

BOX 93 / JAS

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## DECLARATION OF RESTRICTIONS AND COVENANTS

Holly Hill  
Town of Mendon  
Monroe County, NY

**INTRODUCTION** Schoenberger Associates LP ("Developer") with offices at 1 Paddington Place, Pittsford, New York, the owner of all real property known as Holly Hill Subdivision ("Subdivision") as shown on a map filed in the office of the Monroe County Clerk in Liber 325 of Maps, Pages 32, 33 and 34, being desirous of assuring and preserving a uniform character for the Subdivision for the common benefit of all owners therein, does hereby declare and establish the following covenants and restrictions upon the land comprising the Subdivision, to be perpetual and to run with the land and shall bind all persons and their successors, assigns, and representatives having any interest in the Lots as follows:

1. **GENERAL PURPOSE:** It is expressed purpose of these covenants and restriction to encourage development and maintenance of a fine, suburban residential development in order to promote and provide collective and individual ownership benefits.
2. **USE:** The lots shall be used for residential purposes only. One story and 1 1/2 story (cape style) single family dwellings shall have a minimum of 2,100 sq. ft. of living space (heated area) exclusive of any basement area, finished or unfinished. Two story family dwellings shall have a minimum of 2,600 sq. ft. of living space (heated area) exclusive of any basement area, finished or unfinished. There shall be an enclosed, attached garage for a minimum of two cars for each dwelling. The height of any building on any Lot in the Subdivision shall not exceed the thirty-five (35) feet as such height is determined pursuant to the average height procedure specified in the Town of Mendon Code on the date of recording this Declaration.
3. **FENCES:** No fences shall be erected or maintained on any lot in the Subdivision nearer to any street than the rear wall of the dwelling or garage, whichever is closer to the front lot line, unless such fence was part of the original approved home design such as a low height, accent picket fence enclosing a small flower garden in the immediate area of the front entrance. Such an accent fence, if approved as part of architectural approval process, shall be within 20 ft. of the front face of the home. No fence of an industrial or commercial type design, such as a chain link or wire mesh fence shall be erected anywhere on the lot. All fences shall be aesthetically pleasing and blend with the architecture and character of the homes and neighborhood in the Subdivision.
4. **CARS, TRUCKS, VANS, SUV'S:** The number of cars, trucks, vans, SUV's or other type of passenger vehicles stored on a lot shall not be more than the number of vehicle parking

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spaces within the attached garage plus one. Vehicles which are unlicensed, inoperational, or what are commonly called "junkers" shall not be stored outside on the lot, private drives, or the street.

5. **TRAILERS / CAMPERS / MOTOR HOMES / OVERSIZED VEHICLES / RECREATIONAL VEHICLES / SNOWMOBILES / ATV'S / BOATS / MOTORCYCLES:** None of these or other vehicles or objects of this type shall be parked or stored outside anywhere on the lot or on any street or private drive within Holly Hill.
6. **COMMERCIAL VEHICLES WITH OR WITHOUT COMMERCIAL SIGNAGE THEREON, OR OTHER VEHICLES INCIDENTAL TO THE OPERATION OF A BUSINESS:** No vehicles of this type, whether personally owned or belonging to others shall be parked or stored outside anywhere on the lot or on any street or private drive within Holly Hill. This shall not apply to temporary parking of commercial vehicles which are providing service to the residents of a lot.
7. **OUTDOOR REPAIR WORK:** No work on any motor vehicles, boats, or machines of any kind shall be permitted outdoors.
8. **POOLS:** All swimming and other type of pools, in addition to having to conform to any regulation, ordinance, or laws of the Town of Mendon and any other governing bodies, must be of the permanent type and constructed completely below the final, finished grade of the home. Pools shall be located to the rear of the rear face of the home.
9. **LIVESTOCK AND POULTRY:** No livestock or animals of any kind shall be raised, bred, or kept upon any part of the Subdivision except that a maximum of three domestic pets may be maintained within the confines of any one lot. Horses and ponies for the purposes of this paragraph are not domestic pets. Domestic pets shall be restrained within the homeowner's lot by leash, Invisible Fence (or equal), or other suitable means and shall not be allowed to freely roam through the Subdivision. No specific pet containment areas such as fenced dog runs are permitted.
10. **ANTENNAS AND TOWERS:** Homeowners within the Subdivision shall not install any antennas external to the house except for small dish type antennas 18" or less in diameter which are permitted if installed on any face of the house other than the front. If installed on the roof, the dish antenna shall not be the front portion of the roof which is visible from the street. No ham radio transmitting and/or receiving towers, antennas attached to the house or outbuilding structures, or towers of any kind, including wind turbines, shall be erected.

