

Camela O Caughlin

**AMENDED DECLARATION
OF COVENANTS AND RESTRICTIONS
Of
111 COBURN AVENUE
By
111 COBURN ASSOCIATION, INC.**

THIS AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") made as of this 1st day of June, 2011, by 111 Coburn Association Inc., a NH RSA Chapter 292 unit owner's incorporated association ("Association"), of Nashua, New Hampshire, amends the original Declaration of Covenants and Restrictions filed in the Hillsborough County Registry of Deeds at Book 2327, Page 442, amended at Book 2760, Page 709, amended at Book 5918, Page 0338, amended at Book 6536, Page 1033, amended at Book 8043, Page 1717 and as further amended herein of the residential community complex known as 111 Coburn Avenue ("Property") having obtained the consent of two thirds (2/3rds) of the Unit Owners ("Owners"), and does hereby amend and replace the Original Declaration subject to the following submitted Property remaining in effect and applicable to the Amended Declaration: (a) all properties submitted with the Original Declaration, (b) the property added to the Common Property described by the various Supplementary Declaration of Covenants and Restrictions filed at: i) Book 2618, Page 678, ii) Book 2598, Page 009, iii) Book 2559, Page 295, iv) Book 2544, Page 644, v) Book 2529, Page 564, vii) Book 2492, Page 017, viii) Book 2459, Page 406 ix) Book 2423, Page 394, x) Book 2402, Page 026, and xi) Book 2391, Page 620, and any other Supplementary Declarations of records (collectively the "Supplementary Declarations") and (c) the Lease Indenture ("Lease") recorded at Book 2263, Page 292; all as are recorded in the Hillsborough County Registry of Deeds.

THE DECLARANT was the owner of a leasehold interest in the real property described in Appendix A to the Original Declaration, and as attached hereto, and said property was amended by the Supplementary Declarations, and created thereon a residential community together with private roads, open space, green area, and other common land / facilities for the benefit of the Owners and the Common Property.

The Declarant developed the community and transferred out the ownership interests in the Living Units ("Units") to the individual Owners subject to a leasehold interest in the community's real property.

The Declarant, and its successors and assigns (Owners and Association), desire to preserve and enhance values in said community by serving and promoting the recreational interests and the pleasure and social welfare of the Owners and occupants of said community; and, to this end, have subjected the Property described in Appendix A of the Original Declaration, and as subsequently enlarged through the Supplementary Declarations, as shown on all plans of record, to the covenants, restrictions, easements, charges and liens described herein. The Property and any such additions are and shall be held, transferred, leased, subleased, sold, conveyed, and occupied subject to the covenants, restrictions,

ements, charges, and liens herein set forth and which shall run with and bind and benefit said Property and the Owners thereof, and their heirs, successors, and assigns. The Association has been established for the purpose of maintaining, operating and administering the Property's improvements, facilities, private roads, open space, and other common land, and use thereof, pursuant to this Declaration, the Association's By-Laws, and the Board's Rules and Regulations. This Declaration supersedes the Original Declaration of record, except that the Original Declaration's and the Supplemental Declarations' description of the Property submitted as the Common Property, including all legal descriptions in the Appendixes and plans of record describing Property, and hereby incorporated by reference thereto and made part of the Property subject to this Declaration.

The Common Property and the Units represent a leasehold community of property ownership, and were organized pursuant to the covenants, restrictions and provisions in the Original Declaration under the non-profit corporation statute, NH RSA 292. This Property was not organized pursuant to and therefore is not subject to NH RSA 479-A (Unit Ownership of Real Property), nor NH RSA 356-B (The Condominium Act). Pursuant to this amendment of the Declaration, the Owners of the Units ("Unit Owners") do hereby covenant and agree as follows:

Section 1. Definition of Unit Owner, Boundaries of Units and Maintenance Obligations.

- 1.1. Common Property Definition. The Common Property means those tracts of land described in Appendix A of the Original Declaration, and as supplemented by the Supplementary Declarations described on page 1 of this Declaration, and all supplementary Declarations of record, and as further shown and labeled "Common Property" on any recorded plan of the Property, or of portions thereof, including the facilities located hereon (except Units shown on such a plan and the land located directly thereunder), and which are intended to be devoted to the common use and enjoyment of the Unit Owners.
 - 1.1.2 "Property" Definition. The definition of the "Property" as used in this Declaration includes both Common Property and the Units.
 - 1.1.3 Maintenance. Maintenance as used herein includes the responsibility to clean, maintain, repair, and replace (collectively "Maintenance").
- 1.2. "Unit Owner," "Owner" or "Member" Definition. A "Unit Owner," "Owner" or "Member" are defined as the record owner(s), whether one or more persons or entities, of the fee simple title to any Unit. Said definition of an Owner does not include any mortgagees, unless the mortgagee takes title to the Unit as a result of foreclosure or through a deed in lieu of foreclosure.
- 1.3. Board of Directors. The Board of Directors is the Board of Directors of the 111 Coburn Association, Inc., sometimes referred to as ("Board") or ("Directors"). The Board of Directors may designate a managing agent, or agents to act on its behalf.
- 1.4. Boundaries of Units. Each unit is a single family detached unit consisting of the entire structure, including all interior and exterior portions thereof (hereinafter the "Unit" or "Units").

- 1.5. Unit Owner Maintenance Responsibilities: Each Unit Owner is responsible for the Maintenance of all portions and components comprising the Unit (including the open or enclosed carport) and all components that exclusively serve the Unit, whether or not such component is located within, underneath, or outside of the boundary of the Unit. This includes but is not limited to all pipes, ducts, flue chutes, conduits, electrical systems, heating and air conditioning systems, propane delivery system, water and sewer lines, utility shutoff valves and fuse boxes, steps or entranceways, patios, decks, and utility sheds.

Excluded from the above, Unit Owners shall not be responsible for Maintenance of those portions of the water and sewer pipes and those portions of the lines, conduits, and wires used for the furnishing of telephone, cable and main electrical supply to each of the Units, all of which are located outside of the point of entrance to the Unit.

Any Maintenance performed to the exterior of the Unit, shall be subject to the regulations or standards as determined by the Board of Directors from time to time.

If the Board of Directors shall at any time in their reasonable judgment determine that a Unit, any part thereof, or element to which a Unit has exclusive use, is in need of Maintenance, the Board of Directors shall in writing request the Unit Owner thereof to perform the needed Maintenance to correct the relevant condition and/or its cause. In such case as action thereon shall not have been commenced within the time as may be reasonably set by the Board of Directors and thereafter diligently brought to completion, the Directors shall be entitled to have such maintenance or repair performed at the expense of such Unit Owner. In the case of an emergency which necessitates immediate action and the Unit Owner is unavailable or fails to take immediate action, the Board of Directors may enter upon and have access to such Unit in order to proceed thereto without delay. The cost incurred by the Board of Directors for performing the Maintenance, such as is reasonably necessary in their sole discretion, shall constitute an obligation of the applicable Unit Owner and shall be considered an Assessment attributable to such Unit.

- 1.6. Association Maintenance Responsibilities

The Board of Directors shall be responsible for arranging for the Maintenance of those portions of the Common Property and such other portions of the property which have not been delegated as the responsibility of the individual Unit Owners to maintain, repair and replace, including but not limited to all paved surfaces at the Property, including driveways (but excluding the concrete or paving beneath an open or enclosed carport), parking areas and roadways, as well as all common recreational facilities such as the pools, tennis courts, clubhouse, ponds, street lights, playground and mail box clusters, and all pipes, wires, conduits, services, or other components for the service of utilities which are not part of a Unit, and which do not serve one individual Unit exclusively, and/or have not been delegated as a Unit Owner responsibility as set forth in Section 1.5.

The obligation to perform such maintenance and repair responsibilities shall be subject to budgetary constraints, the Board of Directors exercising ordinary due care and reasonable business judgment with respect to the scope, extent and timing of such Maintenance.

If any portions of the Common Property require replacement, maintenance and/or repair as a result of the negligence, misuse or neglect of a Unit Owner, his family, servants, agents, employees, invitees, lessees, tenants, licensees, pets, or others upon the Property at the Unit Owner's behest, whether directly or by virtue of a Unit Owner's failure to carry out Maintenance to the Unit and the, components thereof, , the Board of Directors may assess all charges and costs incurred in performing the Maintenance associated therewith, to such Unit Owner, and shall constitute an obligation of such Unit Owner and be considered an Assessment attributable to such Unit.

Section 2. Unit Owners' Assessment Responsibility

- 2.1. Creation of the Lien and Personal Obligation of Assessments by Unit Owners. Each Unit Owner by acceptance of a deed to a Unit, hereby covenants and agrees, whether or not it shall be so expressed in any such deed, to pay the Association annual and special assessments to be fixed and collected from time to time, and includes the payments of all fines, interest, charges, legal fees, and costs as all provided for in this Declaration, or as may be provided for in the By Laws or the Rules of the Association, as amended and/or adopted from time to time. The annual and special assessments, together with such fines, interest, legal fees, and related charges as may be determined by the Board of Directors from time to time, shall be a charge and a continuing lien upon the Unit against which each such assessment is made and shall be the personal obligation of the Unit Owner at the time when the assessment fell due, as well as an obligation of the Unit.
- 2.2. Effect of the Non-Payment of Assessment. Any assessments, fines, late fees, termination costs, interest, collection fees, including legal fees, insurance deductibles, and/or charges (referred to herein as "assessment") which are not paid when due shall be deemed delinquent and shall, together with such interest thereon and cost of collection, be a continuing lien on the Unit and on the appurtenant interests of the delinquent Unit Owner until paid., which shall bind such property in the hands of the said Unit Owner's heirs, devisees, representatives and assigns. Any sums due shall also be the personal obligation of the Unit Owner as of the time the assessment becomes due. In addition:
- 2.2.1. Any assessment which is not paid within 10 days after its due date shall change the status of the Member from active to inactive as defined later in the Declaration and shall bear interest from the due date at a rate of twelve percent (12%) per annum, plus any late fees and charges as may be determined by the Board from time to time. The Board of Directors may take any such action as deemed appropriate to collect delinquent assessments. In addition, and pursuant to applicable laws, the Board of Directors may provide notice of outstanding balances to collection agencies when a Unit Owner is more than sixty (60) days delinquent.
- 2.2.2. The Association may bring a legal action against the Unit Owner for delinquent assessments personally obligated to pay the same and/or may foreclose the lien against said Owner's Unit in the manner provided by the statute for the foreclosure of power of sale of mortgages, and there shall be added to the amount of such assessment the cost of

processing such action, or foreclosing said lien, including attorneys fees, processing costs, penalties, late fees and any interest on the amount owed the Association.

