitted and the manner of storage of the same on the Lots.

(e) No water pipes, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, except hoses and movable pipes used for irrigation purposes. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth.

(f) No poultry or pigs shall be permitted to be kept on any Lot or Common Area.

**(g)** No sign or other advertising device of any nature shall be placed upon any Lot except as provided herein. The Board of Directors may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Notwithstanding the foregoing, a family or professional name plate, a name and address plate, and a temporary sign, not to exceed four (4) square feet in area, for the purpose of advertising the property for sale may be displayed on a Lot. The Board of Directors may establish other criteria with respect to the size, form and location of such signs.

**(h)** Ownership of all roads and streets is hereby reserved unto the Declarant until such time as they are deeded to the County Commissioners of St. Mary's County, Maryland or to the Association.

**(i)** Other Restrictions. Upon conveyance of the first Lot to an owner, the Architectural Control Committee shall adopt general rules to implement the purposes set forth in Article V, and interpret the covenants in this Section, including but not limited to rules to regulate animals, antennas, signs, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, planting, maintenance and removal of vegetation on the Properties.

**(j)** Exceptions. The Architectural Control Committee may issue temporary permits to except any prohibitions expressed or implied by this Section, provided the Committee can show good cause and acts in accordance with adopted guidelines and procedures.

Notwithstanding other provisions hereof, the Board of Directors may authorize any Owner of any Lot with respect to the property owned by them to:

- (1) Maintain a sign other than as expressly permitted herein;
- (2) Locate structures other than the principal dwelling house within set-back areas on a temporary basis.

**Section 3. Utility Easements.** There is hereby created a blanket easement upon, across, over, through, and under the above-described Properties for ingress, egress, installation, replacement, repair, and maintenance of all utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, television, cable or communication lines and systems. By virtue of this easement, it shall be expressly permissible for the Declarant or the providing utility or service company, with the approval of the Declarant, to install and maintain facilities and equipment on said property, to excavate for such purposes and to affix and maintain wires, circuits, and conduits on, in and under the roofs and exterior walls of improvements thereon, providing such disturbed areas are restored to the condition in which they were found.

**Section 4. Easement to Correct Drainage.** For a period of five (5) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the ground within any Lot within the subdivision and the Common Area to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and

appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any gradings of soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of the intent to take such action to all affected Owners, unless, in the opinion of the Declarant, an emergency exists which precludes such notice. This reservation shall in no way imply any obligation on the part of Declarant to perform such maintenance or corrections referred to herein.

## ARTICLE VI

### GENERAL PROVISIONS

**Section 1. Enforcement.** The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association or any owner shall be entitled to recover fees and costs including a reasonable attorney's fee in the successful enforcement of these covenants, conditions and restrictions.

**Section 2. Severability.** Invalidation of any one of these covenants, conditions and restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amendment.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment shall be recorded.

**Section 4. Annexation.** Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

**Section 5. FHA/VA Approval.** As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

**IN WITNESS WHEREOF**, the undersigned, being the managing member of the Declarant herein, has hereunto set hand and seal this 17<sup>th</sup> day of OCTOBER, 2002.

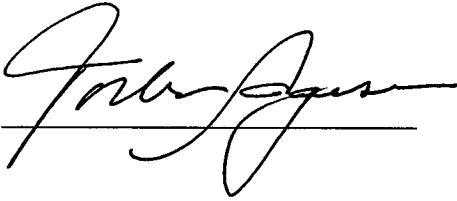


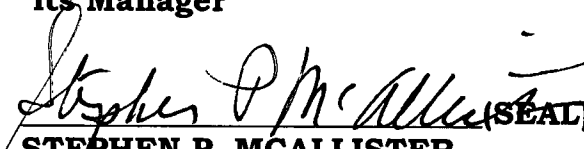
ATTEST:

NEWTON MANOR, L.L.C.

By: **Cherrywood Development, L.L.C.,  
its Manager**

By: **Applewood Development, L.L.C.,  
its Manager**

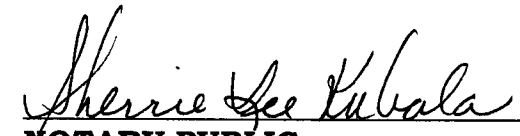


By:  (SEAL)  
**STEPHEN P. MCALLISTER  
President**

STATE OF MARYLAND, COUNTY OF CHARLES, to wit:

I **HEREBY CERTIFY**, that on this 17<sup>th</sup> day of OCTOBER, 2002, before me, the undersigned, a Notary Public of the State and County aforesaid, personally appeared **STEPHEN P. MCALLISTER**, the **President** of **Applewood Development, L.L.C.**, the **Manager** of **Cherrywood Development, L.L.C.**, the **Manager** of **Newton Manor, L.L.C.**, hereinabove referred to as Owner, and he, as such **President** of **Applewood Development, L.L.C.**, the **Manager** of **Cherrywood Development, L.L.C.**, the **Manager** of **Newton Manor, L.L.C.**, being authorized so to do, executed the foregoing Declaration of Covenants, Conditions and Restricts of Newton Manor Subdivision, for the purposes therein contained, by signing the name of the corporation by himself as **President**.

**As Witness**, my hand and Notarial Seal.

  
**NOTARY PUBLIC**  
My Commission Expires: 8-1-05

