



**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE HIGHFIELDS AT GRAFTON**

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This Declaration of Covenants and Restrictions, for the Highfields at Grafton is made and executed this fifth day of March, 2002 by Magill Associates Inc., a Massachusetts corporation with a principal place of business at 21 Central Square, Grafton, Worcester County, Massachusetts ("Declarant"). The property is shown and described on a plan entitled "Highfields of Grafton A Definitive Subdivision Plan" prepared for John Magill, 147 Brigham Hill Road, Grafton, Massachusetts 01536; dated July 1, 1997; prepared by Andrews Survey & Engineering Inc. of Uxbridge, MA; and drawn on a scale of 1" = 400". This plan is recorded with the Worcester Registry of Deeds in Plan Book 766 as Plan 105, to which reference is made for a complete metes and bounds description. See Exhibit A attached hereto and incorporated herein.

WITNESSETH:

Whereas, Declarant Magill Associates, Inc. has executed this Declaration of Covenants and Restrictions for Highfields at Grafton (the "Declaration") dated March 5, 2002, and now records same in the Worcester County Registry of Deeds (the "Declaration"); and

Whereas, Declarant is the owner of that real property lying and being in Worcester County, Massachusetts and described in the plan set forth above and on Exhibit A attached hereto and incorporated herein (the "Property"); and

Whereas, Declarant wishes to subject the Property to the terms and provisions of the Declaration, as provided herein; and

NOW THEREFORE, the Declarant declares as follows:

1. The Declarant hereby subjects the Property to all covenants, restrictions, easements, reservations, assessments, fines, charges, liens and all other terms and provisions of this Declaration, which shall hereafter constitute a covenant running with the Property. From and after the date of recording of this instrument, the property subject

to the Declaration and all the covenants and restrictions contained therein shall include that real property legally described in Exhibit "A" to the Declaration, and all property added thereto subsequent to the filing of the Declaration, including without limitation, the Property.

2. **Owner Responsibilities.** The Owner of each Parcel shall be responsible for the maintenance of all interior and exterior areas of his Dwelling, and other Improvements located on his Lot including, without limitation, any landscaping, patio, terrace, garden or similar areas adjacent to such dwelling.
3. The following section of this Declaration sets forth the use restrictions, which shall only apply to the numbered lots and parcels shown on Exhibit A.

3.1 Restrictions on Use of Parcels

- 3.1.1 **Residential Use.** Except as provided in this Declaration, all Parcels shall be used only as single family, private, residential Dwellings and for no other purpose. No business or commercial building may be erected on any Lot and no business may be conducted on any part thereof, except for buildings and improvements constructed by the Declarant, its successors and assigns, which buildings and improvements are related to the operation of the golf course and clubhouse facility, including the erection of the clubhouse and its operation for commercial purposes.
- 3.1.2 **Commercial Activities.** No drilling, mining, manufacturing, trade, business, commerce, industry, profession or other occupation whatsoever shall be conducted or carried on upon any Parcel or any part thereof, except as to those uses made by the Declarant.
- 3.1.3 **Pets.** Parcel Owners may keep pets, provided that no more than two (2) pets per Parcel shall be permitted, and provided further that no such pets are kept, bred or maintained for any commercial purpose. All pets shall be restrained and/or kept on a leash under the control of a responsible person at all times when the pet is outside of a Dwelling. At no time shall a pet be allowed to enter upon any Parcel other than the Parcel on which the pet is kept, or upon Golf Club Facilities, or any other property

located within Highfields at Grafton. The pet owner shall be responsible at all times for cleaning up and removing all excrement after a pet relieves itself while on the Property, and for appropriately disposing of said excrement using the sanitary containers on said Owner's Parcel. The Declarant shall have the right to order the removal of any pet which is considered a nuisance, in the Declarant's sole and absolute discretion. In such event, the Declarant shall give written notice thereof to the pet owner, and the pet shall immediately thereafter be permanently removed from the property.