2.3. Rent Collection upon Delinquency in Payment of Assessment

- 2.3.1. If a Unit Owner fails to pay any assessment within sixty (60) days of the due date, the Board of Directors may collect from any tenant renting the Unit any rent then or thereafter due to the Unit Owner. The Board shall apply such rent collected against the outstanding balance of the assessment due from the Unit Owner. Before taking any action authorized by this section 2.3.1, the Board shall provide written notice of the intent to collect rent to the Unit Owner. The notice shall be sent by first class certified mail and include the exact amount due and owing from the Unit Owner and indicated in the intent of the Association to collect the amount due from rent, along with any other amounts which become due within the current fiscal year and which remain unpaid. The Board of Directors may notify the first mortgagee of such delinquency.
- 2.3.2. The Unit Owner shall have thirty (30) days from the date of mailing of the notice to pay all amounts due, including collection costs, or to provide proof of the prior payment of the assessments due. The Unit Owner shall not be entitled to withhold payment of assessments due, assert the right to an offset, or make any deductions from the amounts due, without first obtaining a determination by a court of competent jurisdiction that the assessment was unlawful.
- 2.3.3. If the Unit Owner fails to make full payment or to file a response as set forth in Section 2.3.2, the Board of Directors may notify and direct each tenant renting the Unit to pay all or a portion of the rent otherwise due to the Association. The rent or portion of rent collected shall be the amount asserted as due in the notice to the Unit Owner or the total rent, whichever is less. The Association's right to collect any rent otherwise payable by the tenant to such Unit Owner shall continue until the total assessment, plus any charges thereafter becoming due, are satisfied in full. Nothing in this section 2.3 shall limit the Association's rights to collect the amounts due as authorized in this Declaration or according to common law.

2.4 Termination of Services upon Delinquency in Payment of Assessment

- 2.4.1 If a Unit Owner fails to pay any assessment within sixty (60) days of the due date, the Board of Directors may terminate the Unit's right to use the common areas and privileges, including but not limited to, the use of the common areas (amenities and parking areas) and such other services provided by the Association. Before taking any action authorized by this section 2.4.1, the Board shall provide written notice of the intent to terminate services to the Unit Owner. The notice shall be sent by first class certified mail and include the exact amount due and owing from the Unit Owner. The Board of Directors may notify the first mortgagee of such delinquency.

- 2.4.2. The Unit Owner shall have thirty (30) days from the date of mailing of the notice to pay all amounts due, including collection costs, or to provide proof of the prior payment of the assessments due. The Unit Owner shall not be entitled to withhold payment of assessments due, assert the right to an offset, or make any deductions from the amounts due, without first obtaining a determination by a court of competent jurisdiction that the assessment was unlawful.
- 2.4.3. If the Unit Owner fails to make full payment or to file a response as set forth in Section 2.4.2, the Board of Directors may terminate the common area privileges and services for the Unit. The Association's right to terminate shall continue until the total assessment, plus any charges thereafter becoming due, are satisfied in full. Nothing in this section 2.4 shall limit the Association's rights to collect the amounts due as authorized in this Declaration or according to common law.
- 2.5. Acceleration. In any case where an annual or special assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessment(s) may be accelerated, at the option of the Board of Directors, and the entire balance of the annual and/or special assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner by the Board of Directors or the managing agent.

Section 3. Restrictions

- 3.1. Unit Occupancy and Residential Use of Units. Each Unit shall be occupied and used only for private residential purposes by no more than two persons per bedroom, plus one additional person. Units may be used for such limited professional use as the Association's Board of Directors ("Board") may approve in writing upon application of the Unit Owner, which approval will be in effect only for as long as the use is not incompatible with the residential character of the Common Property. This restriction shall not be construed to prohibit Unit Owners from leasing their Units, so long as the lessees occupy and use the leased premises (Units) in accordance with the provisions of this Declaration.
- 3.2. Residential Use of the Property. The Common Property and Units shall not be used in a manner which is inconsistent with the residential character of the Property. No one shall obstruct, commit any waste in, or otherwise cause any damage beyond reasonable wear and tear to the Common Property. Nothing shall be stored in the Common Property without the prior written consent of the Board of Directors. Nothing, including landscaping and vegetation, shall be altered, constructed in or removed from the Common Property without the prior consent of the Board or as explicitly allowed by the Rules and Regulations of the Association. All use of the Property will be subject to the Rules and Regulations which may be promulgated by the Board of Directors, and which Rules may be revised from time to time as the Board of Directors deem fit.
- 3.3. Alterations of the Property. The architectural integrity of the building(s) and the Units shall be preserved and to that end: Except as permitted by the Rules and Regulations or as permitted by

the written consent of the Board of Directors, no Unit Owner shall: (a) make or permit to be made any structural alteration, improvement or addition on or to the Owner's Unit or to any part of the Common Property (b) take any other action or permit any action to be taken that will impair the structural soundness or integrity or safety of any unit, building or other structure on the Property; (c) impair any easement or right or personal property which is part of the Property, or (d) decorate any portion of the exterior of any unit, building or other structure on the Property. No signs, clotheslines, antennas, tents, recreation equipment, refuse, awnings, outside window covering, air conditioning equipment, loose clothing or similar material or equipment shall be hung, posted or otherwise placed, without the prior written consent of the Board of Directors. Except as approved by the Board of Directors in writing, no balcony, porch, patio, garden or yard enclosure, awning, screen, antenna, sign, banner or other device shall be added, and no exterior change, addition, structure, projection, decoration or other feature shall be erected, applied to, or placed upon or attached to or hung from any Unit, or any part thereof, on the building(s) or upon any other common elements; no addition to or change or replacement of any exterior door, slider, window, lighting, or other exterior element or hardware shall be made; and no change of roofing or siding material, or other decoration shall be done on any exterior part or surface of any Unit. No advertising or signage may be placed in the interior of any window.

