

2/16/84
Rev. 5/21/84

WESTCHESTER PLACE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

This Declaration made this 21st day of May, 1984, by PULTE HOME CORPORATION, a Delaware Corporation (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner or has an interest in certain Properties in the County of Cook, State of Illinois, which is more particularly described in Exhibit A attached hereto and incorporated herein; and

WHEREAS, the said Properties shall be conveyed, subject to certain protective easements, restrictions, covenants, conditions, reservations, liens and charges as hereinafter set forth.

NOW THEREFORE, the Declarant hereby declares that all of the Properties described in said Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, conditions, reservations, liens and charges which are for the purpose of protecting the value and desirability of, and which shall run with the Properties 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.

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ARTICLE ONE

DEFINITIONS

SECTION 1. "ASSOCIATION" shall mean and refer to Westchester Place Homeowner's Association, an Illinois not-for-profit corporation, 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 on Exhibit A, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "LOT" for the purposes of this Declaration shall mean and refer to any plot of land shown upon any Plat of Subdivision of the Properties and upon which one individual townhouse dwelling unit is constructed or to be constructed.

SECTION 5. "MEMBER" shall mean and refer to every person or entity who holds a membership in the Association.

SECTION 6. "DECLARANT" shall mean and refer to Pulte Home Corporation, its successors and assigns if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

SECTION 7. "PLAT OF SUBDIVISION" shall mean a plat of the Properties, or any part thereof, subdividing or resubdividing the same into Lots, and recorded with the Recorder of Deeds of Cook County, Illinois.

SECTION 8. "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:

Lots 83, 84, 85, 86, 87 and 88 in Westchester Place Phase 1 being a subdivision of part of the South 3/4 of the South 1/2 of Section 29, Township 39 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois. The Common Area may be designated on any plat of subdivision of the properties or on any Amendments or Supplementary Declaration.

ARTICLE TWO

ANNEXATION OF ADDITIONAL PROPERTIES

SECTION 1. Annexation by Declarant. If within six (6) years after the date of this Declaration, the Declarant should develop Additional Land within the area described on Exhibit B attached hereto and incorporated herein, such Additional Land may be annexed to the Properties without the assent of the Class A Members. Such Additional Land or portions thereof may be annexed in separate phases and shall be considered annexed to said Properties and subjected to the provisions of the Declaration of Covenants, Conditions and Restrictions if within

such six (6) year period Declarant executes and records an Amendment or Supplementary Declaration with the Recorder of Deeds of Cook County, Illinois, describing the portion to be annexed to said Properties and legally and specifically making said Additional Land or portion thereof, subject to this Declaration. Any such Amendment or Supplementary Declaration may designate Lots and Common Area.

Prior to the time Declarant annexes any such Additional Land to the Properties, it shall first (i) pay or cause to be paid all general real estate taxes which are due and payable at the time of annexation, and (ii) complete, cause to be completed, or make arrangements for or cause arrangements to be made for the completion of (by posting bonds, letters of credit, or other security with the Village of Westchester) all public and quasi public improvements required by the Village to service the Lots to be contained in the phase(s) then being annexed. In improving or causing the improvement of any additional phases(s), Declarant shall keep the Properties subjected to this Declaration free of any liens or claims for liens for labor or materials provided in such improvement, pursuant to the Illinois Mechanics Lien laws. Although it shall not be a requirement that the townhouses constructed by Declarant on any phase(s) of the Additional Land annexed to the Properties have the same architectural design or style of those to be located

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on the Properties described in Exhibit A, any such townhouses shall be of a quality of construction at least as good as the quality of construction of the townhouses located in the Properties described in Exhibit A and the design of such townhouses shall be compatible with the design of the townhouses located in the Properties described on Exhibit A.

SECTION 2. Annexation by the Members. Except as provided in Section 1 above, annexation of any real estate to the Properties shall require the recording of an instrument signed by the Association with the assent of not less than sixty-seven per cent (67%) of the votes of each class of Members present in person or by written proxy at a meeting duly called for this purpose, at which a quorum is present, written notice of which shall be sent to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting setting forth the purpose of the meeting.