3.1.4 Vehicle Parking

3.1.4.1 **Recreational and Commercial Vehicles.** No boats, trailers, recreational vehicles, trucks, commercial vehicles, motor homes, mobile homes or other habitable motor vehicles, except four-wheel passenger automobiles and pick-up trucks up to a manufacturer's capacity of three quarters of a ton or less, may be placed, parked or stored upon any portion of a Parcel except within a building which is totally removed from public, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Parcel except within a building which is totally removed from public view. Notwithstanding the foregoing, service and delivery vehicles may park in the driveway of a Parcel or on the Streets during regular business hours, as needed for providing services or deliveries to the Parcel. In the event of a dispute concerning the type of vehicle, the manufacturer's classification of the vehicle shall control.

3.1.4.2 **Passenger Automobiles.** Automobiles of Owners may be parked, placed or stored only in the garage or driveway of Owner's Parcel. Guests and invitees of Owners may park their automobiles on a temporary basis in the garage or driveway of the Owner's Parcel or in the Streets. No vehicle of any kind shall be placed, parked, or stored on the lawn of any Parcel.

- 3.1.5 **Temporary or Accessory Structures.** No structure or object of a temporary character such as, but not limited to, house trailers, vans, tents, shacks, sheds, or temporary or accessory buildings or structures, such as, but not limited to, playhouses, tool sheds or doghouses, shall be erected, kept or maintained on any Parcel, or any part thereof. This restriction shall not apply to temporary structures used by the Declarant for development, construction or sale of property throughout The Highfields at Grafton.
- 3.1.6 **Insurance.** No Owner shall permit or suffer anything to be done or kept within his Parcel, or make any use of the Property which will increase the rate of insurance on any portion of the Property.
- 3.1.7 **Nuisances.** No use or practice which is either an annoyance to Owners or an interference with the peaceful possession and proper use of the Property by the Owners shall be allowed. No Owner shall commit or permit any nuisance or any immoral or illegal activity in or about the Property. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners, or allow any such noise or disturbance to be made on his Parcel.
- 3.1.8 **Outside Displays.** No Owner shall cause any structure or object such as, but not limited to, awnings, canopies, shutters, sculptures, birdbaths or fountains to be affixed or attached to, hung, displayed, installed, or placed on any Lot, exterior walls, doors, balconies or windows of his Parcel.
- 3.1.9 **Antennae and Flagpoles.** No radio, television or other electronic antennae, aerial or satellite receiving dish, or other reception or transmission device may be erected or maintained anywhere on the Property or the exterior of any Parcel without the permission of the Declarant (unless installed by the Declarant). A flagpole for the display of the American flag only may be permitted subject to prior written

approval of placement and design from the Declarant. No flagpole shall be used as antenna.

- 3.1.10 **Subdivision of Lots.** No lot shall be re-subdivided. Two or more entire Lots may be combined to form a larger lot, or lots with the prior written approval of the Declarant; however the new combined Lot shall not be subdivided.
- 3.1.11 **Access to Parcels.** Whenever the Declarant is permitted or required by this Declaration to enter any Parcel for the purpose of correction, repair, cleaning, clearing, mowing, or in the event of an emergency, or any other required or permitted activity, such entrance shall not be deemed a trespass.
- 3.1.12 **Signs.** Except in connection with development or sales of property throughout the Highfields at Grafton by Declarant, no signs, billboards, advertisements or notices of any kind, including without limitation "For Sale" or "For Rent" signs, shall be displayed to the public view on any Parcel without the prior written approval of the Declarant pursuant to this Declaration.
- 3.1.13 **Easements.** No Dwelling or other Improvement, or any tree, brush, shrub or landscaping of any kind shall be built or maintained upon any easement or right-of-way and said easements and rights-of-way shall at all times be open and accessible to the persons entitled to the use thereof.
- 3.1.14 **Maintenance of Parcels.** All Parcels, including vacant Lots, shall be kept in a clean and sanitary condition and no rubbish, refuse or garbage shall be allowed to accumulate or any fire hazard allowed to exist. All Parcels shall be mowed and edged and kept free of debris and vegetation (including weeds, underbrush and/or unsightly growths) up to the curb of the Street abutting the Parcel. In the event an Owner fails to maintain his Parcel as aforesaid for a period of at least thirty (30) days, the Declarant shall have the right, exercisable in its sole discretion, to remove any rubbish, refuse or unsightly debris and/or growths from any Parcel