11. **OUTBUILDINGS:** No outbuildings, with the exception of the existing barn on Lot No. 19 shall be permitted on any lot except for (a) a pool cabana not exceeding 250 sq. ft. in area but only if used for mechanical equipment and/or dressing room purposes in conjunction with the pool, and (b) yard equipment storage facilities not exceeding 200 sq. ft. in area. Any permitted outbuildings shall be a maximum of one story in height. The design, construction, roof, and color scheme of any building constructed shall conform generally to the style of the main house and complement same. No buildings with a metal exterior or roof are permitted. Any permitted buildings must be located behind a straight line extending across the rearmost wall of the home / garage and may not be located in the side or front yards in front of this straight line. Any permitted building shall be landscaped to complement the main house. Notwithstanding the above, outbuildings must satisfy the regulations, ordinances, and laws of the Town of Mendon.
12. **ARCHITECTURAL APPROVAL:** Until such time as all the lots in the Subdivision are improved with a residential dwelling, Developer, its assigns and successors retains architectural approval in regard to the exterior design, materials, color, and siting for any residential dwelling and any outbuildings to be erected on a lot. Home plans along with color samples of the exterior materials shall be submitted to Developer and approval must be obtained in writing prior to construction of any building. No log homes, homes of unusual style such as geodesic homes, or homes of contemporary architecture shall be approved. It is desired to have a community of traditional style homes reflecting good design and taste. Changes to the exterior made during construction deviating from the approved plans must also receive approval.
13. **GARBAGE CONTAINERS AND REFUSE DISPOSAL:** All garbage and non-yard refuse on any lot shall be kept in sanitary containers and stored within the garage areas. Any storage of yard refuse/compost must not be visible from the street.
14. **CLOTHESLINES:** No clotheslines shall be permitted on any lot, and clothes are not to be hung or placed in public view on any lot.
15. **SIGNS:** No signs shall be permitted on any lot except for signs used by a builder to advertise a lot or the subdivision during the sales and construction period and real estate agents' signs. A sign(s) identifying the Subdivision shall be permitted at the entrance to the Subdivision off Cheese Factory Road on Lot 1 and/or Lot 19 on which lots the Developer reserves an easement to accommodate said sign(s).
16. **EASEMENTS:** Easements for the construction and maintenance of utilities and drainage facilities are reserved as shown on the recorded Subdivision Map. No plantings or other material shall be placed or remain within any easement which change the drainage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage through drainage channels in the easement areas. The

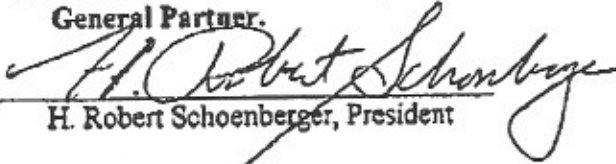
easement areas of each lot shall be maintained continuously by the owner of such lot except to the extent a public authority or utility company is responsible therefore.

17. **RESUBDIVISIONS:** No lot shall be resubdivided into two or more lots, but the areas in two adjoining lots may be reapportioned with the mutual consent of both lot owners and the Town of Mendon, provided the resubdivided lots are a minimum of 1.5 acres in size and meet the Town of Mendon zoning requirements.
18. **PROPANE TANKS:** If propane is selected as the fuel of choice, the storage tanks shall be located underground. No above ground tanks are permitted.
19. **COMMERCIAL AND PROFESSIONAL ACTIVITY ON PROPERTY:** No wholesale or retail business, including any salon, studio, laboratory, home industry, or medical or dental office, even if such use is permitted by the Town of Mendon zoning regulations, shall be conducted on any lot or in any structures on a lot with the exception of (1) an office by the Declarant during initial construction and sale of the lots and (2) the conducting of business by telephone. This restriction is not intended to preclude a private in-home office for the non-commercial use of the owner(s).
20. **ENFORCEMENT:** The Covenants and Restrictions contained in this Declaration of Covenants and Restrictions may be enforced by any person or persons owning any real property situated within the Subdivision, and any violation or attempted violation of any of these provisions may be prosecuted by any such owner by any appropriate judicial proceeding, by injunction or for damages in any court of competent jurisdiction. Failure to enforce any of the Covenants and Restrictions shall not constitute a waiver thereof.
21. **SEVERABILITY:** If any part or parts of these restrictions shall be declared null and void by any court of competent jurisdiction, such invalidation shall not affect the remaining provisions which then shall continue in full force and effect.
22. **APPLICABILITY TO RESUBDIVISIONS:** These Covenants and Restrictions shall apply to and run with the land contained in any resubdivision of lots contained within this Subdivision.
23. **AMENDMENT:** Until December 31, 2008, this Declaration of Covenants and Restrictions may be amended only by approval of 100% of the owner(s) of the lots in the Subdivision. For the next eleven (11) years ending on December 31, 2019, any amendment shall require the consent of 90% of the owner(s) of the lots in the Subdivision. Commencing on January 1, 2020, the approval of 75% of all owner(s) of the lots in the Subdivision shall be required.. Each lot, including unsold lots owned by the Developer, shall have one vote.

IN WITNESS WHEREOF this Declaration of Covenants and Restrictions has been executed as of the 7<sup>th</sup> day of December, 2005.

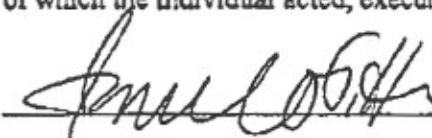
**SCHOENBERGER ASSOCIATES, L.P.**

By: **H. R. SCHOENBERGER CO., INC.**  
General Partner.

By:   
H. Robert Schoenberger, President

STATE OF NEW YORK)  
COUNTY OF MONROE)ss

On the 17<sup>th</sup> day of December 2005 before me, the undersigned, a Notary Public in and for said State, personally appeared H. ROBERT SCHOENBERGER, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

 Notary Public

SAMUEL O. TILTON  
Notary Public, State of New York  
No. 02T3987250  
Qualified in Monroe County  
Commission Expires June 30, 2007