

OK JAD  
12/10/08  
ccc/gpr

REVISION TO  
REVISED SUPPLEMENTARY  
DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this 10th day of April, A.D., 1980,  
by Allenview, Inc., successor to Breneman and Calabrese, hereinafter  
called Developer of Allenview Planned Residential Development, herein-  
after called Allenview, located in Upper Allen Township, Cumberland  
County, Pennsylvania.

WITNESSETH:

WHEREAS, Developer is the owner of the real property described  
in Article II of this declaration and desires to create thereon a resi-  
dential community with permanent parks, playgrounds, open spaces, and  
other common facilities for the benefit of the said community; and

WHEREAS, Developer desires to provide for the preservation of  
the values and amenities in said community and for the maintenance of  
said parks, playgrounds, open spaces and other common facilities; and,  
to this end, desires to subject the real property described in Article II,  
together with such additions as may hereafter be made thereto (as provided  
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 said property and each owner thereof; and

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

WHEREAS, Developer has incorporated under the laws of the Common-  
wealth of Pennsylvania, as a non-profit corporation, THE ALLENVIEW HOME  
OWNERS ASSOCIATION, for the purpose of exercising the functions aforesaid;

For plan, see R/W plan Book 6 pg 96.

RECORDED-OFFICE OF THE  
RECORDER OF DEEDS  
CUMBERLAND COUNTY  
PENNSYLVANIA  
JUN 29 38 AM '80

NOW, THEREFORE, the Developer declares that the real property described in Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

#### ARTICLE I

##### DEFINITIONS

Section I. The following words, when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Association" shall mean and refer to the Allenview Homeowners Association.

(b) "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

(c) "Common Properties" shall mean and refer to only those areas of land shown on any recorded subdivision plat of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties, and may include the land and improvements for streets, easements, parks, playgrounds, swimming pools, pedestrianways, and any buildings, structures or appurtenances incident thereto, subject to the reservations contained in Article IX, Section 4 hereof.

(d) "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined.

(e) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family.

(f) "Completed Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family for which an occupancy permit has been received from the appropriate township official.

(g) "Single Family Detached Dwelling" shall mean a building used by one family, having only one living unit and two side yards.

(h) "Single Family Semi-Detached Dwelling" shall mean a building used by one family, having one living unit and one side yard and one party wall in common with another building.

(i) "Single Family Attached Dwelling (Row)" shall mean a building used by one family and having one living unit and two party walls in common with other buildings (such as townhouses).

(j) "Multi-Family Dwelling" shall mean a building used by three or more families living independently of each other and doing their own cooking, including apartment houses, or townhouses.

(k) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties, but, notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

(l) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article III, Section 1; hereof.

(m) "Developer" shall mean and refer to Allenvue, Inc., successor to Breneman and Calabrese, and to such other person or legal entity to whom Allenvue, Inc., successor to Breneman and Calabrese, expressly assign the rights of the Developer herein in writing.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION:

ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Allenview, and is more particularly described on the attached three (3) plats, Exhibit "A", titled Stage II, Section A, Final Subdivision Plan - Single Family and Two Family Lots; Stage II, Section B, Final Sub-Division Plan - Townhouses; Stage II, Section C, Final Sub-Division Plan - Common Open Space - Neighborhood Commercial, which are recorded in the Office of the Recorder of Deeds, Cumberland County, in Deed Book 36, Page 47, all of which real property shall hereinafter be referred to as "Existing Property."

Section 2. Restrictions for Use and Development. The Lots outlined on said plats for Stage II shall be subject to the following restrictions:

(a) Land Use and Building Types.

The land shall be used and a building of the following types and no other shall be designed, erected, maintained and occupied on said lots.

(1) Section A of Stage II - Single Family Detached Dwellings shall be permissible on each lot except that the developer reserves the right to use Lots No. 18, 19, 20, 21, 22, 23 & 30 for Single Family Detached, Single Family Semi-Detached and/or Two Family Semi-Detached Dwelling Units. A private garage conforming to the architecture of the dwellings may be designed, erected, used and maintained only when incidental and accessory to the dwelling on said lots.