deemed by the Declarant to be a health menace, fire hazard or a detraction from the aesthetic appearance of Highfields at Grafton; provided, however, that at least fifteen (15) days prior notice shall be given by the Declarant to the Owner of such Parcel before such work is done by the Declarant. In the event the Declarant, after such notice, causes the subject work to be done, then, and in that event, the Declarant shall have a cause of action to collect the costs of such work, together with interest thereon at the maximum rate allowed by the civil usury laws of the Commonwealth of Massachusetts.

- 3.1.15 **Refuse Containers.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall be kept in sanitary refuse containers, which shall be placed indoors.
- 3.1.16 **Wells and Independent Water and Sewer Systems.** No Owner shall be permitted to construct or maintain any septic tanks, sewer, or water supply systems or wells on any portion of a Parcel without the prior written approval of the Declarant.
- 3.1.17 **Streets.** No title to any land in any Street is intended to be conveyed or shall be conveyed to the grantee of a Parcel under a deed, or to the purchaser of a Parcel under any contract, unless expressly so provided in such deed or contract of purchase from the Declarant.
- 3.1.18 **Laundry.** No portion of a Parcel shall be used for the drying or hanging of laundry, unless such laundry is adequately screened from public view, so that laundry is not visible from the Street, from adjoining Parcels or from the Golf Course or Golf Course facilities.
- 3.1.19 **Underground Utilities.** All secondary electrical conduits and hook-ups shall be kept underground. No above ground wires of any kind shall be permitted.
- 3.1.20 **Mailboxes, Newspaper Boxes and Parcel Address Numbers.**
All mailboxes, newspaper boxes and house address numbers shall be designed or approved by the Declarant.

- 3.1.21 **Minimum Size of Dwellings.** The minimum square foot area of all Dwellings shall not be less than 2,000 square feet, exclusive of garages, porches, patios, terraces and basements.
- 3.1.22 **Elevation.** The elevation of all Dwellings shall be in accordance with all applicable governmental rules, regulations, statutes or ordinances and shall be subject to the prior written approval of the Declarant, pursuant to this Declaration. No change in the elevation of any Lot shall be made, nor shall any fill be used to extend the property beyond the Lot line without the prior written consent of the Declarant pursuant to this Declaration. Further, no Lot abutting water shall be increased in size by filling in the water it abuts without the prior written consent of the Declarant.
- 3.1.23 **Height of Dwellings.** No dwelling which is more than two (2) stories in height and/or greater than thirty-five (35) feet in height shall be erected, constructed or maintained on any Lot.
- 3.1.24 **Garages.** Each Dwelling shall have a minimum of two (2) car garage with adequate space for the parking of two (2) passenger automobiles. No garage shall be converted to living area unless a garage of at least two-car capacity has already been added to the Unit and all additions and alterations have been approved by the Declarant. All garages must be attached to or otherwise made a part of the Dwelling, unless consented to by the Declarant. The doors of all garages shall be kept in a useful operating condition and shall be closed at all times, except as needed for ingress and egress. Automatic garage door openers are required for all garages. All garage aprons shall be a minimum of twenty (20) feet by twenty (20) feet.
- 3.1.25 **Wheeled Vehicles.** Bicycles, tricycles, scooters, baby carriages, skateboards, or other similar vehicles or toys shall be stored only within the Dwellings.