Such restrictions shall not, however, be construed to restrict a Unit Owner's right and obligation to perform the maintenance, repair, and replacement responsibilities contained in Section 1.5, provided, however, that no such activities shall be performed to the exterior of any Unit, or exclusive use areas, without first obtaining the prior written approval from the Board of Directors.

- 3.4. Offensive Activities. No noxious or offensive use, as interpreted by the Board of Directors, shall be made of any part of the Common Property or the Units, nothing shall be done therein which is or will become an annoyance or nuisance to the other Unit Owners. No use shall be made of any part of the Common Property or the Units which will constitute a fire hazard or which will result in the cancellation of insurance on any part of the Property or which are in violation of any law, ordinance or governmental regulation applicable to the Property. There shall be no discharging of firearms at the Property. No use shall be made of any part of the Property which will increase the rate of insurance on the Property without the prior written consent of the Board. Garbage and rubbish shall not be burned, dumped, placed or allowed to remain on the Common Property or unreasonably, in the Units.
- 3.5. Animals and Pets. No animals, livestock or poultry shall be kept anywhere within the Property, except that dogs, cats or other household pets may be kept in the Units so long as such household pet does not become a nuisance to or disturb the other Unit Owners. Dogs, when outside the Unit, must be kept on a leash at all times. No animal may be tied to any part of the exterior of the Unit, or to any of the exclusive use areas, or the Common Property. Any Unit Owner keeping such a pet that violates any of the provisions herein or permits any nuisance, unreasonable disturbance or noise, or whose pet causes any damage to common areas shall:
- (i) be assessed by the Board of Directors for the cost of the repair of such Damage, cleaning or removal of such nuisance, including attorneys fees; and /or

- (ii) be levied such fine as the Board of Directors may reasonably determine; and/or
 - (iii) be required to permanently remove such pet from the Unit and from the Property upon three (3) days written notice from the Board of Directors.
- 3.6. Vehicles and Trailers. No motor vehicle other than a currently registered and inspected, non commercial passenger vehicle, and no boat, mini-bike, snowmobile, mobile home, camping trailer, boat trailer, utility trailer, or similar vehicle/trailer, shall be garaged or stored in any carport, driveway, parking lot, or anywhere else on the Property except in such places as may be designated by the Board of Directors. The Board of Directors is explicitly empowered to promulgate rules to define vehicle classification(s) and storage.
- 3.7. Withdrawal of the Board's Consent. The consent of the Board of Directors referred to in this section, as well as throughout this Declaration, may be withdrawn by the Board whenever it deems such withdrawal to be in the best interest of the Association.

Section 4. Insurance Requirements

4.1. Unit Owner's Insurance Responsibility.

Casualty Insurance. Each Unit Owner shall obtain and maintain casualty insurance providing for minimum liability insurance, fire-with-extended coverage and so-called all risk coverage insurance, insuring without limitation, the Unit with all fixtures, additions, alterations and improvements thereof, and all improvements made to same, all heating and cooling equipment and other service machinery, apparatus, equipment and installations comprised in the Unit or serving such Unit exclusively, which coverage shall include full replacement coverage for the free standing building (or any portion of same), and any internal or external component that is used or exclusively serving the Unit including but not limited to: the structural columns, girders, beams, supports, interior structural or bearing walls of the building, all portions of the exterior and interior walls, studs, chimneys, flues, ceilings, floors, roofs, shingles, exterior building siding, paint, flashing and all weather proofing materials, and any other component of the individual building, and such insurance shall further extend to any open or enclosed carport, steps or entranceways, patios, decks and utility sheds which exclusively serve the respective Unit.

4.1.1. Each Unit Owner shall obtain insurance for his own benefit and at his own expense insuring adequate coverage in the event of any general loss assessment assessed by the Board of Directors.

4.2. Common Insurance Requirements. The Board of Directors shall obtain and maintain to the extent obtainable, the following insurance:

4.2.1. Fire insurance, extended coverage, vandalism and malicious, mischief endorsements insurance covering Common Property and all constructed improvements for which the responsibility to maintain, repair and replace has been delegated to the Board of Directors

under Section 1.6 hereof, which includes but is not limited to, all common recreational facilities such as the, pools, tennis courts, clubhouse, playground. Such insurance is to be in an amount at least equal to the replacement value of the improvements and to be payable to the Board of Directors as trustee for the Unit Owners.

