

**DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR
XXXXXXXXXXXXXXXXXXXX**

WHEREAS, HABITAT FOR HUMANITY OF CAPE COD, INC., a non-profit corporation duly organized and existing under the laws of the Commonwealth of Massachusetts and having a mailing address of 411 Main Street, Suite 6, Yarmouthport, Massachusetts 02675 (hereinafter referred to as the “Developer” or the “Declarant”), owns certain real estate, situated on Main Street, West Harwich, Barnstable County, Massachusetts described in a Quitclaim Deed from Harwich Ecumenical Council for the Homeless, Inc. (HECH), dated XXXXXXXX, and recorded in the Barnstable Registry of Deeds in Book XXXX Page XXXX (“Premises” or “Property”) and being shown on a plan entitled “XXXXXXXXXXXXXXXX”, prepared for Habitat for Humanity of Cape Cod, Inc., dated XXXXXXXXXX, by Down Cape Engineering, Inc. (the “Subdivision Plan” or “Subdivision”) and recorded with said Deeds in Plan Book XXXX Page XXX.

WHEREAS, the Declarant is desirous of creating an attractive residential community; encouraging harmonious and pleasing dwellings; preventing nuisances; assuring a high quality of community appearance; maintaining a safe, clean and pleasing environment for the community; providing for the preservation and maintenance of the community for the common enjoyment and benefit of the property owners; and securing for each property owner the full benefit and enjoyment of his and/or her home, with no greater restrictions upon the free and undisturbed use of his/her property than are necessary to insure the same advantages to the other property owners; and

WHEREAS, the Developer, in recognition of the above purposes, wishes to restrict the land shown on the Subdivision Plan to the covenants and restrictions hereinafter set forth, each and all of which is and are for the benefit of the [property owners](#).

NOW, THEREFORE, the Developer, for itself and for successors in record title, declares that the land shown on the Subdivision Plan shall be held, transferred, sold,

conveyed, inherited and occupied subject to and with the benefit of the following covenants and restrictions hereinafter set forth:

The Covenants and Restrictions set forth herein are intended to and shall run with the Premises in perpetuity and bind the Owners of each Lot within the Subdivision and their heirs, devisees, legal representatives, successors and assigns.

(1) **The Subdivision**. The Subdivision contains 8 lots with dwelling units (the “Dwelling Units”) pursuant to a Comprehensive Permit issued to the Declarant by the Town of Harwich Zoning Board of Appeals dated XXXXXXXXXXXXXXXX, and recorded with said Deeds in Book XXXXX, Page XXXX (the “Comprehensive Permit”). Lot 7 has an existing dwelling unit as shown on the Subdivision Plan; and Lot 8 has an existing dwelling unit and an existing barn as shown on the Subdivision Plan. There are six vacant lots for single-family homes each constructed on its own lot and shown as Lots 1, 2, 3, 4, 5, and 6 on the Subdivision Plan. The remaining Lot of the Subdivision is a 20 foot wide Private Road and its Cul-de-sac shown as Lot ____ on the Subdivision Plan.

(2) **Restrictions**. All Lots and Lot Owners of the Subdivision, their families, tenants, guests and invitees, their successors and assigns, and the Private Road and its Cul-de-sac, shown as Lot ____ of the Subdivision shall be subject to the following restrictions:

- a) Garbage disposals in any dwelling or other building are expressly prohibited.
- b) Private wells, either for irrigation or for drinking water, are expressly prohibited.
- c) No automobile, truck, motorcycle, trailer, mobile home, recreational vehicle, commercial vehicle, or other motorized vehicle of any kind, and no boats or trailers may be parked overnight in the Private Road and its Cul-de-sac.
- d) No baby carriages or playpens, bicycles, wagons, toys, benches or chairs left unattended on any part of the Private Road and its Cul-de-sac.

e) No unregistered motor vehicle of any type, including motorcycles, motorbikes, so-called ATV's and the like, may be kept, maintained or stored, temporarily or permanently, unless garaged and unexposed to public view, for a period in excess of sixty (60) days.

f) No boats, campers, or recreational vehicles over 20 feet in length shall be placed or stored on or about any Lot unless garaged and unexposed to public view.

g) As light pollution can be a nuisance to neighbors, all exterior lighting shall be directed to cast no light beyond any lot line. Exterior spotlights and floodlights are prohibited.

h) Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be so placed and kept as not to be visible at any time except the times when refuse collections are being made, and all receptacles must be covered. The building and grounds on any lot shall be maintained in a neat and attractive manner and the entire property kept free of rubbish, debris or material of any kind that render the same unsanitary, unsightly, offensive, or detrimental.

i) Individual Lot Owners shall maintain the outside of their homes, the walkway, driveway, and fences on their property. Grassed areas shall be mowed regularly and maintained by each Lot Owner. Snow removal from walkways and driveways is the responsibility of each Lot Owner.

j) Clotheslines and outdoor clothes drying devices shall be placed only in the backyards of the Lots and positioned so as to minimize their visibility from the Private Road and its Cul-de-sac.

k) All Lot Owners shall reasonably cooperate with the Town and the Commonwealth of Massachusetts on the location of future sidewalks along Main Street (Route 28).

l) Lot Owners of Lot 8 and the Private Road (Lot ____), shall not plant any bushes or other vegetation that would interfere with the site lines of all exiting the Private Road. Grasses and low bushes less than 2.5 feet in height not affecting site lines are permissible.

m) No commercial or business activity and no business or profession of any nature shall be conducted in any Dwelling Unit on any of the Lots of the Subdivision except those home occupations allowed as of right or by special permit of the Town of Harwich.

n) Waste created by household pets, cared for and controlled in accordance with the Town Bylaw, shall be removed promptly from any yard, including the Lot

Owner's yard or the Common Area, and contained and disposed of in a sanitary manner.