SECTION 3. Annexation Limited to Lots and Common Area. No real estate may be annexed to the Properties, whether under the provisions of Section 1 or Section 2 of this Article Two, other than real estate that will fall within the definition of "Lots" or "Common Area", as set forth in Article One hereof, created by a Plat of Subdivision recorded with the Recorder of Deeds of Cook County, Illinois.

ARTICLE THREE

MEMBERSHIP IN THE ASSOCIATION

SECTION 1. Membership. Every person or entity, including the Declarant, who is a record owner of a fee or an undivided fee interest in any Lot which is subject to this Westchester Place Declaration of Covenants, Conditions and Restrictions, including contract sellers, shall be a Member of the Association and each purchaser of any Lot by acceptance of a deed therefor covenants and agrees to be a member of the Association whether or not it shall be so expressed in any deed or other conveyance. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. For each Lot owned, the Owner thereof shall be entitled to one (1) membership. Membership shall be appurtenant to and may not be separated from the fee ownership of any Lot. Ownership of such Lot shall be the sole qualification for membership. For the purpose of this Declaration, the word "Member" shall include any beneficiary of a trust holding legal title to one or more Lots.

SECTION 2. Transfer. Membership held by any Owner of a Lot is an appurtenance to such Lot and shall not be transferred, alienated, or pledged in any way, except upon the sale or encumbrance of such Lot, and then only to the purchaser of such Lot. Any attempt to make a transfer except by the sale or encumbrance of a Lot is void. Reference to the transfer of

membership need not be made in an instrument of conveyance or encumbrance of such Lot for the transfer to be effective, and the same shall automatically pass with title to the Lot.

ARTICLE FOUR

VOTING RIGHTS IN THE ASSOCIATION

The Association shall have two classes of voting membership:

Class A: Class A Members shall be all those Owners as defined in Article Three with the exception of the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership in Article Three. When more than one person holds such interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: The Class B Member shall be the Declarant. The Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article Three, provided that the Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(a) Seven (7) years from the date of this Declaration of Covenants, Conditions and Restrictions.

(b) One hundred twenty (120) days after which seventy five per cent (75%) of the Lots which have

been submitted to this Declaration (either as a part of the original Properties or as Additional Land or a phase thereof annexed thereto) shall have been conveyed by Declarant to Owners, if Declarant has failed to start construction of a townhouse on any Lot in a phase of the Additional Land which has not yet been annexed to the Properties within such one hundred twenty (120) day period; provided however, if Declarant has so started construction of a townhouse on any Lot in a phase of the Additional Land which has not yet been annexed to the Properties within such one hundred twenty (120) day period, then the provisions of this subparagraph shall be applicable to the combined total of the Lots then comprising the Properties and those contained in such phase of the Additional Land which is thereafter annexed to the Properties (for purposes hereof, the term "start construction" shall mean the excavation of a building site on one Lot within the boundaries of a phase); or

(c) The date on which Declarant voluntarily withdraws as the Class B Member by executing and recording with the Recorder of Deeds of Cook County, Illinois, a written declaration of intent to withdraw, which shall become effective in the manner specified in such declaration of intent.

Anything contained in the Articles of Incorporation or the By-Laws of the Association notwithstanding, so long as Declarant is a Class B Member, it shall have the absolute right to appoint and remove any member of the Board of Directors and/or officers of the Association.

ARTICLE FIVE

PROPERTY RIGHTS

SECTION 1. Members' Easements of Enjoyment. Every Member shall have a right and easement for ingress and egress over and across and use of enjoyment in and to the Common Area and such easements shall be appurtenant to and shall pass with the title to every Lot. Reference in the respective deeds of conveyance, or in any mortgage or trust deeds or other evidence of obligation, to the easements and covenants herein described shall be sufficient to create and reserve such easements and covenants to the respective grantees, mortgagees or trustees of said parcels as fully and completely as though said easements and covenants were fully recited and set forth in their entirety in such documents. Said right of easement for ingress and egress over and across and of enjoyment in and to the Common Area shall be subject to the following provisions:

(a) The right of the Association, in accordance with Articles and By-Laws to borrow money for the purposes of improving or reconstructing the Common Area and facilities thereof and in aid thereof to mortgage said Common Area (or a portion thereof).

(b) The right of the Association to suspend the voting rights of a Member for any period during which any assessment against his Lot remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any single infraction of the published rules and regulations of the Association provided that any suspension of such voting rights, except for failure to pay assessments, shall be made only by the Association or a duly appointed committee thereof, after notice and hearing given and held in accordance with the By-Laws of the Association.

(c) The right of the Association to declare or grant easements and licenses and to dedicate or transfer all or any part of the Common Area to any public agency, authority, or public or private 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 has been recorded, signed by the Association and authorized by the assent of at least sixty seven (67%) percent or more of the votes of each class of Members present in person or by proxy and entitled to vote at a meeting duly called for this purpose at which a quorum is present, written notice of which is mailed to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purposes of the meeting.

(d) The right of the Association to establish uniform

rules and regulations pertaining to the use of the Common Area.

(e) The right of Declarant and its designees or the developers of other tracts within the area described on Exhibit A or Exhibit B (and their respective sales agents and representatives) to (1) non-exclusive use of the Common Area (as may be amended by annexation from time to time) in connection with the sale or rental of residential units within such tracts; and (2) the use of any improved townhouse on any of the Lots as a sales office until the last such Lot in the Properties or any of the Additional Lands annexed thereto is improved with a townhouse and conveyed to a third party purchaser.

(f) Such other rights as are reserved or created by this Declaration.

SECTION 2. Delegation of Use. Any Member may delegate in accordance with the By-Laws of the Association, his right of enjoyment to the Common Area to the members of his family, his tenants or contract purchasers who reside on the property.

SECTION 3. Access to Lots. The Association and its respective agents, employees and independent contractors shall have the right and license to enter upon any Lot to the extent necessary to exercise any right or responsibility of the Association as set forth in this Declaration, as to the Lot or the home situated thereon, and shall not be guilty of trespass.

SECTION 4. Access to Adjoining Lots. Every Owner of a Lot and also the Association, and their respective agents, employees and independent contractors, shall have the right and license to enter upon the adjoining Lot or Common Area to the extent necessary for the purpose of maintaining, repairing and replacing the improvements situated on or near the boundary of such Owner's Lot and shall not be guilty of any trespass. In the event the Owner of a Lot or the Association, or their respective agents, employees or independent contractors enter upon any such Lot or the Common Area for the purposes of exercising the right and license created by this Section 4, then such Owner, or the Association, as the case may be, shall make all necessary repairs or replacements on such Lot or the Common Area to correct any damage inflicted upon the same by exercise of the right and license.

SECTION 5. Title to the Common Area. The Declarant covenants for itself, its heirs and assigns, that it will convey or cause to be conveyed fee simple title to the Common Area to the Association free and clear of all encumbrances and liens, prior to the conveyance by Declarant of the first Lot improved with a townhouse dwelling to an Owner subject to:

- (a) Covenants, conditions and restrictions then of record,
- (b) The terms of this Declaration,
- (c) Public zoning ordinances,
- (d) Current real estate taxes, not yet due and payable

(for which Declarant shall pay or make arrangements to pay its pro rata share),

(e) Utility easements granted or to be granted for sewer, water, gas, electricity, telephone and any other necessary utilities; and

(f) Reservation of easement for ingress and egress.

When lands annexed from time to time, pursuant to Article Two of this Declaration, contain land to be designated as Common Area, said Common Area shall similarly be conveyed by the Declarant or the legal titleholder thereof to the Association prior to the conveyance by Declarant of the first Lot in the lands then annexed to an Owner.

SECTION 6. Waiver of Use. No Member may exempt himself from personal liability for assessments duly levied by the Association nor release the Lot owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or by abandonment of his Lot.

ARTICLE SIX

COVENANT FOR ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant (subject to the provisions set forth in Sections Seven and Eight of this Article Six) for each

Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor or possession thereof, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to personally and individually covenant and agree to pay to the Association; (1) annual assessments or charges, (2) special assessments, and (3) a single initial assessment, such assessments to be fixed, established and collected from time to time as hereinafter provided. The assessments, together with interest thereon, attorney's fees and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment (and deficiency contributions, in the case of Declarant), together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment falls due. The personal obligation shall pass to his successors in title accepting a deed to or assignment of beneficial interest in any trust holding title to said Lot.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare and enjoyment of its members, and in this connection, for the maintenance of the Lots, for the maintenance and repair of the townhouses

constructed on the Lots, for the maintenance and improvement of the Common Area and facilities thereon for the payment of premiums for the insurance which is the obligation of the Association, and to provide funds for the Association to carry on its duties set forth herein or in its Articles of Incorporation or By-Laws.

SECTION 3. Basis and Maximum of Annual Assessments. Until January 1st of the year immediately following the year of conveyance of the first Lot to an Owner, the maximum annual assessment permitted shall be \$600.00 per Lot (and if collected monthly, at the rate of \$50.00 per month).

(a) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased effective January 1st of each year by the Board of Directors of the Association (at any meeting of the Board of Directors duly convened at least thirty (30) days prior to said January effective date) without a vote of the membership, provided that any such increase shall not be greater than a ten per cent (10%) increase over the maximum annual assessment permitted for the year immediately preceding.

(b) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased for any year by the Board of Directors of the Association at any time, over the maximum annual assessment permitted for the year immediately preceding,

without the vote of the membership, if the same is necessary to: (i) pay the cost of any increases in real estate for the Common Area over the prior years, or (ii) pay the cost of increases in premiums for insurance procured by the Association over the prior year.

(c) From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased for the coming assessment year only or for all succeeding assessment years effective January 1st of each year by the Board of Directors at any meeting of the Board of Directors (duly convened at least thirty (30) days prior to said January 1st effective date) in an amount greater than provided in subsections (a) or (b) hereof for the coming assessment year provided that any such change shall have the assent of the majority of the votes of each class of Members voting in person or by proxy, at a meeting duly called for such purpose, at which a quorum is present, written notice of which will be sent to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting.

(d) After consideration of future needs and expected expenditures of the Association, the Board of Directors may fix regular annual assessments in lesser amounts than the maximum annual assessments permitted or may, in its discretion, require

no annual assessment whatsoever for any year, but such action shall not limit or prohibit the Board from fixing assessments for any year(s) following on the basis of increases in the maximum annual assessments permitted hereunder rather than the actual assessments so fixed.

SECTION 4. Reasonable Reserves. The Association shall establish and maintain from annual assessments collected hereunder, reasonable reserves for the costs of the maintenance, repair, and replacement of the private streets parking areas, and other improvements located on the Common Areas, and for the maintenance and repair of the townhomes located on the Lots, which are the obligation of the Association hereunder.

SECTION 5. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment for the purpose of defraying in full or in part the cost of any construction, reconstruction, repair or replacement of any improvement on the Common Area, including the necessary fixtures, personal property and landscaping related thereto, or for the cost of any reconstruction, repair or replacement of the townhome located on any Lot, including landscaping related thereto, or for the purpose of providing funds to the Association to carry on any of its duties set forth in this Declaration or in its Articles of Incorporation or By-Laws, provided that any such

assessment shall have the assent of a majority of the votes of each class of Members voting in person or by proxy at a meeting duly called for this purpose, at which a quorum is present, written notice of which shall be sent to all Members not less than five (5) days nor more than forty (40) days in advance of the meeting, setting forth the purpose of the meeting. Unless the special assessment specifies that it shall be applicable to a specified number of years, it shall be applicable only to the year enacted. In the event a special assessment is to be levied for the construction, reconstruction, repair or replacement of less than all of the townhouses located within the Properties, such assessment may, by the action described herein, be levied against only those Lots which benefit by such construction, reconstruction, repair, or replacement, in proportion to their benefit, and not against the other Lots in the Properties.

SECTION 6. Uniform Rate of Assessment. Annual assessments must be fixed at a uniform rate for all Lots, and may be collected on a monthly basis or such other basis as set by the Board of Directors.

SECTION 7. Assessment for Lots Owned by Declarant. Notwithstanding the foregoing provisions, the annual assessments and the special assessments for any Lots while owned by Declarant and improved with a completed townhouse, but unoccupied by any tenant of Declarant shall be limited to 25%