- 4.2.2. Public liability insurance in such amounts as the Board of Directors may from time to time determine, but in no event shall the limits of liability be less than Two Million Dollars (\$2,000,000) for bodily injury and property damage per occurrence, insuring each member of the Board of Directors and the Association, and with cross liability coverage with respect to liability claims of any one insured thereunder. This insurance, however, shall not insure against the individual liability of a Unit Owner for negligence occurring within his own Unit.
- 4.2.3. Such other insurance as the Board of Directors may determine;
- 4.2.4. Policy Requirements. The Board of Directors shall be required to make every effort to see that all policies of physical damage insurance (1) shall contain waivers of subrogation by the insurer as to claims against the Association, its employees, members of the Board of Directors, Unit Owners and members of the family of any Owners who reside with said Unit Owner, except in cases of arson and fraud; (2) shall contain a waiver of defense of invalidity on account of the conduct of any of the Owners over which the Association has "no control"; (3) shall provide that such policies may not be cancelled or substantially modified without at least ten (10) days written notice to the Board of Directors and to all eligible mortgagees (defined as having provided written notice to the Association of the mortgage) of Units covered thereunder; (4) shall provide that in no event the insurance under said policies be brought into contribution with insurance purchased individually by Unit Owners or their mortgagees; and (5) shall exclude policies obtained by individual Unit Owners from consideration under any "no other insurance" clause.
- 4.2.5. General Insurance Provisions. The Board of Directors shall deal with the insurer or insurance agent in connection with the adjusting of all claims covered by insurance policies provided for above and shall review with the insurer or insurance agent, at least annually, the coverage under said policies, said review to include a review of the Property, including improvements, for insurance purposes, and shall make any necessary changes in the policy provided for thereunder (prior to expiration date set forth) in any agreed amount endorsement contained in said policy in order to meet the coverage requirements of this section. The Board of Directors shall communicate all substantive revisions in the Association's insurance policies to the Unit Owners, including the amount of any revision in the deductible limits of the Association's policies.
- 4.2.6. Procedure in the Event of Damage or Destruction. In the event of damage or destruction of all or part of the Common Property (for which the Board has the obligation of maintaining, repairing and replacing), as a result of fire or other casualty, the Board of

Directors shall arrange for prompt repair and restoration of the damage or destroyed portion of the Property and the Board of Directors shall disburse any insurance proceeds to the contractors engaged in such repair and restoration in appropriate progress payment. Any cost of such repair and restoration in excess of any insurance proceeds shall constitute a common expense and the Board of Directors may assess all the Unit Owners for such excess pursuant to each unit's percentage as calculated in Section 7.5. If the cost of such repair and restoration is less than the amount of said insurance proceeds, then the excess of said insurance proceeds over said cost shall be treated as a reserve for contingencies and replacements.

- 4.2.7. Settlement of Association Insurance Claims. The Board of Directors shall settle all claims and be the final arbitrator of any and all Unit Owner disputes relating to any claims filed under the Association's master insurance policy.

Section 5. Unit Owner Voting Rights

- 5.1. Membership and Voting. Every Owner of a Unit shall be a Member of the Association, and each Unit shall have one vote in the Association. The Association shall have two classes of membership with the voting rights as follows:
- 5.1.1. Active membership. Active membership shall be held by those Unit Owners who are paid up to date (zero balances) in their Unit's assessments and any charges at the time of any meeting or vote of the Association. Active Members shall be entitled to one vote for each Unit which they own. When more than one person is an owner of the same Unit, all such persons shall be Members of the Association and the vote for such 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 Unit.
- 5.1.2. Inactive membership. Any Unit Owner who is more than ten days delinquent in the Unit's assessments or other charges will be an inactive Member. Inactive Members shall not participate in Association business, including participating in any annual or special meeting of the Owners or Board of Directors and shall not be entitled to vote, and will not be counted for the purposes of quorum or a vote.
- 5.1.3. Quorum. The presence at a meeting, in person or by proxy, of Unit Owners entitled to cast forty (40) percent of the total votes of the active membership shall constitute a quorum to start any special or general Association meeting.
- 5.1.4. Proxy. For purposes of voting on such matters as the meeting requires, proxies will not be used unless the specific intent of the Unit Owner for or against the issue being voted on is clearly stated in writing, or unless the proxy delegates to one individual (or the Board of Directors) the responsibility to vote for the Unit Owner not in attendance.
- 5.1.5. By-Laws. The Owner's Association shall be subject to and governed by the By-Laws of the 111 Coburn Association, Inc.

Section 6. Organization

- 6.1. Adoption of By-Laws, Rules and Regulations. The Association is authorized to adopt and amend, from time to time, a set of By-Laws to be used to govern the Association. The Board of Directors is empowered to adopt and amend, from time to time, rules and regulations concerning the use of the Property, Common Area, Units, and various parts thereof (“Rules and Regulations”). Said By-Laws and any such Rules and Regulations shall be furnished in writing to all Unit Owners prior to the commencement date of any new By-Law or Rules and Regulations provisions. In furnishing a copy of any By-Law or Rules and Regulations, the Board of Directors may mail a copy via first class mail, send a copy of any such By-Law or Rules and Regulations via electronic mail to an email address provided by an Owner, or post same to an official website of the Association, and any such method shall constitute the requisite notice to Owners under this provision. The provisions of the By-Laws and any such Rules and Regulations shall not be violated, and the Unit Owners shall be liable to the Association for violations pursuant to a basis of fines, costs, and/or fees established by the Rules and Regulations. All Unit Owners, and their family, guests, tenants, and invitees are bound to abide by the provisions of the Declaration, and the Association’s By-Laws and Rules and Regulations, as amended from time to time, with the Unit Owner responsible for all such actions and behavior of its family, guests, tenants and invitees.
- 6.2. Enforcement of Organizational Documents. The Board of Directors shall take all action to enforce the Declaration, By-Laws, and the Rules and Regulations, and shall be entitled to levy fines, and to bring legal action for all violations thereof. The Association shall be entitled to reimbursement of all costs and attorneys’ fees it incurs to enforce the Declaration, By-Laws, and Rules and Regulations. All legal fees and costs incurred shall be charged to the applicable Owner and shall be collectable as a common assessment. Until paid all such charges shall constitute a lien on the Unit.
- 6.3. Fees, Costs and Other Actions. Other than costs and attorney’s fees incurred pursuant to Section 2, Section 6.2 and 7.6, in a legal action between the Association and a Unit Owner, the prevailing party shall be entitled to reimbursement of the costs and attorneys’ fees incurred in the action.
- 6.4. Incorporation of the Association. The Board of Directors may take all action on behalf of the Unit Owners and the Association to incorporate the Association pursuant to New Hampshire law upon a majority vote of the Board. The Board has full authority to take all necessary action to maintain any such incorporation, and/or to reincorporate the Association from time to time in the event of any lapse and termination of the incorporation. In any such incorporation, the articles of organization drafted and filed by the Board will be consistent with the provisions documented in the then current Declaration and By-Laws of the Association.

