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STONEGATE

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS

This Declaration, made on the date hereinafter set forth
by STONEGATE ASSOCIATES, a Maine limited partnership,
hereinafter referred to as "Declarant".

W I T N E S S E T H:

Whereas, Declarant is the owner of certain property in the
Town of Cape Elizabeth, County of Cumberland and State of
Maine, more particularly shown on a Plan entitled "Subdivision
Plat, Stonegate, Cape Elizabeth, Maine" by Owen Haskell, Inc.,
revised August 6, 1986 and recorded in the Cumberland County
Registry of Deeds in Plan Book 158, Pages 4 and 5 (the "Plan").

NOW THEREFORE, Declarant hereby declares that the property
described above, excepting Lot No. 52, that area shown as
"Common Open Space" on the Plan, and those areas shown as roads
on the Plan shall be held, sold and conveyed subject to the
following 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 property or any part thereof, their
heirs, successors and assigns, and shall inure to the benefit
of each Owner thereof.

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ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to STONEGATE HOME OWNERS ASSOCIATION, 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 Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" 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. "Lot" shall mean and refer to those numbered building sites, excepting Lot #52, shown upon the Plan.

Section 5. "Declarant" shall mean and refer to STONEGATE ASSOCIATES, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded in the Cumberland County Registry of Deeds.

Section 7. "Phase" shall mean and refer to those areas designated "PHASE I", "PHASE II" and "PHASE III" on the Plan.

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ARTICLE II

USE AND OCCUPANCY REGULATIONS

Each lot conveyed in Stonegate shall be subject to the following covenants and restrictions which shall run with the land:

1. The lot conveyed hereby shall be used only for single family residential purposes and shall not be subdivided. No one shall reside in trailers, mobile homes or other temporary structures on said land. No trade, business or commercial activity of any nature shall be conducted on said land except those of a limited professional use which would not have as a natural consequence of said professional use an increase in flow of traffic.

2. No building or other structure or installation, including fences, swimming pools or storage buildings with the exception of lamp posts, mailboxes, stone walls no more than four (4) feet high and appurtenances to underground utility installations, shall be erected, placed, constructed, altered or maintained on the land within twenty-five (25) feet of any lot sides or rear line or forty (40) feet of a street line or such greater distances as given in Table II-2, all as indicated on the Plan. Only one (1) single family residential dwelling shall be permitted on any individual lot and in addition to a garage only one (1) other detached building shall be permitted. No structure shall exceed thirty-five (35) feet in height and all residential dwellings shall have a minimum of

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fifteen hundred (1500) square feet of heated, finished living space, counting both floors in two-story homes, but not including porches, screened, glassed-in or otherwise, stoops, garages, carports, or other outside living spaces. All buildings or other structures shall have the roof and outside finish completed within one (1) year after construction is begun. All landscaping and driveway surfacing shall be completed within nine (9) months of occupancy of the dwelling.

TABLE II-2
SPECIAL SETBACK REQUIREMENTS
(FEET)

<u>LOT</u>	<u>FROM COMMON OPEN SPACE BOUNDARY</u>	<u>FROM REAR BOUNDARY</u>	<u>NOTES</u>
11-15	-	50	-
16-17	-	80	-
18-22	-	70	From common rear corner, per plan
35	50	-	-
36-37	50	-	Per plan
39-40	50	-	-
41	50	-	-
42-47	100	-	Northern boundary only, per plan Southern boundary only, per plan

3. All structures shall have brick, wood or other natural siding on the exterior. The use of simulated or artificial brick or stone composition siding shall not be permitted.

4. No garbage, trash, noxious or offensive objects, or junk vehicles, which do not pass the State of Maine Motor Vehicle Inspection laws, shall be kept on any lot.