- 3.1.26 **Additions and Improvements.** All additions to or Improvements of Dwellings must conform in architectural style, type and quality of materials used with the Dwelling constructed on the Lot; further, all additions and Improvements must be approved in writing, in advance, by the Declarant pursuant to this Declaration.
- 3.1.27 **Lot Coverage.** No Dwelling or impervious area shall occupy a percentage of the area of a Lot that is greater than that permitted by any applicable governmental rules, regulations, statutes or ordinances.
- 3.1.28 **Outside Lighting.** The location, size, color and design of all lighting fixtures or similar equipment used outside of a Dwelling must be designed by and approved by the Declarant pursuant to this Declaration. No exterior lighting will be permitted which creates a nuisance to adjoining Parcel Owners or to the clubhouse facility.
- 3.1.29 **Swimming Pools.** Above ground swimming pools, including without limitation, plunge pools, shall not be permitted on any Parcel. The location, size and design of all swimming pools and swimming pool screening must be approved, in advance, by the Declarant pursuant to Article 9 of this Declaration. Any lighting of a pool shall be designed so as to buffer the surrounding Parcels and Golf Club Facilities from such lighting.
- 3.1.30 **Driveways.** The type, design, material and texture of the driveways of each Parcel shall be subject to the prior written approval of the Declarant pursuant to this Declaration. Driveway aprons must be patterned in the same manner as the driveway. Circular driveways are permissible provided that the driveway enters and exits on the same Street. No curbside parking areas may be created by extending any portion of the Street pavement.
- 3.1.31 **Exterior Colors and Materials.** Prior to the construction and development of any Lot, a color and material plan for the Dwelling showing the color, material and finishes of the roof, exterior walls, shutters, trims and the like, shall be submitted to the Declarant pursuant

to this Declaration and shall be subject to the prior written approval of the Declarant pursuant to this Declaration. All exterior areas of a Dwelling which are stained or painted must be restained or repainted at sufficient intervals, so as to preserve the aesthetic beauty of Highfields at Grafton. Prior to the construction and development of any Dwelling, the exterior material of the Dwelling shall be approved, in writing, by the Declarant pursuant to this Declaration. Exterior artificial, simulated or imitation materials shall not be permitted without the prior written approval of the Declarant pursuant to this Declaration. Any alterations or changes to the exterior areas of any Dwelling must be approved in writing, in advance, by the Declarant pursuant to this Declaration.

3.1.32 **Landscape.** Prior to the commencement of any landscaping on any Parcel, a landscaping plan shall be submitted to the Declarant pursuant to this Declaration and shall be subject to the prior written approval by the Declarant pursuant to his Declaration. Any additional landscaping or changes to the landscaping plan approved by the Declarant shall be subject to the prior written approval of the Declarant pursuant to this Declaration. The aforesaid landscaping shall be completed by the Owner within two (2) months of the date of issuance of the certificate of occupancy for the Dwelling. In the event the Owner fails to complete the landscaping as aforesaid, the Declarant shall have the right, but not the obligation, to landscape the Owner's Lot and to collect the cost thereof from the Owner.

3.1.33 **Drainage and Irrigation.** All paved areas of any Parcel shall be designed so that surface waters shall be collected and drain at intervals in a manner that will not obstruct the movement of vehicular or pedestrian traffic and will not create puddles or ponding in paved or swale areas.

3.1.34 **Grading and Vegetation.** No bulldozing or clearing of trees shall be commenced until plans and specifications showing the nature, kind, shape and location of work have been submitted and approved, in writing, by the Declarant pursuant to this Declaration. Fill shall not be deposited on any location without the prior written approval by The Declarant pursuant to this Declaration. Cut or fill shall be replanted with

plant materials which shall blend with native vegetation and shall be designed to complement the natural topography of the Parcel. No foundation of any Dwelling shall be poured, nor shall construction of any Dwelling commence in any manner or respect, until the layout for the Dwelling is approved, in writing, by the Declarant pursuant to this Declaration. Prior to commencing any bulldozing or clearing of any Lot, a plan detailing any trimming or altering of existing plants or vegetation on the Lot shall be submitted to and approved, in writing, by the Declarant pursuant to this Declaration.