Section 7. Assessments

- 7.1. Purpose of Assessments. The assessments levied by the Board of Directors shall be used exclusively for the purpose of administration of the Association, and promoting the pleasure,

recreation, and social welfare of the residents of the Property, including, without limitation, the improvement, operation and maintenance of, and the payment of taxes, and insurance on the Common Property, utilities, the acquisition of labor, equipment, materials, management, and supervision of the Common Property.

7.2. Annual Assessments, Real Estate Taxes, Other Charges

7.2.1. Annual Assessments. (Subject to the provisions of Section 7.1, the Annual Assessment to be levied against the Owners of each Unit to fund the Operating and Reserve budgets shall be based on the percentage share of each Unit as determined under Section 7.5.

7.2.2. Common Property Real Estate Taxes. The Association shall assess each Unit its 1/220th portion of the Common Property real estate taxes. Such real estate taxes shall not be included in the calculation of the annual assessment under section 7.2.1.

Notwithstanding the foregoing, this provision shall not apply if the City of Nashua bills the individual Unit Owners for the value of the Common Areas, which value is included in the real estate tax assessments for each Unit.

7.2.3. Municipal or Governmental Fees or Charges. Any and all governmental or Municipal fees or charges shall be levied against the Owners of each Unit based on the percentage share of each Unit calculated pursuant to Section 7.5.M

7.3. Change of Annual Assessments.

7.3.1. The Association may increase the assessment herein provided that any such change shall have the assent of a two-thirds of active Members, voting in person or by proxy, after establishment of the requisite quorum (to which proxies may be counted), at a meeting duly called for this purpose, or at any annual meeting, written notice of either of which shall have been sent to all Unit Owners at least twenty-one (21) days in advance thereof and shall have set forth the proposal to make such a change. In the event any changes to the assessments are not approved, the assessment for each Unit shall be the same assessment as assessed in the previous year.

7.3.2. Assessments under sections 4.2.7, 7.2.2, and .7.2.3 will not require approval by the Unit Owners and will be treated as separate assessment categories.

7.3.3. Any change in the annual assessment under this section 7.3, or an individual unit recalculation of assessment based on a Board of Directors approved change in the individual unit's square footage, shall be calculated by the Board of Directors once a year assessed with the corresponding assessments to all Units on or about January 1st of each year.

7.4. Special Assessments. The Board of Directors may, in addition to annual assessments authorized herein above, levy in any assessment year a special assessment, payable in the year that it is

assessed, or over a period of years for the purpose of defraying, in whole or in part, any operating loss or, the cost of any construction or unexpected or replacement upon the Property, or for any other purpose related to the Property, including the acquisition of additional Common Property, provided that any such change shall have the assent of two-thirds of active Members, voting in person or by proxy, after establishment of the requisite quorum (to which proxies may be counted), at a meeting duly called for this purpose, or at any annual meeting, written notice of either of which shall have been sent to all Unit Owners at least twenty-one (21) days in advance thereof and shall have set forth the proposal to make such special assessment.

- 7.5. Calculation of Annual Assessments. Assessments are based on three factors: the total livable square footage of all the Units, the Annual Budget (Operating and Reserve) and the livable square footage of an individual Unit. The monetary factor shall be the result of dividing the Annual Budget (Operating and Reserve) by the total livable square footage of all Units carried to four decimal places. This monetary factor is multiplied by the individual Unit's total assessable square footage in order to determine the assessment for that Unit. Each Unit's assessable square footage shall be Twelve Hundred (1200) square feet plus fifty percent (50%) of the amount by which the individual Total Unit Square Footage exceeds Twelve Hundred (1200) square feet.
- 7.6. Levying Fines, Costs, Charges and Legal Fees. The assessment of costs, fines, charges and attorney fees ("assessments") levied against individual Unit Owners may be made at the discretion of the Board of Directors, and shall be collectible as a common expense and shall constitute a lien upon the Unit until paid.
- 7.7. Date of Commencement and Annual Assessments and Due Dates. The Annual assessments shall become due and payable in the equal monthly installments in advance on the first day of each month. The due date of any special assessment shall be fixed in the resolution authorizing such assessment or for assessments pursuant to Section 7.4, and shall not be less than thirty (30) days from the date of the notice of the assessment by the Board of Directors.
- 7.8. Certificate of Payment. The Board of Directors, or its management company, upon demand by any Unit Owner liable for any assessment, shall furnish to such Unit Owner a certificate in writing signed by either the President, Treasurer or Manager of the Association, setting forth whether said assessment has been paid. A certificate so executed that reflects that all have been paid for the Unit shall be conclusive evidence of the Release of such lien against the Unit.
- 7.9. Priority of the Lien. The Association's lien for its assessments provided for herein shall be superior to the lien of any first mortgage hereafter placed upon the Owner's Unit to the extent of six months of regular monthly assessments plus any attorney fees and collection costs. Any unpaid fees and charges that arise prior to the recording of the first mortgage, shall be subjected to the outstanding such assessments then due.
- 7.10. Ground Lease Obligations. Pursuant to Paragraph 10 of the Ground Lease and

Section 7.1 hereof, the assessments levied with respect to each Unit shall include that portion of the Unit Owner's obligation to pay rent and other expenses charged under the Lease which is

attributable or allocable to each Unit Owner's interest in such Unit and the appurtenances thereto. Accordingly, each such portion shall be determined by percentage Ownership share as calculated in section 7.5 of the Declaration.