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5. No trees in excess of eight (8) inches caliper shall be cut within fifteen (15) feet of any lot side or rear line or within thirty (30) feet of any street line except:
 - a. For the purposes of constructing, replacing and maintaining the roads, walks, driveways and utilities serving each lot and the Property;
 - b. Clearing or restoration of trees damaged by the forces of nature or disease.
6. Lots shown on the Plan as being affected by a slope easement shall be subject to the rights of the Declarant, its successors and assigns to construct, maintain, alter and repair a slope for the support of the roadbed and maintenance of the shoulders and sight lines. The lot owner shall be prohibited from disturbing in any manner the soil located within the slope easement, including but not limited to its excavation and removal.
7. Lots shown on the Plan as being affected by a drainage easement shall be subject to the rights of the Declarant, its successors and assigns to construct, maintain, alter and repair any culverts, swails, pipes or other facility necessary for adequate drainage.
8. Lot 25 and Lot 9 shall be subject to a landscape easement as shown on the Plan and shall be subject to the rights of the Declarant, its successors and assigns to erect, maintain and repair a stone wall and to perform any associated landscaping activity including, but not limited to planting and cultivating, lawns, plants, flowers, shrubs or trees.

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9. Within the area shown on the Plan as being affected by the Wetland Easement, no alteration shall be made to the surface of the easement area other than that caused by the forces of nature, or unless required to maintain the property and streambed located therein as a drainage course to ensure the unobstructed flow of surface water across said premises. No commercial, residential, industrial, quarrying or mining activities shall be permitted on the easement area. There is, however, retained in the Declarant, its successors and assigns, the following rights:

i. the right to excavate in connection with the installation, maintenance, improvement, alteration or replacement of water, sewerage, drainage, electric, telephone and other underground utility services related to the residential use of the premises provided such activity is performed in conformance with all local, state and federal laws and regulations governing such activity and further provided that the land and vegetation be thereafter restored, as nearly as possible, to its prior undisturbed state;

ii. the right to construct and maintain foot trails and fire protection lanes; and

iii. the right to construct roads, utilities and drainage facilities as approved by the Cape Elizabeth Planning Board.

10. Lot 40 and Lot 41 shall be subject to a watermain easement as shown on the Plan and shall be subject to the right

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of the Declarant, its successors and assigns to install, repair, maintain, alter and operate a watermain and appurtenances in, over, across and under the area as shown on the Plan.

11. Prior to commencement of construction of the dwelling to be constructed initially on each Lot, the Lot owner shall submit to Declarant the following: (a) a site plan showing the location on the Lot of the dwelling, the garage, the driveway, the walks, the drainage features and utility locations, (b) floor plans for the dwelling, and (c) elevation plans showing all facades of all buildings on the Lot. Declarant shall approve such plans provided that they conform to this Declaration, are of regionally traditional character, and the Declarant determines, in its sole discretion, that construction in accordance with such plans will not be detrimental to Stonegate. The initial dwelling on each lot shall be constructed only in conformity with such approved plans. Upon completion, all dwellings shall be deemed to have complied with this paragraph.

12. The wholesale cutting or clearing of trees on a Lot, whether for commercial lumbering purposes or otherwise, is prohibited. Subject to Section II. 5., this does not prevent a Lot owner from cutting trees to construct or enhance the homesite on the Lot, to provide a view from his Lot or to preserve the wooded environment of his Lot.

13. Construction on lots within Stonegate shall meet the following requirements:

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- a. A site plan prepared by a licensed Professional Engineer or Landscape Architect at a scale of 1" = 40', shall be submitted to the Town for review by the Building Inspector and/or the Town Engineer.
 - b. Driveway gradient shall be a minimum of 0.5% and a maximum of 10.0%;
 - c. The site shall be graded around principal structures to slope away from the structure at a minimum gradient of 3% for 15 feet or 5% for 10 feet;
 - d. Drainage swales shall have a minimum gradient in the direction of flow of 2% and shall not direct flow over drives or walks;
 - e. Water and sewer services shall be protected against frost;
 - f. Where basements are constructed, foundation drains shall be provided which shall discharge to daylight or the storm drainage system; if connected to a storm drain, the foundation drains shall be equipped with a backflow preventer.
14. No motor home, boat or trailer in excess of twenty-four (24) feet in overall length may be stored on any Lot, except by the Declarant for construction purposes.
15. Each Lot owner shall be a member of the Stonegate Home Owners Association, a nonprofit corporation organized under the laws of the State of Maine. Membership shall be appurtenant to the lots, and the transfer of title to a lot shall automatically transfer the membership.