(2) Section B of Stage II - Single Family Attached Dwellings (Townhouses shall be permissible).

(3) Section C of Stage II - The following uses shall be permissible: Open Space Recreation Uses, Recreation Buildings and Structures, Neighborhood Commercial Buildings, and one-Eight Unit Apartment.

(b) Building Location and Landscaped Yards. No building or any part thereof shall be erected or maintained closer than twenty-five (25) feet to any street and, in the case of Mt. Allen Drive, Hertzler Road, and all exterior boundaries of Allenview, a building setback of not less than fifty (50) feet shall be maintained. Notwithstanding the above an unoccupied open space shall be designed, landscaped and maintained in the front, side and rear yards of each Lot, the depth of which shall be not less than shown on the recorded Final Subdivision and Land Development Plan.

(c) Outdoor Storage Areas. Firewood, bicycles, lawn mowers, garden tools, furniture, and all other such articles shall be stored in areas appropriately located on the Lot to the rear of the dwelling and garage, and set back from all Lot lines as mentioned above and screened from all streets, side and rear Lot lines, with a structure, shrubs or hedge, in a location and manner approved by the Architectural Control Committee.

(d) Completion. All dwellings and garages shall be completely finished on the exterior and all grading and seeding shall be done within one (1) year of the start of construction or ground breaking. Any excess earth or ground from any construction shall be the property of the Developer and shall be removed by the Lot owner at his expense to a place designated in the development and determined by the Developer.

(e) Fences, Hedges and Shrubs. Fences, hedges and shrubs shall not be erected, planted or maintained in the above required yard spaces or along the Lot lines of any Lot unless approved by the Architectural Control Committee.

(f) Sight Distance. All trees, shrubs and structures shall be located and maintained so that the sight distance from vehicles is not obstructed at all street and driveway intersections.

(g) Parking Spaces. Not less than two (2) improved parking spaces (10' x 20') shall be located on the same Lot as each Living Unit.

(h) Easements. All Lots and Lot Owners are subject to all covenants, restrictions, rights-of-way and easements of record, as well as subject to all present or future zoning ordinances or building regulations of the Township of Upper Allen, Cumberland County, Pennsylvania.

(i) Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance, nuisance, or of aesthetic damage to the neighborhood, nor upon any street in Allenview.

(j) Temporary Structures. No temporary dwellings shall be erected or maintained on any Lot. Garages, basements or any temporary structure shall not be used for human habitation. No prefabricated construction or otherwise, or any concrete slab foundation shall be permitted unless specifically approved in writing prior thereto by the Developer. No trailers, tents, shacks, barns or boats, or any type of outbuilding, unless previously approved in writing by the Developer, shall be erected on any Lot, nor parked on a street in Allenvue.

(k) Signs. No sign of any kind shall be displayed to public view on any Lot except one sign of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and/or the original sale period.

(l) Livestock and Poultry. Animals, livestock or poultry, excepting household pets, shall not be raised, bred or kept on any Lot. Household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes. Notwithstanding the above, the non-commercial keeping of horses or ponies for the recreation use by the Owner of a Lot will be permitted on Lots of five (5) acres or more, as provided in Section 2(a) hereof. An accessory structure shall be permitted on a Lot only when approved by the Architectural Control Committee.

(m) Garbage and Refuse Disposal. The Owners of all Lots shall, at their expense, connect to the public sewer and water systems. No Lot shall be used or maintained as a dumping ground for rubbish. All trash, garbage or other waste shall be kept in sanitary containers and placed in specified locations for collection. The burning of trash, debris and leaves shall not be permitted on a Lot.

(n) Delay of Dwelling Construction. Should the Owner of any Lot not construct a home within one (1) year of the purchase of said Lot, then the Lot Owner must seed and maintain the Lot so as not to detract from the overall development.

(o) Architectural Control Committee. The Owner of a Lot shall not commence construction of a dwelling, garage, or any other permitted structure until the Architectural Control Committee has reviewed and approved the proposed plan showing the type of structure to be placed on said Lot. The provisions of this section shall not apply to Developer during original construction.

(p) Street Lights. Street lights of a uniform design shall be installed throughout Allenview under the supervision of the Developer and the Architectural Control Committee.

(q) Utility Service Lines. All utility service lines shall be installed underground where feasible.

Section 3. Additions to Existing Property. Additional lands may become subject to this declaration in the following manner:

(a) Additions in Accordance with the Tentative Development and Stage Plan. The Developer, its heirs and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of the development, as generally outlined on the attached (Exhibit "B") Tentative Development and Staging Plan, dated February 25, 1980.

Said Tentative Development and Staging Plan outlines the proposed additions to the Existing Property and contains:

(1) a general indication of size and location of the additional stages for development of the following uses and building types:

STAGE III - Single Family Detached Dwellings  
Single Family Semi-Detached Dwellings (Duplexes)  
Single Family Attached Dwellings (Townhouses)  
Apartments (3-story Garden Type);

(2) the approximate size and location of common properties reserved for dedication with each stage;

(3) the general nature of proposed common facilities and improvements, including the provision of improved yard spaces and not less than two (2) improved parking spaces required to serve all Living Units, including the Apartment and Townhouse properties;

(4) a statement that the proposed additions, if made, will become subject to assessment for their just share of Association expenses; and

(5) a schedule for termination of the Developer's right under the provision of this sub-section to bring additional development stages within the scheme.

Unless otherwise stated therein, said Tentative Development and Staging Plan shall not bind the Developer, its heirs and assigns, to make the proposed additions or to adhere to the Plan in any subsequent development of the land shown thereon and the Tentative Development and Staging Plan contains a conspicuous statement to this effect.

The additions authorized under this and the succeeding sub-section shall be made by filing of record a Final Subdivision and Land Development Plan for each Stage and a Supplementary Declaration of Covenants and Restrictions with respect to the additional property.

The location and arrangement of buildings, streets, yards and open space and the size and bulk of buildings as indicated on the Tentative Development and Staging Plan may be amended, revised, altered or changed subject to the approval of Upper Allen Township provided, however, that the use of the land shall be limited to one or more of the within described residential building types.

Such Supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing Property.

(b) Other Additions. Additions other than those authorized by sub-section (a) herein may be made upon approval in writing of the



Association pursuant to approval by a two-thirds (2/3) vote of each class of membership, as described in Article III, Section 2. The Owner of any property who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file or record a Supplementary Declaration of Covenants and Restrictions, as described in subsection (a) hereof.

(c) Mergers. Upon a merger or consolidation of the Association with another association as provided in its Articles of Incorporation, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property, together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every person or entity who is a record Owner of a fee or undivided fee in any Lot which is subject by covenants of record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot (or Living Unit) in which they hold the interests required for membership by Section 1. When more than one person holds such interest or interests in any Lot (or Living Unit), all such persons shall be members, and the vote for such Lot (or Living Unit) shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot (or Living Unit).

Class B. Class B members shall be the Developer. The Class B member shall be entitled to three votes for each Lot in which it holds the interest required for membership by Section 1 (and for every Living Unit in any Multi-Family Structure owned by it until such Unit is first sold), provided that the Class B membership shall cease and become converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) twenty (20) years from the date hereof.

From and after the happening of these events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot (or Living Unit) in which it holds the interests required for membership under Section 1.

(For purposes of determining the votes allowed under this Section, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.)

#### ARTICLE IV

##### PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right and easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title or lease to every Lot (or Living Unit).

Section 2. Title to Common Properties. Notwithstanding any provision herein, the Developer hereby covenants, for itself, its heirs and assigns, that it shall convey as Common Properties the following:

- (a) Rights-of-way and easements for streets, sanitary sewers and storm drainageways with completed improvements in place shall be constructed in accordance with the applicable provisions of Upper Allen Township, and shall be offered for dedication to Upper Allen Township.

-10-

(b) The title to common open space for parks, recreation and other common facilities with improvements in place shall be transferred to the Association under the condition that the Association shall have or hire adequate staff to administer common facilities and maintain the common open space.