Section 8. Property and Other Rights and Obligations

Section 8. Common Property Rights

- 8.1. Property Rights in the Common Property. Every Unit Owner shall have an easement of use and enjoyment, in common with others, in and to the Common Property and such easement shall be appurtenant to and shall pass with the title to each Unit, which easements will be subject to the following:
- 8.1.1. The rights of the Association, in accordance with its articles of incorporation ("Articles"), its Declaration, and By-Laws, to borrow money for the purpose of improving the Common Property and in aid thereof to mortgage said Common Property and the right of the Association to take such steps as are reasonably necessary to protect such Property against foreclosure;
 - 8.1.2. The right of the Association, as provided in its Articles, Declaration, or By-Laws to suspend the voting rights of and the use of the Common Property, including the termination of Association supplied or provided services, and to limit the exercise of said easement by any Unit Owner and/or tenant for any period during which any assessment remains unpaid, including the right of the Association through its Board of Directors to terminate any Association supplied or paid for services or use of common area to delinquent Unit Owners and tenants for any infraction of assessment or land use regulations set forth in this Declaration, the Association's By Laws, or in the Association's Rules and Regulations;
 - 8.1.3. The rights of the Association to charge reasonable admission and other Fees for the use of the Common Property;
 - 8.1.4. The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by it, provided that no such dedication or transfer, or determination as to the purposes or to the conditions thereof, shall be effective unless an instrument signed by two-thirds of the Unit Owners has been recorded, agreeing to such dedication, transfer, purpose or condition and unless written notice of the action is sent to every Unit Owner at least twenty-one (21) days in advance of any action taken;
 - 8.1.5. The Board of Directors may grant easements for the installation, construction, reconstruction, maintenance, repair, operation and inspection of sewer, water, electricity, telephone, fuel, other utilities, drainage facilities, and cable or common antenna TV systems, and for any and all other utility services necessary or desirable in connection with operation of the Property, all for the benefit of the Unit Owners;

- 8.1.6. The reversionary interest of Holden Realty Company, Inc. and the terms of its Lease Indenture with Declarant, and subsequently by record with the Association with the Unit Owners, with the Lease dated as of November 21st, 1972, recorded Hillsborough County Registry of Deeds, Book 2263, Page 292, as amended from time to time (the "Lease");
- 8.1.7. The right of the Association to enter into agreements to acquire or add to the Common Property including purchase of the Lease cited in section 8.1.6., above, provided that no agreement shall be entered into unless approved at a duly constituted meeting of the Association by two-thirds (2/3rds) of Unit Owners;
- 8.1.8. Liens and encumbrances presently of record;
- 8.1.9. The other provisions of this Declaration and the rights of the Unit Owners relating to any future additional land or property;
- 8.1.10. Ownership of a Unit, or portion of a Unit, or occupancy of any Unit shall be deemed to indicate each Unit Owner's invitees, guests, family members, and tenant's acceptance to abide by and accept the responsibilities and duties outlined in these Declaration of Covenants and Restrictions, By Laws and Rules and Regulations as promulgated or amended in the future.
- 8.2. Unit Encroachments. None of the rights and obligations of the Unit Owners created herein, or in any deed conveying a Unit from the Declarant to a purchaser thereof, shall be altered in any way by encroachments as a result of construction of any structures or due to settling or shifting of structures. There shall be valid easements for the maintenance of such encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of a Unit Owner if said encroachment occurred due to the willful conduct of said Unit Owner.
- 8.3. Covenant for Real Estate Taxes. The Association shall file with the city of Nashua a consent to be taxed pursuant to the provisions of RSA 73:10, so that after the filing of such consent, the real estate taxes assessed by the City of Nashua for the land and Common Property and amenities located at Coburn shall be assessed and taxed to the Association, with distribution of the taxes to the Unit Owners pursuant to Section 7.2.2 of the Declaration. All of the assessment payment enforcement provisions of this Declaration shall apply to any assessment for real estate taxes which is not paid when due by any Unit Owners to the Association, including that any assessment that is not paid within ten (10) days after its due date shall bear interest from said due date at the rate of twelve percent (12%) per annum.

Notwithstanding the foregoing, this provision shall not apply if the City of Nashua bills the individual Unit Owners for the value of the Common Areas, which value is included in the real estate tax assessments for each Unit.

Section 9. General Provisions

9.1. Amendments. Except as otherwise provided herein, the provisions of this Declaration may be amended from time to time by the written consent of the Unit Owners holding at least two-thirds (2/3rds) of the total Membership of the Association. Any approved amendments shall be effective when placed on record in the Hillsborough County Registry of Deeds if attested to by the President and Treasurer of the Association, and certified as to the receipt of the necessary consent by the Association’s Secretary or Clerk.