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16. In any voluntary conveyance of a Lot deed, it shall be the duty of the seller to furnish the buyer with a copy of this Declaration.

The provisions of this Declaration and the rights and obligations established thereby shall be deemed to be covenants, running with the land, and shall inure to the benefit of and be binding upon each and all of the Lot Owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the property whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration.

ARTICLE III

ASSOCIATION

The Association shall be responsible for maintaining, repairing and replacing the stone walls within that area shown on the Plan as the landscape easement as well as stonewalls and landscaping within the road rights of way where such maintenance is not the responsibility of the Town of Cape Elizabeth. The Association shall be authorized to assess each lot owner its proportionate share of the expense of such maintenance, repair and replacement and each lot owner hereby covenants and agrees to pay to the Association any such

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assessment levied. The Association shall be governed by the By-Laws of the STONEGATE HOME OWNERS ASSOCIATION.

ARTICLE IV

RIGHTS OF DECLARANT

The Declarant reserves the right until the construction, marketing and sale of all Lots is completed to:

(a) Change the size, number and location of Lots and other improvements, and the size, layout, and location of any Lot for which a purchase and sale agreement has not been executed by the Declarant or with respect to which the purchaser is in default. The change or changes shall be effective upon the recording of an amendment to this Declaration and/or the filing of modified site plan indicating the changes made.

(b) Locate on the premises, even though not depicted on the Plan, and grant and reserve easements and rights of way for the installation, maintenance, repair, replacement and inspection of, utility lines, wires, pipes, conduits, and facilities, including, but not limited to, water, electric, telephone and fuel oil and sewer.

(c) Connect with and make use of utility lines, wires, pipes and conduits located on the property for construction and sales purposes, provided that the Declarant shall be responsible for the cost of service so used.

(d) Utilize any lot or structure thereon controlled by

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the Declarant for construction, development or marketing purposes.

(e) Connect with any and all roads shown on the Plan for the purpose of serving adjacent developments and providing pedestrian, vehicular and utility access to such adjacent developments.

ARTICLE V

AMENDMENT

The provisions of Article II, Sections 1, 2, 5, 6, 7, 9, 12, 13 and 15 and the provisions of Article III shall not be amended without the approval of the Cape Elizabeth Planning Board. The provisions of Article II, Section 11, and Articles IV, V and VI shall not be amended prior to January 1, 2000 without the approval of the Declarant.

This Declaration may be amended by a vote or by written approval of the Lot Owners to whom sixty-seven percent (67%) of the votes are allocated. Lot Owners, other than the Declarant, shall be entitled to one vote for each lot owned; in no event shall more than one vote be cast with respect to any lot owned by other than Declarant. The Declarant shall be entitled to three (3) votes for each lot owned until the occurrence of either of the following events, whichever occurs earlier:

a) the conveyance by the Declarant of thirty-six (36) lots to purchasers;

b) three (3) years from the date of conveyance of the first lot by Declarant to a purchaser.

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Thereafter, the Declarant shall be entitled to one (1) vote for each lot owned by the Declarant.

ARTICLE VI

ANNEXATION

Additional abutting land may be annexed by the Declarant without the consent of members.

IN WITNESS WHEREOF, the said STONEGATE ASSOCIATES, has caused this instrument to be signed by Robert H. Taylor, Jr., its General Partner, thereunto duly authorized, this 14th day of OCTOBER, 1987.

WITNESS:

Marjorie Slagis

STONEGATE ASSOCIATES

BY: *R. H. Taylor Jr.*
Robert H. Taylor Jr.
General Partner

STATE OF MAINE
CUMBERLAND, ss.

October 14, 1987

Personally appeared before me the above named Robert H. Taylor, Jr., of said STONEGATE ASSOCIATES, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said STONEGATE ASSOCIATES.

Before me,

Linda Ann Curran
Notary Public

LINDA ANN CURRAN
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES NOVEMBER 10, 1988

RECORDED REGISTRY OF DEEDS

1987 OCT 14 PM 3:49

CUMBERLAND COUNTY

James J. Walsh

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