(c) Easements for water, electric, telephone, television, and other utility services, shall be provided to the respective operating companies.

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

(a) The right of the Association, in accordance with its Articles of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage, the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission, and other fees as a condition to continued enjoyment by the members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Association and all rights of the Members hereunder shall be fully restored; and

(b) The right of the Association to take steps as are reasonably necessary to protect the above-described properties against foreclosure; and

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

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties; and

(e) The right of individual Members to the exclusive use of parking spaces as provided in Section 4 hereof; and

(f) 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 two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purpose or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action to be taken. It is understood and agreed that no such public agency or authority is obligated to accept any such dedication or transfer; and

(g) In the event that the Association shall, at any time, fail to maintain the common properties under its jurisdiction in reasonable order and condition in accordance with the development plan, Upper Allen Township may serve written notice on the Association or the Owners setting forth the manner in which the Association has failed to maintain the common open space in reasonable condition; and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon which shall be held within fourteen (14) days of the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Township, in order to preserve the taxable values of the properties within Allenview and prevent the common open space from becoming a public nuisance, may enter upon said common open space and maintain the same for a period of one year. Said entry and maintenance shall not vest in the

public any rights to use the common open space except when the same is voluntarily dedicated to the public by the residents and Owners. Before the expiration of said year, the Township shall, upon its initiative or upon the request of the Association call a public hearing upon notice to the Association and Owners to be held by the Township, at which hearing such Association and Owners shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall determine that the Association is ready and able to maintain said common open space in a reasonable condition, the Township shall cease to maintain said common open space at the end of said year. If the Township shall determine the Association is not ready and able to maintain said common open space in a reasonable condition, the Township may, at its discretion, continue to maintain said common open space during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. The decision of the Township in any such case shall constitute a final administrative decision subject to judicial review.

The cost of such maintenance by the Township shall be assessed ratably against the properties within Allenvue that have a right of enjoyment of the common open space and shall become a tax lien on said properties. Said assessments or charges shall be subordinate in lien to the lien of any mortgage or mortgages on the property which is subject to such assessments or charges regardless of when said mortgage or mortgages were created or when such assessments or charges accrued, provided such subordination shall apply only to assessments or charges that have become payable prior to the passing of title under foreclosure of such mortgage or mortgages and the transferee shall not be liable for payment of any assessments or charges accruing prior to said foreclosure; but nothing herein shall be held to affect the rights herein given to enforce the collection of such assessments or charges accruing after sale under foreclosure of such mortgage or mortgages; and provided, further, that such charges accruing after sale shall also be

subordinate in lien to the lien of any further mortgage or mortgages which are placed on property subject to such assessments or charges, with the intent that no such charges shall at any time be prior in lien of any mortgage or mortgages whatsoever on such property. The Township, at the time of entering on said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the Prothonotary of the County on the properties affected by such lien within the planned residential development.

Section 4. Parking Rights. The Association shall maintain upon the Common Properties at least two (2) parking spaces for each Living Unit in areas developed with Townhouses and Apartments. Subject to reasonable rules and conditions, the Association shall designate at least two (2) parking spaces conveniently located with respect to each Living Unit for the exclusive use of the Members residing therein, their families and guests. The use of such space by any other member or person may be enjoined by the Association or the Members entitled thereto. The right to the exclusive use of such parking space and to its maintenance and designation by the Association shall be appurtenant to and shall pass with the title to each Living Unit.

#### ARTICLE V

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer for each Completed Living Unit owned by him within The Properties hereby covenants and each Owner of any Completed Living Unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a

charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties 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, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, managements and supervisions thereof.