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

9.3. Duration of Covenants and Restrictions. This Declaration, and the covenants and restrictions herein, shall run with and bind the Units, and the Common Property, collectively the Property, and shall be enforceable by the Association and the Unit Owners of any property subject to this Declaration, their respective legal representatives, heirs successors, and assigns, for a period of twenty (20) years from the date this Amended Declaration is recorded, after which time said Declaration and its covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3rds) of the Units has been recorded, agreed to change said covenants and restrictions in whole or in part.

9.4. Notices. Any notice required to be sent to any Unit Owner under any provision of the Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the Unit Owner at the time such of mailing, delivered at the Unit, or emailed to any address provided by an Owner. If an electronic mailing is returned as non-delivered, then the notice shall be mailed to the last known postal address of the Unit Owner. In the case of a general notice, such as the adoption of Rules and Regulations or other notices it shall be deemed to be properly sent, when posted to the website of the Association.

9.5. Enforcement. In addition to the provisions herein, enforcement of these covenants and restrictions shall be by any proceedings at law or in equity by the Association or by any Unit Owner against any other person or persons violating or attempting to violate any covenant or restriction of the Declaration, either to restrain the violation or to recover damages, or both, and failure to enforce any covenant or restriction shall in no event be deemed a waiver of the right to do so thereafter.

9.6. Gender. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine gender and the use of the singular shall be deemed to refer to the plural and vice versa, whenever the context so requires.

Executed as sealed instrument this 1st day of June, 2011 by the 111 COBURN ASSOCIATION, INC.:

Board President: Eileen Caplan

Name: EILEEN CAPLAN, President, Board of Directors.

Board Treasurer: Jane Haskell

Name Jane Haskell Treasurer, Board of Directors.

STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

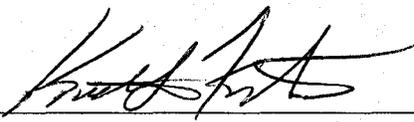
Personally appeared Eileen Caplan, Board President, and Jane Haskell, Board Treasurer, who acknowledged themselves to be President and Treasurer of the 111 Coburn Association, Inc. and acknowledge that they executed the foregoing instruments for and behalf of said 111 Coburn Association, Inc. for the purpose herein contained, before me this 1st day of June, 2011.

Robyn Mcnicholas
Notary Public

My Commission Expires **ROBYN McNICHOLAS, Notary Public**
My Commission Expires August 19, 2014

CERTIFICATION OF THE CLERK

I, Keith Fortin, Clerk of the 111 Coburn Association, Inc., do hereby certify receiving the written consent/vote of Unit Owners in the Association representing at least two-thirds of the Units at 111 Coburn Association, Inc. to amend the foregoing Declaration of Covenants and Restrictions and that said consent/vote complied with the requirements of the Declaration.

, Clerk
111 Coburn Association, Inc.

STATE OF NEW HAMPSHIRE

COUNTY OF HILLSBOROUGH

Personally appeared Keith Fortin, Board Clerk, who acknowledged himself/herself to be Clerk of the 111 Coburn Association, Inc. and acknowledge that he/she executed the foregoing instruments for and behalf of said 111 Coburn Association, Inc. for the purpose herein contained, before me this 1st day of June, 2011.


Notary Public
My Commission Expires ROBYN McNICHOLAS, Notary Public
My Commission Expires August 19, 2014

Appendix A

DESCRIPTION OF PREMISES

A certain tract of land together with the, buildings and other improvements now or hereafter located thereon situated in the City of Nashua, County of Hillsborough and The State of New Hampshire, more particularly bounded and described as follows:

Beginning at a point on the southeasterly line of Coburn Ave., so-called, said point being 225.00 feet southwesterly of a stone bound at the west corner of land of Arlin D. and Sandra L. English, said 225.00 feet being measured along the southeasterly line of Coburn Avenue, and said point also being the northerly corner of the herein described premises; thence

1. S 29° 40' 00" E, 193.00 feet to a point; thence
2. S 23° 55' 00" E, 145.00 feet to a point; thence
3. S 13° 35' 00" E, 200.00 feet to a point; thence
4. Due South , 100.00 feet to a point; thence
5. Due East , 140.00 feet to a point; thence
6. Due South , 135.00 feet to a point; thence
7. Due West 135.00 feet to a point; thence
8. Due North, 50.00 feet to a point; thence
9. S 80° 45' 00" W, 118.00 feet to a point; thence
10. S 78° 15' 00" W, 236.00 feet to a point; thence
11. S 84° 50' 00" W, 78.00 feet to a point, thence
12. N 75° 40' 00" W, 201.00 feet to a point; thence
13. N 16° 00' 00" E, 80.00 feet to a point; thence
14. Due West , 110.00 feet to a point; thence
15. N 48° 10' 30" W, 115.42 feet to a point; thence
16. N 30° 27' 3" E., by the said southeasterly line of Coburn Ave., 298.88 feet a point; thence
17. N 56° 09' 38" E, by the said southeasterly line of Coburn Ave., 525.13 feet to the point of beginning.

Meaning and intending to describe Phase I of 111 Coburn Avenue, Nashua, New Hampshire. Said Phase I is shown on Boundary and Locetion Plan entitled "111 Coburn Avenue, Nashua, New Hampshire", dated August 30, 1973: by Davis, Hanoit, and Tessier, Inc., to be recorded Hillsborough County Records simultaneously herewith.