- 3.1.35 **Commencement and Completion of Dwelling.** Each purchaser of a Lot from the Declarant (the "Initial Owner") or any subsequent third party purchaser of Initial Owner's Parcel (the foregoing shall collectively be referred to as the "Purchaser") must commence construction of an approved Dwelling on the Lot not later than one (1) year after the date of closing of Initial Owner's purchase of the Lot from the Declarant. "Commencement of Construction" shall be deemed to be the pouring of the building slab for the Dwelling. Furthermore, after the plans and specifications for the Dwelling are approved by the Declarant pursuant to this Declaration, the Purchaser must commence construction of the Dwelling not later than ninety (90) days after such approval. The Dwelling must be completed not later than one (1) year after commencement of construction. Completion of construction shall mean the issuance of a certificate of occupancy for the Dwelling and completion of all Improvements including landscaping for the Lot, pursuant to the plans and specifications approved by the Declarant pursuant to this Declaration.
- 3.1.36 **Additional Protective Covenants.** Declarant may include in any contract or deed for any Parcel, additional protective covenants and restrictions not inconsistent with those contained herein.
- 3.1.37 **Declarant.** The foregoing use restrictions set forth in this Section 3.1 do not apply to the Declarant.

3.1.38 **Golf Course Use.** Highfields Golf and Country Club is a facility expressly reserved for use only by paying golfers. It is not deemed part of the Common Area and is not for any other use, especially of a recreational nature. Cross-country skiing during winter is permitted at the skier's own risk, provided there is adequate snow cover for this activity.

The Golf Course shall not be trespassed upon for such activities as, but not limited to, walking, jogging, swimming, skating, fishing, or the walking of pets by Unit Owners, other residents, or their guests. Dirt bikes, all-terrain vehicles ("ATVs"), and snowmobiles are not permitted on the Golf Course. Boats shall not be placed or launched in any pond or water collection area on the Golf Course or any Common Area in the development.

3.1.39 **Golf Course Play.** No practicing or starting on any holes is permitted without the prior authorization from the Golf Pro Shop.

3.1.40 **Golf Cart Use.** Golf carts shall not be used on private property.

4.1 **Design Review Committee.** In accordance with this, the Declarant has the right to impose standards for construction and development of the Property to ensure the architectural harmony and preservation of values in Highfields at Grafton. There shall be at all times an Architect's Design Review Committee of at least five (5) members who shall have the right to approve and enforce any of the architectural restrictions set forth in this Covenant or any amendment thereto. This Committee shall include the following three individuals, who shall each have lifetime membership:

1. John H. Magill
2. Rachel Magill
3. John H. Magill, Jr.

In addition to the foregoing three members, the Committee may choose two (2) additional members who shall be selected from time to time by the Declarant; these members must be owners of property located in the Highfields at Grafton

development and shall be chosen after the Declarant has sold more than two-thirds (2/3) of the lots shown on the plan of the development.

In addition to the use restrictions set forth in Article 3 of this Declaration, Parcel Owners within the property shall comply with the terms and provisions of any amendments hereto. In the event of any conflict concerning a decision of the Declarant, the terms and provisions of this Declaration shall prevail.

- 5.1 **Condominium Development.** The Declarant is the owner of record of the two (2) parcels of land shown on the plan referred to in the first paragraph of this Declaration. These parcels are shown as unnumbered lots located on the Easterly and Westerly sides, respectively, of Magill Drive at its intersection with Providence Road, a/k/a Route 122. See Sheet 18 of the above-referenced plan, as recorded.

These parcels or lots are specifically excluded from all of the terms and provisions of this Declaration. These two parcels are zoned for multi-family residential use and the Declarant hereby reserves for itself, its successors, and assigns the right to develop these parcels for multi-family residences or any other use which the Declarant, in its sole and exclusive discretion, deems appropriate.

Except as expressly amended hereby, the Declaration, and all terms and provisions thereof, shall continue in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed in its name, the day and year first above written.

Signed, sealed and delivered by Magill Associates, Inc., a Massachusetts corporation, this fifth day of March, 2002:

John Magill, President and Treasurer
Magill Associates, Inc.

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

March 5, 2002

Then personally appeared before me the above-named John Magill, President and Treasurer of Magill Associates, Inc., who acknowledged the foregoing instrument to be his free act and deed.

Joseph M. Antonellis
My commission expires 12/18/2005

[Article Addenda per John Magill]