Section 3. Basis of Annual Assessments. The Association, through its Board of Directors, shall fix the annual assessment per lot based upon the estimated cost of carrying out the responsibilities of the Association. There shall be two types of annual assessment as follows:

(a) General assessments applicable to all record owners of lots upon which are constructed single-family or two-family dwellings, townhouses, apartments and condominiums. Said properties shall be assessable for the following purposes only:

1. The lawns and planting as outlined on the Final Subdivision Plans under the title of Common Open Space.
2. The sidewalks and pedestrianways in the public rights-of-way easements and in common open space as outlined on the Final Subdivision Plans.
3. Outdoor lighting in public rights-of-way and on common properties.
4. Essential improvements such as drives, sanitary sewers, water lines, fire hydrants, storm sewers, fences, signs and other facilities essential for the use and maintenance of Common Properties.

5. Recreation facilities such as swimming pools, tennis courts, playground equipment, picnic facilities and any structures or appurtenances related thereto.

6. Liability and Property Damage Insurance relating to the aforementioned Common Properties.

7. Capital Reserves as deemed necessary for replacement of the aforementioned Common Properties.

8. Trash Collection Service.

9. Management Services.

(b) Limited assessments applicable only to record owners of living units in Stage 2-B - 54 townhouses, Stage 3-B - 106 townhouses, Stage 3-A - 52 apartments or condominiums, and Stage 3-C - 36 apartments or condominiums. Such limited assessments shall be assessable for the following purposes and shall be an additional assessment over and above that provided under Section 3(a) above:

1. Parking lots and related improvements.
2. Lawns and planting.
3. Exterior of townhouse and apartment buildings.

Limited assessments shall not be applied against property owners of single-family or two-family dwellings.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized by Section 3 hereof, 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary 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, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.



Section 5. Change in Basis and Maximum of Annual Assessments.

Subject to the limitations of Section 3 hereof, and for the periods therein specified, the Association may change the maximum and basis of the assessments fixed by Section 3 hereof prospectively for any such period provided that any such change 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, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting, provided further that the limitations of Section 3 hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation and under Article II, Section 2, hereof.

Section 6. Quorum for Any Action Authorized Under Sections 4 and 5.

The quorum required for any action authorized by Sections 4 and 5 hereof shall be as follows:

At the first meeting called, as provided in Sections 4 and 5 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in Sections 4 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

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

The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement. The assessments for any year, after the first year, shall become due and payable on the first day of March of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount of the assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

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

**Section 8. Duties of the Board of Directors.** The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Completed Living Unit for each assessment period at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner.

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

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

**Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.** If the assessments are not paid on the date when due (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof, as hereinafter provided, thereupon become

a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner 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.

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 rate of seven percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the 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 a reasonable attorney's fee to be fixed by the court, together with the costs of the action.

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

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1, hereof; (c) all properties exempted from taxation by the laws of the Commonwealth of Pennsylvania, upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no Completed Living Unit devoted to dwelling use shall be exempt from said assessment, charges or liens.

ARTICLE VI

PARTY WALLS FOR DUPLEXES, APARTMENTS AND TOWNHOUSES

Section 1: General Rules of Law to Apply. Each wall which is built as part of the original construction of the homes upon The Properties and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

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 arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decisions of a majority of all the arbitrators shall be final and conclusive of the question involved.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location 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 of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VIII

EXTERIOR MAINTENANCE

Section 1. Exterior Maintenance. In addition to maintenance upon the Common Properties, the Association may provide exterior maintenance upon each Completed Living Unit which is subject to assessment under Article V hereof, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements.

Section 2. Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Living Unit upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such Living Unit is subject under Article V hereof and, as part of such annual assessment or charge, it shall be a lien and obligation of the Owner and

shall become due and payable in all respects as provided in Article V hereof. Provided that the Board of Directors of the Association, when establishing the annual assessment against each Living Unit for any assessment year as required under Article V hereof, may add thereto the estimated cost of the exterior maintenance for that year but shall, thereafter, make such adjustment with the Owner as is necessary to reflect the actual cost thereof.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or exterior of any Living Unit at reasonable hours on any day except Saturday or Sunday.

#### ARTICLE IX

##### GENERAL PROVISIONS

Section 1. Duration. 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 Developer, the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of 12 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then-Owners of two-thirds (2/3) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. For purposes of meeting the two-thirds requirement, when Completed Living Units are counted, the Lot or Lots upon which such Completed Living Units are situated shall not be counted. Provided, however, that no such agreement to change shall be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been

properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Reservation. The Developer has submitted to the authorities of Upper Allen Township certain plans for the future development of the real property described in Article II of this Declaration and such additions thereto as may hereafter have to be made pursuant to Article II, said plans having been submitted in order to fulfill the requirements of township ordinances and the Pennsylvania Municipalities Planning Code. Said plans are on file with Upper Allen Township. The Developer may be required to make additional submissions of plans to said authorities. All such plans are part of the public controls imposed by the Township Board, the developers, owners, residents and users of the project and they do not create, and are not intended to create, any private property or contract rights in the owners and residents of the project. The plans which the Developer has submitted to the township authorities represent a plan of development which the Developer believes will provide maximum benefits to the residents, owners and the public. During the extended development program, however various factors can intervene which may hinder the effectiveness of such long-range plans and which may threaten the benefits to be derived by the residents, owners and the public unless such plans can be modified as prescribed by the applicable township ordinances. Accordingly, this Declaration is not intended to nor does grant or create any private property or contract rights under any of the above described plans and such plans continue to remain subject to modification by the proper township authorities in accordance with the procedures set forth in the ordinances of the township and the Pennsylvania Municipalities Planning Code.

Section 5. Coordination of Finish Grading and Landscaping Operations.

To permit the coordination of finish grading and landscaping operations and the provision of permanent and/or temporary storm drainage facilities as development work progresses from lot to lot, the Developer, at his expense, shall have the right to change, alter, modify and/or revise the finish grade and to complete landscape work of the yard within ten (10) feet of any lot line and in drainage swales beyond said ten (10) feet after title to a lot and the dwelling thereon has been transferred to another Owner.

Section 6. Severability. Invalidtion of any one of these covenants or restrictions by judgment or Court Order shall in no wise affect any other provisions which shall remain in full force and effect.

ALLENVIEW, INC.

ATTEST:

By Ben F. Breneman  
President

Michelle G. Breneman  
Secretary

(SEAL)



BOOK 254 PAGE 754



COMMONWEALTH OF PENNSYLVANIA )

COUNTY OF *Allegheny* )

On this, the *30th* day of *May*, 1980, before me, a Notary Public, the undersigned officer, personally appeared BENJAMIN L. BRENNEMAN, President of Allenview, Inc., successor to Breneman and Calabrese, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and that he executed same for the purpose therein contained.

*Ann Marie McHugh*  
Notary Public

My Commission Expires: *2/2/81*



BOOK 254 PAGE 755

ACKNOWLEDGMENT

The undersigned, . . . Shaffer & Sons, Inc., being the owner of Lots 1A, 1B, 1C, 1D, 1E, 1F, 1G, and 1H of Stage II, Section B, in Allenview Planned Residential Development, through its duly authorized officers, acknowledges that the Corporation approves the revisions to the Supplementary Declaration of Covenants and Restrictions dated April 10, 1980, to which this acknowledgment is attached.

SHAFER & SONS, INC.

ATTEST:



(SEAL)

BY: James A. Shaffer  
President

ACKNOWLEDGEMENT

The undersigned, Anthony F. Miscavige and Andrea L. Miscavige,  
his wife, being the owners of Lot 1-K, of Stage II, Section B, in  
Allenvue Planned Residential Development, acknowledges that they  
approve the revisions to the Supplementary Declaration of Covenants and  
Restrictions dated April 10, 1980, to which this acknowledgement is attached.

*J. M. McHazel (witness)*

*Anthony F. Miscavige*  
Anthony F. Miscavige  
*Andrea L. Miscavige*  
Andrea L. Miscavige

State of Pennsylvania } SS  
County of Cumberland }  
Recorded in the office for the recording of Deeds  
etc., in and for Cumberland County, Pa.  
in *Map* Book *254* Page *731*  
witness my hand and seal of office, at  
Carlisle, Pa. this *22nd* day of *June* 19 *80*  
*[Signature]*  
Recorder

BOOK 254 PAGE 757