~~e) Use of _____ fertilizer is expressly prohibited.~~

o) A Vegetative Screen shall be planted and maintained, repaired, and/or replaced, if damaged, so that the homes on Lots 1 through 6 are appropriately screened from Route 28/Main Street. This Vegetative Screen may not be removed without prior approval of the Trustees of the XXXXXXXXXXXX Homeowners Association and the Town of Harwich Zoning Board of Appeals.

(3) **Duration/Term.** The covenants, easements, restrictions and provisions herein set forth shall run with the Property in perpetuity from the date of recordation of this Declaration. The covenants, restrictions and provisions herein set forth shall be enforceable against the Developer and the successors and assigns of the Developer holding any interest in the premises for the period of time that any party holds an interest in the premises or portion thereof. Further, the Developer and each Lot Owner by the acceptance of a deed to any of the Lots acknowledge and agree that the covenants, restrictions and provisions granted herein are made for the benefit of the Town, its successors and assigns, in perpetuity or for at least a period of ninety-nine years, and the Lot Owners acknowledge that the covenants, as they are held by the Town, constitute restrictions held by a governmental body, as those terms are defined in G.L. c.184, §26, and are thus not subject to G.L. c.184, §§27-30. Notwithstanding said acknowledgment, the Developer, the Lot Owners, and their successors and assigns, further acknowledge that the herein covenants, restrictions and provisions constitute a common scheme pursuant to G.L. c. 184, §27, and acknowledge that enforceability of the covenants herein may be continued for further periods of twenty (20) years beyond thirty (30) years from the recording of this instrument.

(4) **Amendment.** This Declaration of Protective Covenants and Restrictions may be amended by eighty seven and five tenths (87.5%) percent of Lot Owners so long as it is more restrictive than stated herein and not contrary to the purposes stated herein. In the event that the Amendment is less restrictive than stated herein or contrary to the purposes stated herein, the consent of the Board of Appeals of the Town shall be

required for this Declaration to be amended. A duly voted and approved Amendment shall not be effective until a certificate setting forth the Amendment and the facts relating to its adoption signed by the Lot Owners voting for approval of the Amendment, and the Board of Appeals, if required herein, has been recorded with the Barnstable County Registry of Deeds.

(5) **Enforcement.** ~~The Any~~ Lot Owners may prosecute proceedings at law or equity against any person violating or attempting to violate the provisions hereof, either to restrain violation, by action or inaction, or to recover damages. The Zoning Board of Appeals of the Town shall have the right to enforce any provisions hereof, and the Trustees of the XXXXXXXXXXXX Homeowners Association shall have the right to enforce any provisions hereof. The costs of such enforcement incurred by the party prosecuting the action, and including without limitation legal fees incurred by if the prevailing party, shall be the responsibility of the ~~lot-Lot owner~~ Owner violating the provisions hereof, and said cost shall constitute a lien upon the property owned by the violating ~~lot-Lot owner~~ Owner.

(6) **No Waiver.** The failure of any Lot Owner, the Trustees of the XXXXXX Homeowners Association, ~~or of~~ the Developer or the Zoning ~~B~~board of Appeals of the Town to enforce any restriction, covenant or provision hereof shall not be deemed to be a waiver of the right to do so thereafter as to the same breach or to one occurring prior or subsequent thereto.

(7) **Easement.** The Declarant reserves the right to grant easements to others over the Private Road and its Cul-de-sac; and this Declaration of Protective Covenants and Restrictions shall not be deemed a waiver of reservation of such right by the Declarant, its successors and assigns.

(8) **Notice.** Any notice required to be sent to any Lot Owner under the provisions of this Declaration shall be deemed to have been properly sent when delivered in hand or when mailed by certified mail, postage pre-paid, return receipt

requested, to the last known address of the person who appears as the Lot Owner at the Town of Harwich Assessor's Office.

(9) **Binding Acceptance.** This Declaration and the provisions hereof shall be binding upon the Developer, the Lot Owners, and any other party having or claiming to have an interest in the Subdivision or any portion thereof as tenants, invitees, licensees or otherwise, and all of the respective heirs, successors, grantees, mortgagees, assigns, agents, contractors, subcontractors and employees of the foregoing. The acceptance of a Deed or conveyance or entering into occupancy of any Lot of the Subdivision shall constitute an agreement that the provisions of this Declaration are accepted and ratified by such Lot Owner, tenant, or occupant, and all such provisions shall be deemed and taken to be covenants and restrictions running with the land and shall bind any person as though such provisions were recited and stipulated at length in each and every deed, conveyance, or lease.

(10) **Severability.** If any covenant, restriction, easement, or other provision herein contained should be held invalid by any court, such invalidity shall in no way affect any other easement, covenant, restriction or provision herein.

[end of document text – signature page follows]

Executed as a sealed instrument this _____ day of _____ 20__.

HABITAT FOR HUMANITY OF CAPE COD, INC.

By: _____, President

By: _____, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Barnstable County

On this ____ day of _____ 20__, before me, the undersigned notary public, personally appeared _____, President of Habitat for Humanity of Cape Cod, Inc., and _____, Treasurer of Habitat for Humanity of Cape Cod, Inc., personally known to me to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that it is the free act and deed of said corporation, for its stated purpose.

Notary Public
My commission expire: