

**DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR
THE WATERS SUBDIVISION
SANTA ROSA COUNTY, FLORIDA**

**DECLARANT
STENEN DEVELOPMENT INC.**

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FOR
THE WATERS SUBDIVISION**

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**DECLARATION OF COVENANTS AND RESTRICTIONS
FOR
THE WATERS SUBDIVISION**

STATE OF FLORIDA

COUNTY OF SANTA ROSA

DATE OF SIGNING: DECEMBER 22, 2016

BE IT KNOWN, that on the date set forth above, this Declaration of Covenants and Restrictions (this "**Declaration**") for the above-named subdivision of the Property (as defined below) is made by Stenen Development, Inc. ("**Declarant**"), an Louisiana company, by and through its duly authorized below-named representative, who did depose and say that Declarant owns certain Immovable property located in the above-named County and described in Exhibit A attached hereto together with the improvements thereon (collectively the "**Initial Property**").

WHEREAS, Declarant desires to establish a general plan of development for the Property (defined below) and to provide for the operation, administration, and maintenance of the Property (defined below) or portions of the Property. Declarant deems it advisable to create a residential planned community on the Property, with a homeowners association to perform the functions and activities more fully described in this Declaration and the other Community Documents.

**ARTICLE 1
DEFINITIONS**

The terms used in this Declaration will generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms in this Declaration (including the capitalized terms used above) will be defined as set forth in this Article 1. Additional terms may be defined in the body of this Declaration.

1.2. "**Additional Land**" means immovable property which may be, following the recordation of this Declaration and as of the date of any identification of Additional Land, added to the Property and subjected to this Declaration by Declarant, as described in Section 15.5.2, or as otherwise permitted in Section 2.2.

1.3. "**Architectural Reviewer**" means the entity having jurisdiction over a particular application for architectural approval. During the Development Period, the Architectural Reviewer is Declarant, Declarant's designee, or Declarant's delegat. Thereafter, the Board-appointed Architectural Control Committee is the Architectural Reviewer.

1.4. "**Articles of Incorporation**" or "**Articles**" means the Articles of Incorporation of the Association, as filed with the Secretary of State for the State of Florida, as amended from time to time, a copy of which is attached as Exhibit C.

1.5. "**Assessment**" means any charge levied against a Lot or Owner by the Association, pursuant to this Declaration, any other Community Documents or law of the State of Florida..

1.6. "**Association**" means the The Waters Subdivision Owners Association, Inc., a Florida not-for-profit corporation, its successors and assigns, whose members are the Owners, and who is responsible for maintaining the Common Area of those portions of the Property In The Waters designated as residential on the Initial Plat and enforcing this Declaration in accordance with the terms and provisions of this Declaration. The Association is an association of Owners of all Lots in the Property serving as a "homeowners association".

1.7. "**Board**" means the Board of Directors of the Association.

1.8. **"Builder"** means any Person, other than Declarant or a Declarant Affiliate, who purchases: (i) one (1) or more Lots for the purpose of constructing Improvements for later sale to consumers, or (ii) parcels of land within the Property for further subdivision, development, and/or resale in the ordinary course of such Person's business. A Builder ceases to be a "Builder" as to a particular Lot if the Builder (or a Person authorized by Builder) occupies improvements constructed on that Lot as a residence; the Builder's status as a "Builder" continues with respect to any other: (a) Lots purchased for the purpose of constructing Improvements for later sale to consumers and which do not have improvements constructed thereon occupied by a Person as a residence, or (b) parcels of land purchased within the Property for further subdivision, development, and/or resale in the ordinary course of such Person's business and which do not have improvements constructed thereon which are occupied by a Person as a residence.

1.9. **"Bylaws"** means the Bylaws of the Association, a copy of which is attached as Exhibit D, as amended from time to time.

1.10. **"Common Area"** means portions of immovable property and improvements thereon that are owned and/or maintained by the Association, and as the term is defined in Section 1141.2(2) of the Act.

1.11. **"Community Documents"** means, singly or collectively as the case may be, this Declaration, the subdivision Plat, the Bylaws of the Association, the Association's Articles of Incorporation, and any rules of the Association, as any of these may be amended from time to time, and as the term is defined in Section 1141.2(3) of the Act.

1.12. **"Declarant"** means Stenen Development, Inc., which is developing the Property, or the successors and assigns of Stenen Development, Inc., which are designated a Successor Declarant by Stenen Development, Inc., or by any such successor and assign, in a recorded document, executed by both Declarant and Successor Declarant in the case of a voluntary assignment. In executing this instrument, Declarant is the appearer.

1.13. **"Declarant Affiliate"** means a Person (other than Declarant) that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control, with Declarant. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of Declarant, whether through the ownership of voting securities, by contract or otherwise.

1.14. **"Declaration"** means this document, as it may be amended from time to time, and also has the meaning of "declaration" as defined in Section 1141.2(4) of the Act.

1.15. **"Development Period"** means that period of time during which Declarant has certain rights pursuant to this Agreement, such as rights relating to governance, architectural control, development, construction, expansion, and marketing of the Property. The Development Period is for a term of years and does not require that Declarant own land described in Exhibit A or any Additional Land. The duration of the Development Period will be from the date this Declaration is recorded until the later of (1) 20 years after this Declaration is recorded, or (2) 60 days after title to one hundred percent (100%) of the Lots that may be created in the Property (including without limitation any and all Additional Land) have been improved with dwellings and conveyed to Owners other than Declarant, a Declarant Affiliate, or Builders. Notwithstanding the foregoing, Declarant may voluntarily terminate the Development Period with a written notice executed by Declarant and recorded in the conveyance records of the County.

1.16. **"Governmental Authority"** means any, each and all of the following: (a) the United States of America, (b) the State of Florida, (c) any other State of the United States of America, (d) any political subdivision of any of the foregoing, (e) any agency, department, commission, board or bureau of any of the foregoing, and (f) any County, municipality, tribunal, instrumentality or court having jurisdiction over The Waters or any of the uses that may be made of Lots or other portions of The Waters.

1.17. **"Lot"** means a portion of the Property intended for independent ownership and residential use, as defined in Section 1141.2(6) of the Act. As a defined term, "Lot" does not refer to Common Areas, even if platted and numbered as a lot. Where the context indicates or requires, "Lot" includes all improvements thereon and any portion of a right-of-way that customarily is used exclusively by and in connection with the Lot.

1.18. **"Member"** means a Person entitled to membership in an Association, as provided in Section 7.2, with voting rights as set forth in Section 7.3. A Member will also mean an Owner. If multiple Persons own a Lot, the Owners of that Lot will, collectively, constitute one (1) Member as Owner of that Lot.

1.19. **"Owner"** means a holder of recorded fee simple title to a Lot. Every Owner is a Member.

1.20. **"Parish"** means the parish in which the Property is located.

1.21. **"Person"** means any natural person, corporation, limited liability company, partnership, trustee, joint venture, association, joint stock company, trust, unincorporated organization, Governmental Authority, government or any agency or political subdivision of a Governmental Authority, or any other form of entity.

1.22. **"Plat"** means all subdivision plats, singly and collectively, recorded in the conveyance records of the above-named Parish, pertaining to the Property, including all dedications, limitations, restrictions, servitudes, notes, and reservations shown on the plat, as it may be amended from time to time.

1.23. **"Property"** and **"The Waters Subdivision"** both mean and include the land described in Exhibit A of this Declaration together with all Additional Land, and includes every Lot and any Common Area thereon and all improvements, servitudes, easements, rights, and appurtenances to the said Common Area, all of which are subject to this Declaration. The Common Area, together with all improvements, servitudes, easements, rights, and appurtenances to the said Common Area also has the meaning of "association property" as defined in Section 1141.2(1) of the Act. The Property (i.e., The Waters) is a "residential planned community" within the meaning of Section 1141.2(7) of the Act. Whenever a situation arises where it is necessary or otherwise relevant to identify the Property, the Property at the time of such identification will include: (a) the land described on Exhibit A of this Declaration; (b) all Additional Land added to the Property at that time of such identification of the Property as provided in Section 15.5.2, or as otherwise permitted in Section 2.2; and (c) every Lot and any Common Area thereon and all improvements, servitudes, easements, rights, and appurtenances to the said Common Area, as of the time of such determination. All references to Property in this Declaration will always be interpreted as including the Additional Land added to the Property at that time of such identification of the Property as provided in Section 15.5.2, or as otherwise permitted in Section 2.2.

1.24. **"Unilaterally"** means that the Declarant may take the authorized action without the consent, approval, vote, or joinder of any other person, such as Owners, mortgagees, and the Association.

ARTICLE 2 THE PROPERTY

2.1. **GENERAL PROVISIONS.** The terms of this Declaration constitute building restrictions, covenants and real rights running with the Property, which will run with title to the Property and will be binding on the Property and on all parties having or acquiring any right, title, or interest in the Property, their heirs, successors, and assigns, and all parties claiming under them. The Property will be held, transferred, sold, conveyed, leased, occupied, used, insured, and encumbered subject to this Declaration, even if the Declaration is not specifically referred to in the instrument of sale, transfer, lease or encumbrance.

2.2. **ADDITIONAL PROPERTY.** Additional immovable property may be annexed to the Property and subjected to the Declaration and the jurisdiction of the Association on approval of Owners representing at least two-thirds of the Lots in the Property, or, during the Development Period, by Declarant as permitted in Article 15. Annexation of additional property is accomplished by recording a supplemental declaration, or amendment of annexation, including an amendment of Exhibit A, in the conveyance records of the County.

2.3. **ADJACENT LAND USE.** The Association and Declarant make no representation of any kind as to the current or future uses, actual or permitted, of any land that is adjacent to or near the Property, regardless of what the Plat shows as potential uses of adjoining land.

ARTICLE 3
PROPERTY SERVITUDES AND RIGHTS

3.1 **DECLARANT RIGHTS**. A number of provisions in the Declaration are modified by Declarant's rights and reservations under the Declaration during the Development Period. These rights and reservations are found in Article 15 of this Declaration, which controls over anything to the contrary elsewhere in this Declaration.

3.2 **OWNER'S RIGHT TO BUILD**. That a Lot remains vacant and unimproved for a period of years, even decades, does not diminish the right of the Owner to construct improvements on the Lot, nor does a vacant Lot enlarge the rights of Owners of neighboring Lots, who may have become so accustomed to the open space that they expect it to remain unimproved forever.

3.3. **ASSOCIATION'S ACCESS SERVITUDE**. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, grants to the Association a servitude of access and entry over, across, under, and through the Property, including without limitation all Common Areas and the Owner's Lot and all improvements thereon - for the below-described purposes.

3.3.1. **Purposes**. Subject to the limitations stated below, the Association may exercise this servitude of access and entry for the following express purposes:

- a. To inspect the property for compliance with maintenance and architectural standards.
- b. To perform maintenance that is permitted or required of the Association by the Community Documents or by applicable law.
- c. To perform maintenance that is permitted or required of the Owner by the Community Documents or by applicable law, if the Owner fails or refuses to perform such maintenance.
- d. To enforce architectural standards.
- e. To enforce use restrictions.
- f. The exercise of self-help remedies permitted by the Community Documents or by applicable law.
- g. To enforce any other provision of the Community Documents.
- h. To respond to emergencies.
- i. To grant servitudes to utility providers as may be necessary to install, maintain, and inspect utilities serving any portion of the Property.
- j. To perform any and all functions or duties of the Association as permitted or required by the Community Documents or by applicable law.

3.3.2. **Limitations**. If the exercise of this servitude requires entry onto an Owner's Lot, including into an Owner's fenced yard, the entry will be during reasonable hours and after notice to the Owner. This Subsection does not apply to situations that - at time of entry - are deemed to be emergencies that may result in imminent damage to or loss of life or property. In exercising this servitude on an Owner's Lot, the Association is not liable to the Owner for trespass.

3.4. **SECURITY**. The Association may, but is not obligated to, maintain or support certain activities within the Property designed to improve safety in or on the Property. Each Owner and resident acknowledges and agrees, for himself and his guests, that Declarant, the Association, and their respective directors, officers, committees, agents, and employees are not providers, insurers, or guarantors of

security within the Property. Each Owner and resident acknowledges and accepts his sole responsibility to provide security for his own person and property and assumes all risks for loss or damage to the same. Each Owner and resident acknowledges and agrees that Declarant, the Association, and their respective directors, officers, committees, agents, and employees may not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

ARTICLE 4 COMMON AREA

4.1. **OWNERSHIP.** The designation of immovable property as a Common Area is determined by the Plat and this Declaration, and not by the ownership of the property. At its expense, Declarant may install, construct, or authorize certain improvements on Common Areas in connection with the initial development of the Property. Thereafter, all costs attributable to Common Areas, such as maintenance, property taxes, insurance, and enhancements, are automatically the responsibility of the Association, regardless of the nature of title to the Common Areas, unless this Declaration elsewhere provides for a different allocation for a specific Common Area.

4.2. **ACCEPTANCE.** By accepting an interest in or title to a Lot, each Owner is deemed (1) to accept the Common Area of the Property, and any improvement thereon, in its then-existing "AS IS" condition; (2) to acknowledge the authority of the Association, acting through its Board, for all decisions pertaining to the Common Area; (3) to acknowledge that transfer of a Common Area's title to the Association by or through the Declarant is a ministerial task that does not require acceptance by the Association; and (4) to acknowledge the continuity of maintenance of the Common Area, regardless of changes in the Association's Board or management.

4.3. **COMPONENTS.** The Common Area of the Property consists of the following components on or adjacent to the Property, even if located on a Lot or a public right-of-way:

- a. all of the Property, save and except the Lots;
- b. any area shown on the Plat as a Common Area or an area to be maintained by the Association;
- c. the entry feature, screening feature, and sign monument - if any;
- d. any modification, replacement, or addition to any of the above-described areas and improvements; and
- e. movable property owned by the Association, such as books and records, office equipment, and supplies.

4.4. **LIMITED COMMON AREA.** If it is in the best interest of the Association, a portion of the Common Area may be licensed, leased, or allocated to one or more Lots for their sole and exclusive use, as a limited Common Area ("**Limited Common Area**"), whether or not the area is so designated on the Plat. Inherent in the limiting of a Common Area, maintenance of the Limited Common Area becomes the responsibility of the Owner, rather than the Association. For example, a Common Area that is difficult to access and maintain except via the adjoining Lot might be a candidate for Limited Common Area.

ARTICLE 5 ARCHITECTURAL COVENANTS

5.1. **PURPOSE.** Because the Lots are part of a single, unified community, this Declaration creates rights to regulate the design, use, and appearance of the Lots and Common Areas in order to preserve and enhance the Property's value and architectural harmony. One purpose of this Article is to promote and ensure the level of taste, design, quality, and harmony by which the Property is developed and maintained. Another purpose is to prevent improvements and modifications that may be widely considered to be radical, curious, odd, bizarre, or peculiar in comparison to then existing improvements. A third purpose is to regulate the appearance of every aspect of proposed or existing improvements on a

Lot. During the Development Period, a primary purpose of this Article is to reserve and preserve Declarant's right of architectural control.

5.2. ARCHITECTURAL CONTROL DURING THE DEVELOPMENT PERIOD. During the Development Period, neither the Association, the Board, nor a committee appointed by the Association or Board (no matter how the committee is named) may involve itself with the approval of new improvements on vacant Lots. During the Development Period, the Architectural Reviewer for new improvements on vacant Lots is the Declarant or its delegats.

5.2.1. Declarant's Rights Reserved. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees that Declarant has a substantial interest in ensuring that the improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to sell homes constructed within the Property. Accordingly, each Owner agrees that, during the Development Period, no improvements will be started or progressed on Owner's Lot without the prior written approval of Declarant, which approval may be granted or withheld at Declarant's sole discretion. In reviewing and acting on an application for approval, Declarant may act solely in its self-interest and owes no duty to any other person or any organization. Declarant may designate one or more persons from time to time to act on its behalf in reviewing and responding to applications.

5.2.2. Delegation by Declarant. During the Development Period, Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights under this Article to (a) a modifications or architectural committee appointed by Declarant or by the Board, (b) a modifications or architectural committee elected by the Members, or (c) a committee comprised of architects, engineers, or other persons who may or may not be Members. Any such delegation must be in writing and must specify the scope of delegated responsibilities. At all times during the Development period, Declarant may Unilaterally do any of the following, one or more times, to-wit: (i) revoke such delegation at any time and reassume jurisdiction over the matters previously delegated, and (ii) veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason.

5.3. ARCHITECTURAL CONTROL BY ASSOCIATION. Unless and until such time as Declarant delegates all or a portion of its reserved rights to the Architectural Control Committee (the "ACC"), or the Development Period is terminated or expires, the Association has no jurisdiction over architectural matters. On termination or expiration of the Development Period, or earlier if delegated in writing by Declarant, the Association, acting through the ACC, will assume jurisdiction over architectural control; during the Development Period, any such assumption of jurisdiction by the Association will be subject to Declarant's rights as provided in the last sentence of Section 5.2.2.

5.3.1. The ACC is an agency, department or division of the Association, and has the right (after expiration of the Development Period, or earlier if delegated in writing by Declarant) to exercise control over all construction within the Property and review all modifications to structures and Improvements, including but not limited to painting, renovations, and landscaping. Notwithstanding any inference to the contrary, during the Development Period the ACC will be appointed by Declarant unless Declarant expressly waives in writing its right to appoint the ACC; any such waiver may be thereafter revoked by Declarant and in the event of any such revocation, Declarant may dismiss the members of the ACC at that time and appoint other members of the ACC. The ACC will consist of three (3) members. Should such Board wish to declare that there be an increase in the number of members serving on the ACC, it may do so at a regularly called meeting of the Board, except that during the Class B Control Period, no change in the members of the ACC may be made by the Board without the approval of Declarant. The members of the ACC need not be Members or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, will be established from time to time by the Board. The Board may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. In addition, the ACC may, with the prior approval of the Board, retain architects, engineers or other professionals to assist in the review of any application and the Association may charge any fees incurred for such assistance to the applicant. The ACC may also establish a Modifications Committee, with the approval of the Board, to review and approve any proposed modifications of Property.

5.3.2. The professionals and staff assisting the ACC may be paid reasonable compensation for service on the ACC, as determined from time to time by the Board. All members of the ACC will be reimbursed by the Association for their respective expenses incurred in furtherance of the authorized activities of the ACC, subject to review and approval by the Board. All members of the ACC may be paid compensation for their time and efforts in serving on the ACC if such compensation is approved and authorized by the Board.

5.3.3. The Association will be responsible for all reasonable costs of operation of the ACC. Each Owner submitting plans for the construction or modification of Improvements on any Lot will submit with such plans a payment of Three Hundred Dollars (\$300) as a nonrefundable "Review Fee", and that payment will be made to the Association. The standard Review Fee will be used by the Association to defray the costs and expenses incurred by the ACC and the fees and compensation paid, if any, to staff, other professionals and members of the ACC. From time to time, the Board, in its sole discretion, may increase or decrease the amount of the standard Review Fee, but in no event will the standard Review Fee charged in any one (1) calendar year exceed 110% of the standard Review Fee charged during the preceding calendar year; further, the Board in any one situation may waive or reduce the standard Review Fee. Should the ACC reject, and/or require modifications or changes, to any plans and/or specifications due to deviations in said plans or specifications from the Community Documents, then and in that event the Owner who submitted said plans and specifications will pay another review fee of Three Hundred Dollars (\$300) (or such amount as the said Review Fee may have been increased to by the Board). When an Owner resubmits revised plans and specifications, the Board or the ACC will have the discretion to waive any such additional review fees if, in its sole discretion, it determines that the deviations from the Community Documents were not significant. During the Development Period and prior to any delegation by Declarant to the ACC of rights reserved to Declarant under Section 5.2 of this Declaration, Declarant may, in its discretion, require an Owner to pay the same Review Fee which the ACC will have a right to collect if and when the ACC is delegated the right to approve plans for the construction or modification of improvements on Lots.

5.3.4. The ACC may employ personnel or contract with individuals or companies as necessary to assist in the review process, as authorized pursuant to the budget for the ACC, as established by the Board. All such personnel, individuals and/or companies employed or contracted with by the ACC will be considered as employees and/or independent contractors of the Association.

5.3.5. The ACC is authorized to adopt rules and procedures and to adopt, from time to time, amendments to said rules and procedures for the conduct of its business, consistent with the provisions of this Declaration. Any Owner will be provided with a copy of such rules and procedures within fifteen (15) days of submission of a written request to the Board.

5.4. **LIMITS ON LIABILITY.** The Architectural Reviewer has sole discretion with respect to taste, design, and all standards specified by this Article. The Architectural Reviewer and each of its members has no liability for decisions made in good faith by the Architectural Reviewer and which are not arbitrary or capricious. The Architectural Reviewer is not responsible for: (1) errors in or omissions from the plans and specifications submitted to the Architectural Reviewer, (2) supervising construction for the Owner's compliance with approved plans and specifications, or (3) the compliance of the Owner's plans and specifications with governmental codes and ordinances, state and federal laws.

5.5. **PROHIBITION OF CONSTRUCTION, ALTERATION AND IMPROVEMENT.** Without the Architectural Reviewer's prior written approval, a person may not construct a dwelling or make an addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property or to a building (including without limitation dwellings) on the Property, if the proposed dwelling or any addition, alteration, improvement, installation, modification, redecoration, or reconstruction, will be visible from a street, another Lot, or the Common Area. Any construction, addition, alteration, improvement, installation, modification, redecoration, or reconstruction of or to the Property or to a building (including without limitation dwellings) must be in accordance with the construction specifications described in Exhibit B. The Architectural Reviewer has the right but not the duty to evaluate every aspect of construction, landscaping, and property use that may adversely affect the general value or appearance of the Property.

5.6. **ARCHITECTURAL APPROVAL.** To request architectural approval, an Owner must make written application to the Architectural Reviewer and submit 2 identical sets of plans and specifications showing the nature, kind, shape, color, size, materials, and locations of the work to be performed. In support of the application, the Owner may but is not required to submit letters of support or non-opposition from Owners of Lots that may be affected by the proposed change. The application must clearly identify any requirement of this Declaration for which a variance is sought. The Architectural Reviewer will return one set of plans and specifications to the applicant marked with the Architectural Reviewer's response, such as "Approved," "Denied," or "More Information Required." The Architectural Reviewer will retain the other set of plans and specifications, together with the application, for the Architectural Reviewer's files. Oral approval by an Architectural Reviewer, the Declarant, an Association director or officer, a member of the ACC, or the Association's managing agent does not constitute architectural approval by the appropriate Architectural Reviewer, which must be in writing.

5.6.1. **Deemed Approval.** The applicant may presume that his request has been approved by the Architectural Reviewer (a) if the applicant has not received the Architectural Reviewer's written response - approving, denying, or requesting additional information - within 60 days after delivering his complete application to the Architectural Reviewer, and (b) if the proposed improvement or modification strictly conforms to requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application. If those conditions are satisfied, the Owner may proceed with the improvement, provided he adheres to the plans and specifications which accompanied his application, and provided he initiates and completes the improvement in a timely manner. In exercising deemed approval, the burden is on the Owner to document the Architectural Reviewer's actual receipt of the Owner's complete application. Under no circumstance may approval of the Architectural Reviewer be deemed, implied, or presumed for an improvement or modification that would require a variance from the requirements and construction specifications contained in this Declaration and in any design guidelines for the Property in effect at the time of application.

5.6.2. **Building Permit.** If the application is for work that requires a building permit from a governmental body, the Architectural Reviewer's approval is conditioned on the issuance of the appropriate permit. The Architectural Reviewer's approval of plans and specifications does not mean that they comply with the requirements of the governmental body. Alternatively, governmental approval does not ensure Architectural Reviewer approval.

5.6.3. **Declarant Approved.** Notwithstanding anything to the contrary in this Declaration, any improvement to the Property made or approved by Declarant during the Development Period is deemed to have been approved by the Architectural Reviewer.

ARTICLE 6 USE RESTRICTIONS

6.1. **VARIANCE.** The use of the Property is subject to the restrictions contained in this Article, and subject to rules adopted pursuant to this Article. The Declarant, during the Development Period, or the Board, thereafter, may grant a variance or waiver of a restriction or rule on a case-by-case basis when unique circumstances dictate and may limit or condition its grant. To be effective, a variance must be in writing. The grant of a variance does not effect a waiver or estoppel of the right to deny a variance in other circumstances. Approval of a variance or waiver may not be deemed, implied, or presumed under any circumstance.

6.2. **LIMITS TO RIGHTS.** No right granted to an Owner by this Article or by any provision of the Community Documents is absolute. The Community Documents grant rights with the expectation that the rights will be exercised in ways, places, and times that are customary for the neighborhood. This Article and the Community Documents as a whole do not try to anticipate and address every creative interpretation of the restrictions. The rights granted by this Article and the Community Documents are at all times subject to the Board's determination that a particular interpretation and exercise of a right is significantly inappropriate, unattractive, or otherwise unsuitable for the neighborhood, and thus constitutes a violation of the Community Documents. In other words, the exercise of a right or restriction must comply with the spirit of the restriction as well as with the letter of the restriction.

6.3. ASSOCIATION'S RIGHT TO PROMULGATE RULES. The Association, acting through its Board, is granted the right to adopt, amend, repeal, and enforce reasonable rules, and penalties for infractions of the adopted rules, regarding the occupancy, use, disposition, maintenance, appearance, and enjoyment of the Property.

6.4. ANIMAL RESTRICTIONS. No animal, bird, fish, reptile, or insect of any kind may be kept, maintained, raised, or bred anywhere on the Property for any commercial purpose or for food. The only animals permitted on the Property are customary domesticated household pets, which may be kept subject to rules adopted by the Board. Pets must be kept in a manner that does not disturb the peaceful enjoyment of residents of other Lots.

6.5. ANNOYANCE. No Lot or Common Area may be used in any way that: (a) may reasonably be considered annoying to neighbors; (b) may be calculated to reduce the desirability of the Property as a residential neighborhood; (c) may endanger the health or safety of residents of other Lots; (d) may result in the cancellation of insurance on the Property; or (e) violates any law. The Board has the sole authority to determine what constitutes an annoyance.

6.6. APPEARANCE. Both the Lot and the dwelling must be maintained in a manner so as not to be unsightly when viewed from the street or neighboring Lots. The Architectural Reviewer is the arbitrator of acceptable appearance standards.

6.7. ARTIFICIAL VEGETATION. Artificial grass, plants or other artificial vegetation must not be placed or maintained upon the exterior portion of any Lot unless approved by the Board.

6.8. BUSINESS USE. A resident may use a dwelling for business uses, such as telecommuting, personal business, and professional pursuits, provided that: (a) the uses are incidental to the primary use of the dwelling as a residence; (b) the uses conform to applicable governmental ordinances; (c) the uses do not entail visits to the Lot by employees or the public in quantities that materially increase the number of vehicles parked on the street; and (d) the uses do not interfere with the residential use and enjoyment of neighboring Lots by other residents.

6.9. DECLARANT RIGHTS. Declarant has reserved a number of rights to use the Property in ways that are not available to other Owners and residents, as provided in Article 15 of this Declaration. Declarant's exercise of any right granted to it during the Development Period that appears to violate a rule adopted by the Association or a use restriction included in this Article 6 does not constitute waiver or abandonment of the rule or use restriction by the Association as applied to Owners other than Declarant.

6.10. EQUIPMENT, STRUCTURES AND PERSONAL PROPERTY. Placement of sports or play equipment or other structures of personal property is not be permitted on the exterior portions of any Lot. Play and sports equipment are permitted in the rear fenced portion of any Lot. As used in this Section 6.10, the phrase "**exterior portions of any Lot**" means any portion of a Lot outside of a fenced area on the Lot.

6.11. DRAINAGE. No person may interfere with the established drainage pattern over any part of the Property unless an adequate alternative provision for proper drainage has been approved by the Board.

6.12. FENCES. All fences must be maintained and kept in good repair so as not to detract from the appearance of the development. No chain link fencing is permitted.

6.13. GARAGES. Garage doors must be kept closed, except when vehicles are entering or leaving the Garage. No Garage built specifically for a recreational vehicle, camper, motor home or similar vehicle will be permitted. Such vehicles may be kept on the Lot by an owner only if such a vehicle remains in the permitted garage. Parking of any vehicle on any Lot other than in the Garage, Carport or Driveway is prohibited.

6.14. MOVABLE STRUCTURES AND OUTBUILDINGS. No structure or any type, dwelling or otherwise, may be moved onto any Lot in the development except as expressly approved by the Board.

6.15. NOISE AND ODOR. A resident must exercise reasonable care to avoid making or permitting to be made loud, disturbing, or objectionable noises or noxious odors that are likely to disturb or annoy residents of neighboring Lots. The rules may prohibit the use of noise-producing security devices.

6.16. OCCUPANCY. Other than the completed principal dwelling, no thing or structure on a Lot may be occupied as a residence at any time by any person. This provision applies, without limitation, to the garage, mobile homes, campers, and storage sheds.

6.17. RESIDENTIAL USE. The use of a Lot (other than a Lot designated on a Plat for use as a park, or other Common Area) is limited exclusively to residential purposes or any other use expressly permitted by this Declaration, including limited business uses described above.

6.18. SCREENING. An Owner may be required to screen anything determined by the Architectural Reviewer to be unsightly or inappropriate for a residential subdivision. Screening may be achieved with fencing or with plant material, such as trees and bushes, or any combination of these. If plant material is used, a reasonable period of time is permitted for the plants to reach maturity as an effective screen. As used in this Section 6.18, "screened from view" refers to the view of a person in a passenger vehicle driving on a street or alley, or the view of a person of average height standing in the middle of a yard of an adjoining Lot.

6.19. TANKS. No tanks of any kind (including tanks for storage of fuel) may be erected, placed or maintained on any Lot unless such tanks are buried underground. Propane or similar fuel tanks with capacities of ten (10) gallons or less are allowed.

6.19. TELEVISION. Each resident of the Property will avoid doing or permitting anything to be done that may unreasonably interfere with the television, radio, telephonic, electronic, microwave, cable, or satellite reception on the Property. Antennas, satellite or microwave dishes, and receiving or transmitting towers that are visible from a street or from another Lot are prohibited within the Property, with the exception of an Antenna (as defined below) which are permitted if located (a) inside the structure (such as in an attic or garage) so as not to be visible from outside the structure, (b) in a fenced yard, or (c) attached to or mounted on the rear wall of a structure below the eaves. As used in this Section 6.19, the term "Antenna" means one of the following: (i) reception-only antennas or satellite dishes designed to receive television broadcast signals, (ii) antennas or satellite dishes that are one meter or less in diameter and designed to receive direct broadcast satellite service (DBS), or (iii) antennas or satellite dishes that are one meter or less in diameter or diagonal measurement and designed to receive video programming services via multipoint distribution services (MDS). If an Owner determines that an Antenna cannot be located in compliance with the above guidelines without precluding reception of an acceptable quality signal, the Owner may install the Antenna in the least conspicuous location on the Lot where an acceptable quality signal can be obtained, but in any event the Antenna must not be located where it is visible from a street contiguous with the Lot on which the Antenna is to be installed. The Association may adopt reasonable rules for the location, appearance, camouflaging, installation, maintenance, and use of the Antennas to the extent permitted by public law.

6.20. VEHICLES.

6.20.1. Except as expressly approved by the Declarant during the Development Period, and by the Board thereafter, the following must not be kept or stored within the Property unless stored inside of a closed garage: (a) junk or abandoned vehicles, (b) commercial vehicles other than company owned automobiles, (c) trailers, (d) tractor-trailers, (e) campers, (f) motor homes and recreational vehicles, (g) boats, and (h) boat trailers.

6.20.2. Minibikes, go-carts, all terrain vehicles and other similar vehicles must not be operated or stored on any Lot, the Common Area, or any other location within the Property.

6.21. YARD ORNAMENTS.

6.21.1. Artificial flamingos, deer, spinners, gazing balls, pirogues and such tableau of any type are prohibited on all Lots with the exception of the rear yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling), on which a dwelling is constructed, but only if a fence or other

screening makes such items not visible from any street on the Property or any other portion of the Property, other than the rear yard of the Lot where the item is exhibited.

6.21.2. The items allowed to be placed on Lots under Section 6.21.1, and any subsequent rules adopted by the Board or the Association, must be durable in nature and must comply with the following requirements:

- a. No more than three (3) yard decorations or tableaux of any type may be placed in areas that are visible from a street on the Property or any other portion of the Property other than the Lot on which the decoration or other tableau is exhibited.
- b. The yard decorations must be architecturally proportionate to the size of the dwelling constructed on the Lot.
- c. The yard decorations must be of a durable nature and may not be made of plastic.

6.21.3. Notwithstanding any inference to the contrary in this Section 6.21, traditional and typical seasonal decorations are permitted within season (30 days prior to a recognized holiday or event and 15 days following).

6.22. WINDOW COVERINGS AND WINDOW TREATMENTS.

6.22.1. The only window coverings or treatments which may be affixed to the interior of any window visible from a street on the Property or other portion of the Property are drapes, blinds, shades, shutters, and curtains. The side of any window coverings or treatments which are visible from the exterior of any improvements (including without limitation dwellings and garages) constructed on the Property must be white or off-white in color, except that any window coverings or treatments, or portion thereof, consisting of wooden blinds or shutters may be a natural wood color. Notwithstanding the foregoing, Declarant during the Development Period, and thereafter the Board, may, from time to time, approve additional colors as acceptable for the portions of the window coverings or treatments visible from streets on the Property or other portion of the Property.

6.22.2. No window tinting or reflective coating may be affixed to any window that is visible from any street on the Property or other portion of the Property without the prior approval of Declarant during the Development Period and thereafter from the Board.

6.22.3. No mirrored coatings are allowed any window that is visible from any street on the Property or other portion of the Property.

6.21. FLAGS. No flags may be flown or exhibited outside of a residence on the Property with the following exceptions: official flags of countries, states, parishes, cities or other organization sanctioned flags flown from poles that are six feet (6') above ground height, the construction and color of which must be approved by the Board, and mounted at a 45 degree angle to the wall of the building to which the pole is attached.

6.22. SWIMMING POOLS; TENNIS COURTS.

6.22.1. Swimming pools must not be constructed on any Lot without prior written approval from Declarant, during the Development Period, and thereafter from the Board. Notwithstanding any inference to the contrary in the preceding sentence, permission will not be given for the construction of a swimming pool on a Lot unless the swimming pool is screened from view and is not visible from any street on the Property or any other portion of the Property other than the rear yard of the Lot on which the swimming pool is constructed. Pool decks must not be constructed any closer than four feet (4') from the boundaries of the Lot on which the swimming pool is constructed; in appropriate situations, Declarant, during the Development Period, and thereafter the Board, may grant permission to construct a pool deck as close as three feet (3') from the boundaries of the Lot on which the swimming pool is constructed. If permission is granted for the construction of a swimming pool on a Lot, landscaping between must be

installed in accordance with the requirements of the Declarant, during the Development Period, and thereafter the Board, between the pool deck and the boundaries of the said Lot. At all times, all swimming pool related equipment must be screened from view and must not be visible from any street on the Property or any other portion of the Property other than the rear yard of the Lot on which the swimming pool is located. No screening will be constructed which has not been approved by the Declarant, during the Development Period, and thereafter by the Board, and all such screening will be required to mitigate noise. Slides, diving boards or other pool accessories will be prohibited unless they can be installed and used without being visible from any street on the Property or from any other portion of the Property other than the Lot on which the swimming pool is constructed. Pools must be constructed and designed so that they will not drain onto adjacent property (including the Common Area) or onto a street on the Property; where a Lot owner has been given permission to construct a swimming pool on a Lot, the Owner of the Lot must take all steps to prevent the swimming pool from draining onto adjacent property (including the Common Area) or onto a street on the Property.

6.22.2. Tennis courts must not be constructed on any Lot.

6.23. SIGNS. The following restrictions on signs will apply to all Lots within the Property unless otherwise stated in this Declaration or unless otherwise approved by Declarant during the Development Period, and thereafter by the Board.

6.23.1. All signs must meet the guidelines adopted by Declarant, during the Development Period, and thereafter by the Board.

6.23.2. Each Lot may have posted, prior to initial occupancy of the Lot, a sign setting forth the name of the architect and Builder of dwelling constructed (or being constructed) on the Lot and, in the case of a Lot owned by Declarant or a Builder approved by Declarant, a sign indicating that the Lot is available for sale.

6.23.3. All signs posted on a Lot pursuant to Section 6.23.2 must be removed on or before the date of initial occupancy of a dwelling constructed on the Lot.

6.23.4. Except as allowed by the guidelines adopted by Declarant, during the Development Period, and thereafter by the Board, no "for sale" or "for lease" signs may be posted on a Lot without the prior written consent of Declarant during the Development Period, and thereafter the Board. An "open house" sign indicating that the Owner of the Lot is hosting such an event may be posted on that Lot for a period not to exceed three (3) continuous days.

6.23.5. To the extent permitted by applicable law, signs containing political content or endorsements of candidates are prohibited in The Waters Subdivision.

6.23.6. Declarant may post "model home" or similar signs on any Lot containing a model home open to the public prior to initial occupancy of the dwelling constructed on such a Lot.

6.23.7. No other signs, except those required by law, including posters, circulars, and billboards, may be posted on any Lot so as to be visible from streets on the Property or from any other portion of the Property other than the Lot on which such a sign is posted.

6.23.8. Notwithstanding any language to the contrary in this Declaration, during the Development Period Declarant is permitted to post and display advertising signs and any other signs desired by Declarant which relate to the development of The Waters Subdivision, including "for sale" signs on Lots for sale (with or without a dwelling constructed on same), within The Waters Subdivision.

6.24. Furniture for Front Porch, Balcony and Yard. Furniture placed outside of a dwelling on a Lot, whether on the front porch, balcony or in a yard, if visible from a street on the Property or any other location on the Property other than the rear yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling) on which a dwelling is constructed: (a) must be durable, and (b) must not be made of plastic. All collapsible furniture placed outside of a dwelling on a Lot, whether on the front porch, balcony or in a yard, if visible from a street on the Property or any other location on the Property other than the rear

yard of a Lot (i.e., the rear portion of a Lot which faces the rear wall of the dwelling) must be placed in storage and outside of the view of Person(s) on any street in the Property.

ARTICLE 7 ASSOCIATION OPERATIONS

7.1. **THE ASSOCIATION.** The existence and legitimacy of the Association is derived from this Declaration, and the Articles and Bylaws of the Association. The Association must be a nonprofit organization and is incorporated, but may later dissolve and operate as an unincorporated association, as the Association decides from time to time. The subsequent failure of the Association to maintain its corporate charter from time to time does not affect the existence or legitimacy of the Association. The duties and powers of the Association are those set forth in the Community Documents, together with the general and implied powers of a Homeowners association. Generally, the Association may do any and all things that are lawful and necessary, proper, or desirable in operating for the peace, health, comfort, and general benefit of its Members, subject only to the limitations on the exercise of such powers as stated in the Community Documents. The Association, as a legal corporate entity, will officially come into existence (or came into existence) when the Articles of the Association are (or were) filed with the Florida Secretary of State; but the Association (whether or not the Articles have been filed at the time of filing this Declaration) comes into existence when this Declaration is publicly recorded in the Parish conveyance records and will continue to exist at least as long as this Declaration, as it may be amended, is effective against all or part of the Property.

7.2. **MEMBERSHIP.** Every Owner of a Lot will be a Member of the Association. There will be only one (1) membership per Lot. Membership will be appurtenant to and may not be separate nor apart from ownership of any Lot.

A. **Co-Owners.** If a Lot is owned by more than one (1) Person, all co-Owners will share the rights of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in this Article 7 and in the Bylaws, and all such co-Owners will be solidarily obligated to perform the responsibilities of Owners.

B. **Nature of Owner.** The membership rights of an Owner who is a natural person may be exercised by the Member or the Member's spouse. The membership rights of an Owner which is a corporation, partnership, other legal entity or some form of Governmental Authority may be exercised by any officer, director, partner, or trustee, or by any other duly authorized Individual designated from time to time by the Owner in a written instrument provided to the Secretary of its Association.

7.3. **VOTING RIGHTS.** The Association will have two (2) classes of membership, which are Class A Membership and Class B Membership, described as follows:

A. **Class A.** Class A Members of the Association will be all Owners of Lots included within the Property, with the exception that Declarant will not be a Class A Member for so long as Declarant remains a Class B Member. Each Class A Member will have one (1) vote for each Lot which they own; but, in any event: (a) there will be only one (1) vote per Lot, and (b) no votes may be exercised on account of any Lot which is owned by a Builder (other than Declarant or a Declarant Affiliate) and exempt from Assessment under an exemption granted by the Association or by Declarant under Declarant's rights under section 15.1.3. When more than one (1) Person holds an interest in any Lot, all such persons will be Members, provided, however, that the vote for such Lot will be exercised as they determine and advise the Secretary of its Association in writing prior to the close of balloting. In no event will more than one vote be cast with respect to any Lot which is owned by more than one (1) Person. Corporations, limited liability companies, partnerships and other entities must notify the Association of the natural person who is authorized to exercise its vote; such entities must provide such evidence of appointment and authority as its Board may require.

B. **Class B.** The Class B Member of the Association will be Declarant, and no other Person may be a Class B Member of the Association. Declarant, as the Class B Member, will be entitled to three (3) votes for each Lot owned at the time of: (1) any meeting of the Members of the Association, or (2)

other occasion when Members vote. Other rights of the Class B Member may be included elsewhere in this Declaration and / or in the Bylaws.

C. Termination of Class B Membership. The Class B Membership will terminate two (2) years after termination of the Class B Control Period. The Class B Control Period is that period of time commencing on the date of recordation of this Declaration and continuing until the first of the following to occur:

- (1) when one hundred percent (100%) of the total number of Lots proposed for the Property described on Exhibit A of the Declaration, and for any Additional Land added (by supplemental declaration or an amending declaration) to the Property to become part of The Waters, have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;
- (2) seventy-five (75) years after the date on which the Declaration is recorded in the public records of Santa Rosa County, Florida; or
- (3) when, in its discretion, the Class B Member determines and expressly declares in writing that it is no longer a Class B Member.

Notwithstanding any inference to the contrary: (i) if the Class B Control Period is terminated by the Class B Member pursuant to subpart C(3) of this Section 7.3, the termination must be recorded in the conveyance records of the Parish; and (ii) upon any termination of the Class B Control Period, the Class B Member may, in its sole discretion, terminate its Class B Membership immediately rather than wait until the two (2) year anniversary of the termination of the Class B Control Period, but if the Class B Member desires to terminate the Class B Member early then the Class B Member must expressly declare that intent in writing and such declaration should be included as part of Declarant's recorded termination of the Class B Control Period. After termination of the Class B Control Period, the Class B Member will continue to have a right to disapprove actions of the Association, its Board and any committee to the extent the Association's Bylaws or other Community Documents expressly provide that the Class B Member will continue to have certain rights after termination of the Class B Control Period.

D. Exercise of Voting Rights. Except as otherwise specified in this Declaration or the Bylaws, the vote for each Lot owned by a Class A Member will be exercised by the Owner of each Lot.

E. Declarant's Rights. Declarant's rights (including its special voting rights) as the Class B Member of the Association are independent of, and in addition to, all rights granted to, or reserved by, Declarant in other provisions of this Agreement where there is no reference to Declarant's status as the Class B Member (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1). Further, Declarant's rights created or otherwise reserved under other provisions of this Agreement (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1), or in any other Community Document, are independent of, and in addition to, all rights of Declarant as the Class B Member. For example, if Declarant voluntarily terminates the Class B Control Period and Declarant ceases to be a Class B Member, Declarant will continue to have all rights granted to, or reserved by, Declarant in other provisions of this Declaration (including without limitation in Articles 5 and 15, and Sections 4.1, 6.9 and 16.1) which do not use the term, or otherwise refer to, the term "Class B Member".

7.4. BOARD. The Association is governed by the Board. Unless the Association's Bylaws or Articles of Incorporation provide otherwise, the Board will consist of at least 3 persons elected by the Members at the annual meeting of the Association, or at a special meeting called for that purpose. Unless the Community Documents expressly reserve a right, action, or decision to the Owners, Declarant, or another party, the Board acts in all instances on behalf of the Association. Unless the context indicates otherwise, references in the Community Documents to the "Association" will be construed to mean "the Association acting through its Board".

7.3. MEMBERSHIP. Each Owner is a Member of the Association, ownership of a Lot being the sole qualification for membership. Membership is appurtenant to and may not be separated from ownership of the Lot. The Board may require satisfactory evidence of transfer of ownership before a purported Owner is entitled to vote at meetings of the Association. If a Lot is owned by more than one

person or entity, each co-Owner is a Member of the Association and may exercise the membership rights appurtenant to the Lot. A Member who sells its Lot under a bond for deed may delegate his membership rights to the contract purchaser, provided a written assignment is delivered to the Board. However, the contract seller remains liable for all Assessments attributable to his Lot until fee title to the Lot is transferred.

7.4. **DECISION-MAKING.** Any decision or act of the Association may be made by or at the direction of the Board, unless the Community Documents reserve the decision or act to the Members, the Declarant, or any other person or group. Unless the Community Documents or applicable law provide otherwise, any action requiring approval of the Members may be approved (a) at a meeting by Owners of at least a majority of the Lots that are represented at the meeting, provided notice of the meeting was given to an Owner of each Lot, or (b) in writing by Owners of at least a majority of all Lots, provided the opportunity to approve or disapprove was given to an Owner of each Lot.

7.5. **MANAGING AGENT.** The Board may delegate the performance of certain functions to one or more managing agents of the Association. Notwithstanding a delegation of its functions, the Board is ultimately responsible to the Members for governance of the Association.

7.6. **VOTING.** One indivisible vote is appurtenant to each Lot. The total number of votes equals the total number of Lots in the Property. If additional property is made subject to this Declaration, the total number of votes will be increased automatically by the number of additional Lots. Each vote is uniform and equal to the vote appurtenant to every other Lot, except during the Development Period as permitted in Article 15. Cumulative voting is not allowed. Votes may be cast by written proxy, according to the requirements of the Association's Bylaws.

7.7. **INDEMNIFICATION.** Indemnified expenses include, without limitation, reasonable attorney's fees, whether or not a lawsuit is filed, and costs at all court levels, including expenses incurred by a person in establishing the right to be indemnified, defended, and held harmless pursuant to this Declaration. The Association may maintain general liability and directors and officers liability insurance to fund this obligation.

7.7.1. **Association Leaders.** The Association will indemnify every present and former officer, director, committee chair, and committee member (for purposes of this Section, "**Leaders**") against expenses, including attorney's fees, reasonably incurred by or imposed on the Leader in connection with an action, suit, or proceeding to which the Leader is a party by reason of being or having been a Leader. A Leader is not liable for a mistake of judgment, negligent or otherwise. A Leader is liable for his willful misfeasance, malfeasance, misconduct, or bad faith. This right to indemnification does not exclude any other rights to which present or former Leaders may be entitled. Additionally, the Association may indemnify a person who is or was an employee, trustee, agent, or attorney of the Association, against any liability asserted against him and incurred by him in that capacity and arising out of that capacity.

7.7.2. **Indemnity for Common Area Operations.** The Association must indemnify, defend, and hold harmless Declarant against any loss, claim, demand, damage, cost, and expense relating to or arising out of the management and operation of the Association, including without limitation, the collection of Assessments, the enforcement of the Community Documents, and the operation and maintenance of the Property's Common Areas.

ARTICLE 8 COVENANT FOR ASSESSMENTS

8.1. **PURPOSE OF ASSESSMENTS.** The Association will use Assessments for the purposes of preserving and enhancing the Property, and for the common benefit of Owners and residents, including but not limited to maintenance of immovable and movable property, management and operation of the Association, and any expense reasonably related to the purposes for which the Property was developed. If made in good faith, the Board's decision with respect to the use of Assessments is final.

8.2. **PERSONAL OBLIGATION.** An Owner is obligated to pay Assessments levied by the Board against the Owner or his Lot. An Owner makes payment to the Association at its principal office or at any other place the Board directs. Payments must be made in full regardless of whether an Owner has a

dispute with the Association, another Owner, or any other person or entity regarding any matter to which this Declaration pertains. No Owner may exempt himself from his Assessment liability by waiver of the use or enjoyment of the Common Area or by abandonment of his Lot. An Owner's obligation is not subject to offset by the Owner, nor is it contingent on the Association's performance of the Association's duties. Payment of Assessments is both a continuing affirmative covenant personal to the Owner and a continuing covenant running with the Lot.

8.3. TYPES OF ASSESSMENTS. There are 3 types of Assessments: Regular, Special, and Individual.

8.3.1. Regular Assessments. Regular Assessments are based on the annual budget. Each Lot is liable for its equal share of the annual budget. If the Board fails to determine new Regular Assessments for any year, Owners will continue to pay the Regular Assessment as last determined. If during the course of a year the Board determines that Regular Assessments are insufficient to cover the estimated common expenses for the remainder of the year, the Board may increase Regular Assessments for the remainder of the fiscal year in an amount that covers the estimated deficiency. Regular Assessments are used for common expenses related to the reoccurring, periodic, and anticipated responsibilities of the Association, including but not limited to:

- a. maintenance, repair, and replacement, of the Common Area;
- b. utilities and services billed to the Association;
- c. taxes on property owned by the Association and the Association's income taxes;
- d. management, legal, accounting and professional fees for services to the Association;
- e. operating expenses;
- f. premiums and deductibles on insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association;
- g. contributions to the reserve funds; and
- h. any other expense which the Association is required by law or the Community Documents to pay, or which in the opinion of the Board is necessary or proper for the operation and maintenance of the Property or for enforcement of the Community Documents.

8.3.2. Special Assessments. In addition to Regular Assessments, the Board may levy one or more Special Assessments against all Lots for the purpose of defraying, in whole or in part, common expenses not anticipated by the annual budget or reserve funds. Special Assessments do not require the approval of the Owners, except that Special Assessments for the following purposes must be approved by Owners of least a majority of the Lots: (a) acquisition of immovable property, other than the purchase of a Lot at the sale foreclosing the Association's privilege against the Lot; (b) construction of additional improvements within the Property, but not replacement of original improvements; and (c) any expenditure that may reasonably be expected to significantly increase the Association's responsibility and financial obligation for operations, insurance, maintenance, repairs, or replacement.

8.3.3. Individual Assessments. In addition to Regular and Special Assessments, the Board may levy an Individual Assessment against a Lot and its Owner. Individual Assessments may include, but are not limited to: interest, late charges, and collection costs on delinquent Assessments; reimbursement for costs incurred in bringing an Owner or his Lot into compliance with the Community Documents; fines for violations of the Community Documents; fees or charges by the managing agent of the Association for services provided to, or for the benefit of, one Lot; common expenses that benefit fewer than all of the Lots, which may be assessed according to benefit received; fees or charges levied against the Association on a per-Lot basis; and "pass through" expenses for services to Lots provided through the Association and which are equitably paid by each Lot according to benefit received.

8.4. **BASIS AND RATE OF ASSESSMENTS**. The share of liability for common expenses allocated to each Lot is uniform for all Lots; subject, however, to an exemption for Declarant provided in Article 15.

8.5. **ANNUAL BUDGET**. The Board will prepare and approve an estimated annual budget for each fiscal year.

8.6. **DUE DATE**. The Board may levy Regular Assessments on any periodic basis - annually, semi-annually, quarterly, or monthly. Regular Assessments are due on the first day of the period for which levied. Special and Individual Assessments are due on the date stated in the notice of Assessment or, if no date is stated, within 10 days after notice of the Assessment is given. Assessments are delinquent if not received by the Association on or before the due date.

8.7. **RESERVE FUNDS**. The Association may establish, maintain, and accumulate reserves for operations and for replacement and repair of Common Area improvements. Declarant is not required to fund reserves.

8.8. **ASSOCIATION'S RIGHT TO BORROW MONEY**. The Association is granted the right to borrow money, subject to the consent of Owners of at least a majority of Lots and the ability of the Association to repay the borrowed funds from Assessments. To assist its ability to borrow, the Association is granted the right to encumber, mortgage, or pledge any of its immovable or movable property, and the right to assign its right to future income, as security for money borrowed or debts incurred, provided that the rights of the lender in the pledged property are subordinate and inferior to the rights of the Owners hereunder.

8.9. **LIMITATIONS OF INTEREST**. Notwithstanding anything to the contrary in the Community Documents or any other document or agreement executed or made in connection with the Association's collection of Assessments, the Association will not in any event be entitled to receive or collect, as interest, a sum greater than the maximum amount permitted by applicable law.

8.10. **EFFECT OF NONPAYMENT OF ASSESSMENTS**. An Assessment is delinquent if the Association does not receive payment in full by the Assessment's due date. The Association, acting through the Board, is responsible for taking action to collect delinquent Assessments. From time to time, the Association may delegate some or all of the collection procedures and remedies, as the Board in its sole discretion deems appropriate, to the Association's managing agent, an attorney, or a debt collector. Neither the Board nor the Association, however, is liable to an Owner or other person for its failure or inability to collect or attempt to collect an Assessment. The following remedies and rights are in addition to and not in substitution for all other rights and remedies which the Association has:

- a. Delinquent Assessments bear interest from the date due until paid, at a rate to be determined by the Board from time to time, not to exceed ten percent (10%) per annum, and reasonable late fees, at a rate to be determined by the Board from time to time.
- b. If an Assessment is being paid in installments, the Association may accelerate the remaining installments.
- c. The Owner who has not paid the Assessment is liable to the Association for reimbursement of reasonable costs incurred by the Association to collect the delinquent Assessments, such as attorney's fees.
- d. If the delinquent Assessment is more than thirty (30) days past due, the Association may suspend the right to vote appurtenant to the Lot.
- e. The Association may file suit seeking a money judgment against the Owner, without foreclosing or waiving the Association's privilege for Assessments, may notify and communicate with the holder of any privilege against a Lot regarding the Owner's default and payment of Assessments and may foreclose its privilege against the Lot by judicial or non-judicial means.

8.11. **MEANING OF PRIVILEGE.** As used in this Article 8 and in other provisions of this Declaration (including without limitation Article 9), the word "privilege" has the same meaning as the word "privilege" in Louisiana Revised Statutes 9:1145 - 1148.

ARTICLE 9 ASSESSMENT PRIVILEGE

9.1. **ASSESSMENT PRIVILEGE.** Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay Assessments to the Association. Each Assessment is a charge on the Lot and is secured by a continuing privilege on the Lot. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing privilege for Assessments attributable to a period prior to the date he purchased his Lot.

9.2. **SUPERIORITY OF MORTGAGE.** The Assessment privilege on a Lot is subordinate and inferior to (a) a recorded mortgage securing a loan for construction of the original dwelling, (b) a first or senior purchase money vendor's privilege or mortgage and any renewal, modification or refinancing of said vendor's privilege or mortgage, (c) a home equity or reverse mortgage which is a renewal, extension, or refinance of a first or senior purchase money vendor's privilege or mortgage recorded before the date on which the delinquent Assessment became due, and (d) an FHA-insured or VA-guaranteed mortgage.

9.3. **EFFECT OF MORTGAGEE'S FORECLOSURE.** Foreclosure of a superior lien or other superior encumbrance extinguishes the Association's claim against the Lot for unpaid Assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien or other superior encumbrance is liable for Assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as an Association expense.

9.4. **NOTICE AND RELEASE OF NOTICE.** The Association's privilege for Assessments is created by recordation of a sworn detailed statement in accordance with the requirements of Florida law.

9.5. **FORECLOSURE OF PRIVILEGE.** The Assessment privilege may be enforced by judicial or non-judicial foreclosure. In any foreclosure, the Owner is required to pay the Association's costs and expenses for the proceedings, including reasonable attorney's fees. The Association has the power to bid on the Lot at foreclosure sale and to acquire, hold, lease, mortgage, and convey same.

ARTICLE 10 ENFORCING THE COMMUNITY DOCUMENTS

10.1. **NOTICE AND HEARING.** Before the Association may exercise certain of its remedies for a violation of the Community Documents or damage to the Property, the Association must give an Owner written notice and an opportunity for a hearing, according to the requirements and procedures in the Bylaws and in applicable law. Notices are also required before an Owner is liable to the Association for certain charges, including reimbursement of attorney's fees incurred by the Association.

10.2. **REMEDIES.** The remedies provided in this Article for breach of the Community Documents are cumulative and not exclusive. In addition to other rights and remedies provided by the Community Documents and by applicable law, the Association has the following rights to enforce the Community Documents, subject to applicable notice and hearing requirements (if any):

10.2.1. **Fine.** The Association may levy fines for each act of violation or for each day a violation continues.

10.2.2. **Suspension.** The Association may suspend the right of Owners and residents to use Common Areas for any period during which the Owner or resident, or the Owner or resident's family, guests, employees, agents, or contractors violate the Community Documents.

10.2.3. Self-Help. The Association has the right to enter any part of the Property, including Lots, to abate or remove, using force as may reasonably be necessary, any improvement, thing, animal, person, vehicle, or condition that violates the Community Documents. In exercising this right, the Board is not trespassing and is not liable for damages related to the abatement. The Board may levy its costs of abatement against the Lot and Owner as an Individual Assessment. The Board will make reasonable efforts to give the violating Owner prior notice of its intent to exercise self-help. The notice may be given in any manner likely to be received by the Owner. Prior notice is not required (a) in the case of emergencies, (b) to remove signs which violate the restrictions in this Declaration or in any rules adopted by the Association, (c) to remove violative debris, or (d) to remove any other violative item or to abate any other violative condition that is easily removed or abated and that is considered a nuisance, dangerous, or an eyesore to the neighborhood.

10.2.4. Suit. Failure to comply with the Community Documents will be grounds for an action to recover damages or for injunctive relief to cause any such violation to be remedied, or both.

10.3. BOARD DISCRETION. The Board may use its sole discretion in determining whether to pursue a violation of the Community Documents, provided the Board does not act in an arbitrary or capricious manner. In evaluating a particular violation, the Board may determine that under the particular circumstances (1) the Association's position is not sufficiently strong to justify taking any further action; (2) the provision being enforced is or may be construed as inconsistent with applicable law; (3) although a technical violation may exist, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (4) that enforcement is not in the Association's best interest, based on hardship, expense, or other reasonable criteria.

10.4. NO WAIVER. The Association and every Owner has the right to enforce all restrictions, conditions, covenants, privileges, and charges now or hereafter imposed by the Community Documents. Failure by the Association or by any Owner to enforce a provision of the Community Documents is not a waiver of the right to do so thereafter. If the Association does waive the right to enforce a provision, that waiver does not impair the Association's right to enforce any other part of the Community Documents at any future time. No officer, director, or Member of the Association is liable to any Owner for the failure to enforce any of the Community Documents at any time.

10.5. RECOVERY OF COSTS. The costs of curing or abating a violation are at the expense of the Owner or other person responsible for the violation. If legal assistance is obtained to enforce any provision of the Community Documents, or in any legal proceeding (whether or not suit is brought) for damages or for the enforcement of the Community Documents or the restraint of violations of the Community Documents, the prevailing party is entitled to recover from the nonprevailing party all reasonable and necessary costs incurred by it in such action, including reasonable attorney's fees.

ARTICLE 11

MAINTENANCE AND REPAIR OBLIGATIONS

11.1. ASSOCIATION MAINTAINS. The Association's maintenance obligations will be discharged when and how the Board deems appropriate. The Association maintains, repairs, and replaces, as a common expense, the portions of the Property listed below, regardless of whether the portions are on Lots or Common Areas:

- a. the Common Areas;
- b. any immovable and movable property owned by the Association but which is not a Common Area, such as a Lot owned by the Association;
- c. any property adjacent to the Property if maintenance of same is deemed to be in the best interests of the Association, and if not prohibited by the owner or operator of said property; and
- d. any area, item, servitude, or service - the maintenance of which is assigned to the Association by this Declaration, by the County, or by the Plat.

11.2. **OWNER RESPONSIBILITY**. Every Owner has the following responsibilities and obligations for the maintenance, repair, and replacement of the Property, subject to the architectural control requirements:

11.2.1. **House Maintenance**. Each Owner, at the Owner's expense, must maintain all improvements on the his Lot. Maintenance includes preventative maintenance, repair as needed, and replacement as needed. Each Owner is expected to maintain his Lot's improvements at a level, to a standard, and with an appearance that is commensurate with the neighborhood. Specifically, each Owner must repair and replace worn, rotten, deteriorated, and unattractive materials, and must regularly repaint all painted surfaces.

11.2.2. **Yard Maintenance**. Each Owner, at the Owner's expense, must maintain the yards on his Lot at a level, to a standard, and with an appearance that is commensurate with the neighborhood. "Yards" means all parts of the Lot other than the dwelling, including fenced and unfenced portions of the Lot.

11.3. **OWNER'S DEFAULT IN MAINTENANCE**. If the Board determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may do so at Owner's expense, which is an Individual Assessment against the Owner and his Lot. In case of an emergency, however, the Board's responsibility to give the Owner written notice may be waived and the Board may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense.

ARTICLE 12 **MORTGAGEE PROTECTION**

12.1. **PURCHASE MONEY MORTGAGEE RIGHTS**. As used in this Article, "**Purchase Money Mortgagee**" means a holder, insurer, or guarantor of a purchase money mortgage secured by a recorded senior or first mortgage against a Lot, or any renewal, modification, or refinancing of said recorded senior or first mortgage. The Purchase Money Mortgagee has the following rights:

- a. its mortgage against the Lot is superior to the Association's privilege for Assessments;
- b. an action to terminate the legal status of the Property after substantial destruction or condemnation must be approved by a majority of the Purchase Money Mortgagees, in addition to the required consents of Owners;
- c. an action to terminate the legal status for reasons other than substantial destruction or condemnation must be approved by at least two-thirds of the Purchase Money Mortgagees;
- d. a Purchase Money Mortgagee may inspect the Association's books and records, by appointment, during normal business hours;
- e. a Purchase Money Mortgagee may have an audited statement prepared at its own expense;
- f. a Purchase Money Mortgagee is exempt from any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Lot; and
- g. a Purchase Money Mortgagee may attend and address any meeting of the Association which an Owner may attend.

12.2 **COMMUNICATIONS WITH MORTGAGEE**. If the Community Documents or public law require the consent of Purchase Money Mortgagees for an act, decision or amendment by the Association, the approval of a Purchase Money Mortgagee is implied when the Purchase Money

Mortgagee fails to respond within thirty (30) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

ARTICLE 13 AMENDMENTS

13.1. **CONSENTS REQUIRED.** As permitted by this Declaration, certain amendments of this Declaration may be approved by Declarant alone, or by the Board alone. Otherwise, amendments to this Declaration must be approved by a majority vote of the Members. Approval of the Members does not require that an amendment to this Declaration be signed by the consenting Owners, or that consents be executed and acknowledged by the approving Members; where a vote of the Members is required to amend this Declaration, a Certificate signed by the Secretary of the Association will be sufficient to evidence the required consent.

13.2. **EFFECTIVE.** To be effective, an amendment must be in the form of a written instrument (a) referencing the name of the Property, the name of the Association, and the recording data of this Declaration and any amendments hereto, (b) reciting the authority by which approved, and (c) recorded in the conveyance records of the parish in which the Property is located.

13.4. **DECLARANT PROVISIONS.** Declarant has an exclusive right to Unilaterally amend this Declaration for the purposes stated in Article 15. No amendment may affect Declarant's rights under this Declaration without Declarant's written and acknowledged consent, which must be part of the recorded amendment instrument. This Section may not be amended without the Declarant's written and acknowledged consent.

13.5. **MERGER.** Merger or consolidation of the Association with another association must be evidenced by an amendment to this Declaration. During the Development Period, any amendment effecting or authorizing a merger or consolidation of the Association with another association must be approved by Declarant. After the Development Period, the amendment must be approved by Owners of at least a majority of the Lots.

ARTICLE 14 DISPUTE RESOLUTION

14.1. **INTRODUCTION AND DEFINITIONS.** The Association, the Owners, Declarant, all persons subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, the "**Parties**") agree to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, each Party hereby covenants and agrees that this Article applies to all claims as hereafter defined. As used in this Article only, the following words, when capitalized, have the following specified meanings:

14.1.1. "**Claim**" means any claim, grievance, or dispute between Parties involving the Property, except Exempt Claims, as defined below, and including without limitation (a) claims arising out of or relating to the interpretation, application or enforcement of the Community Documents, (b) claims related to the rights and/or duties of Declarant as Declarant under the Community Documents, and (c) claims relating to the design, construction, or maintenance of the Property.

14.1.2. "**Claimant**" means any Party having a Claim against any other Party.

14.1.3. "**Exempt Claims**" means the following claims or actions, which are exempt from this

Article:

- a. the Association's claim for Assessments, and any action by the Association to collect Assessments;
- b. an action by a Party to obtain a temporary restraining order or equivalent emergency equitable relief, and such other ancillary relief as the court deems

necessary to maintain the status quo and preserve the Party's ability to enforce the provisions of this Declaration;

- c. enforcement of the servitudes, architectural control, maintenance, and use restrictions of this Declaration; and
- d. a suit to which an applicable statute of limitations would expire within the notice period of this Article, unless a Party against whom the Claim is made agrees to toll the statute of limitations as to the Claim for the period reasonably necessary to comply with this Article.

14.1.4. **"Respondent"** means the Party against whom the Claimant has a Claim.

14.2. **MANDATORY PROCEDURES.** Claimant may not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of its Claim until Claimant has complied with the procedures of this Article.

14.3. **NOTICE.** Claimant must notify Respondent in writing of the Claim (the **"Notice"**), stating plainly and concisely: (a) the nature of the Claim, including date, time, location, persons involved, and Respondent's role in the Claim; (b) the basis of the Claim (i.e., the provision of the Community Documents or other authority out of which the Claim arises); (c) what Claimant wants Respondent to do or not do to resolve the Claim; and (d) that the Notice is given pursuant to this Section.

14.4. **NEGOTIATION.** Claimant and Respondent will make every reasonable effort to meet in person to resolve the Claim by good faith negotiation. Within 60 days after Respondent's receipt of the Notice, Respondent and Claimant will meet at a mutually-acceptable place and time to discuss the Claim. At such meeting or at some other mutually-agreeable time, Respondent and Respondent's representatives will have full access to the property that is subject to the Claim for the purposes of inspecting the property. If Respondent elects to take corrective action, Claimant will provide Respondent and Respondent's representatives and agents with full access to the property to take and complete corrective action.

14.5. **MEDIATION.** If the parties negotiate but do not resolve the Claim through negotiation within one hundred twenty (120) days from the date of the Notice (or within such other period as may be agreed on by the parties), Claimant will have thirty (30) additional days within which to submit the Claim to mediation by a mediator on which the parties mutually agree. If Claimant does not submit the Claim to mediation within the said thirty (30) day period, Claimant is deemed to have waived the Claim, and Respondent is released and discharged from any and all liability to Claimant on account of the Claim.

14.6. **TERMINATION OF MEDIATION.** If the Parties do not settle the Claim within 30 days after submission to mediation, the mediator will issue a notice of termination of the mediation proceedings indicating that the Parties are at an impasse and the date that mediation was terminated. Thereafter, Claimant may file suit or initiate administrative proceedings on the Claim, as appropriate.

14.7. **ALLOCATION OF COSTS.** Except as otherwise provided in this Section, each Party bears all of its own costs incurred prior to and during the proceedings described in the Notice, Negotiation, and Mediation sections above, including its attorney's fees. Respondent and Claimant will equally divide all expenses and fees charged by the mediator.

14.8. **ENFORCEMENT OF RESOLUTION.** Any settlement of the Claim through negotiation or mediation will be documented in writing and signed by the Parties. If any Party thereafter fails to abide by the terms of the agreement, then the other Party may file suit or initiate administrative proceedings to enforce the agreement without the need to again comply with the procedures set forth in this Article. In that event, the Party taking action to enforce the agreement is entitled to recover from the non-complying Party all costs incurred in enforcing the agreement, including, without limitation, attorney's fees and court costs.

14.9. **LITIGATION APPROVAL AND SETTLEMENT.** The initiation of any judicial or administrative proceeding by the Association is subject to the following conditions in addition to the above alternate

dispute resolution procedures. Each Owner, by accepting an interest in or title to a Lot, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to be bound by this Section. This Section may not be amended without the approval of Owners of at least seventy-five percent (75%) of the Lots.

14.9.1. Owner Approval. The Association may not initiate any judicial or administrative proceeding without the prior approval of Owners of at least a majority of the Lots, except that no such approval is required (a) to enforce provisions of this Declaration, including collection of Assessments; (b) to challenge condemnation proceedings; (c) to enforce a contract against a contractor, vendor, or supplier of goods or services to the Association; (d) to defend claims filed against the Association or to assert counterclaims in a proceedings instituted against the Association; or (e) to obtain a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to obtain the prior consents of Owners in order to preserve the status quo.

14.9.2. Higher Approval of Certain Suits. Also, the Association may not initiate any judicial or administrative proceeding against Declarant, a Declarant Affiliate, a Builder, Association officers and directors, or the managing agent of the Association without the approval of Owners representing at least seventy-five percent (75%) of the Lots.

14.9.3. Funding Litigation. Except in the case of a temporary restraining order or equivalent emergency equitable relief when circumstances do not provide sufficient time to levy a Special Assessment, the Association must levy a Special Assessment to fund the estimated costs of litigation prior to initiating a judicial or administrative proceeding. The Association may not use its annual operating income, reserve funds, or savings to fund litigation, unless the Association's annual budget or a savings account was established and funded from its inception as a litigation reserve fund.

14.9.4. Settlement. The Board, on behalf of the Association and without the consent of Owners, is hereby authorized to negotiate settlement of litigation, and may execute any document related thereto, such as settlement agreements and waiver or release of claims.

ARTICLE 15

DECLARANT RIGHTS AND RESERVATIONS

15.1. GENERAL PROVISIONS.

15.1.1. General Reservation and Construction. Notwithstanding other provisions of this Declaration and other Community Documents to the contrary: (a) nothing contained in this Declaration or any of the other Community Documents may be construed to prevent, interfere or lessen the rights of Declarant reserved or otherwise contained in this Article 15; and (b) all mortgagees, other Owners, and the Association are all prohibited from preventing or interfering with the exercise by Declarant of the rights of Declarant reserved or otherwise contained in this Article 15. Declarant hereby reserves exclusively unto itself and its successors and assigns all rights of Declarant set forth in this Article 15. In case of conflict between this Article and any other provision of this Declaration or any other Community Document, this Article controls. This Article may not be amended without the prior written consent of Declarant. The terms and provisions of this Article must be construed liberally to give effect to Declarant's intent to protect Declarant's interests in the Property.

15.1.2. Purpose of Development Period. This Article gives Declarant certain rights during the Development Period to ensure a complete and orderly buildout and sellout of the Property, which is ultimately for the benefit and protection of Owners and mortgagees.

15.1.3. Intent to Build. Declarant, in its own name or through Declarant Affiliates, intends to construct dwellings on the Lots in connection with the sale of the Lots. However, Declarant may, without notice, sell some or all of the Lots to one or more other Builders to improve the Lots with dwellings to be sold and occupied. In that event and during the Development Period: (a) Declarant may declare any other Builder (including without limitation Declarant Affiliates) exempt, in whole or in part, from Assessments by the Association and from any obligation to make contributions to the Association's reserve funds and such exemption may be fixed for a designated period of time or may be indefinite; and (b) Declarant may, in its sole discretion, amend this Declaration to add or modify provisions addressing the role of a Builder in the

Property and Declarant is hereby granted the authority to Unilaterally amend this Declaration as provided in Section 13.4 for this purpose.

15.2. [INTENTIONALLY LEFT BLANK]

15.3. DEVELOPMENT PERIOD RESERVATIONS - GOVERNANCE. Declarant reserves the following powers, rights, and duties during the Development Period:

15.3.1. Incorporation of Association. Declarant will incorporate the Association as an Florida nonprofit corporation before the end of the Development Period.

15.3.2. Officers and Directors. During the Development Period, the Board may consist of 3 persons, or such other number as may be authorized in the Bylaws. During the Development Period, Declarant may appoint, remove, and replace any officer and any director of the Association, none of whom need be Members or Owners, and each of whom is indemnified by the Association as a "Leader." Declarant's unilateral right to remove and replace officers and directors applies to officers and directors who were elected or designated by Owners other than Declarant, as well as to Declarant's appointees.

15.3.3. Association Meetings. During the Development Period, meetings of the Association may be held at a location, date, and time that is convenient to Declarant, whether or not it is mutually convenient for the Owners.

15.3.4. Transition Meeting. Within 60 days after the end of the Development Period, or sooner at the Declarant's option, Declarant will call a transition meeting of the Owners for the purpose of electing, by vote of the Members, directors to the Board. Written notice of the transition meeting must be given to an Owner of each Lot at least 10 days before the meeting. For the transition meeting, Owners of ten percent (10%) of the Lots constitute a quorum. The directors elected at the transition meeting will serve until the next annual meeting of the Association or a special meeting of the Association called for the purpose of electing directors, at which time the staggering of terms will begin.

15.4. DEVELOPMENT PERIOD RESERVATIONS - FINANCIAL. Declarant reserves the following powers, rights, and duties during the Development Period:

15.4.1. Association Budget. During the Development Period, the Declarant-appointed Board will establish a projected budget for the Property as a fully developed, fully constructed, and fully occupied residential community with a level of services and maintenance that is typical for similar types of developments in the general area of the Property, using cost estimates that are current for the period in which the budget is prepared.

15.4.2. Budget Funding. As long as the Declarant controls the Association by its appointment of a majority or more of the directors, Declarant is responsible for the difference between the Association's actual operating expenses and the Regular Assessments received from the Owners other than Declarant, and will provide any additional funds necessary to pay actual cash outlays of the Association. When Declarant ceases to control the Association, Declarant will cease being responsible for the difference between the Association's operating expenses and the Assessments received from Owners other than Declarant.

15.4.3. Enhancements. During the Development Period, Declarant, in Declarant's sole discretion, may, from time to time, voluntarily provide enhancements for the Property, such as higher levels of maintenance, management, insurance, seasonal color in landscaping, and recreational personnel. Such enhancements are not included in the Association's annual operating budget or, alternatively, if included are identified as Declarant enhancements. In the event that Declarant provides enhancements to the Property as authorized in this Section 15.4.3, Declarant may at any time cease providing such enhancements.

15.4.4. Declarant Assessments and Reserves. During the Development Period, any immovable property owned by Declarant is not subject to Assessment by the Association. During the Development Period, Declarant is not required to make contributions to the Association's reserve funds for the Lots owned by Declarant.

15.4.5. Commencement of Assessments. During the Development Period, Declarant will determine when the Association first levies Regular Assessments against the Lots.

15.4.6. Budget Control. During the Development Period, the right of Owners to veto Assessment increases or Special Assessments is not effective and may not be exercised.

15.4.7. Inspect and Correct Accounts. For a period of 5 years after termination of the Development Period, Declarant reserves for itself and for Declarant's accountants and attorneys, the right, but not the duty, to inspect, correct, and adjust the Association financial records and accounts from the Development Period. The Association may not refuse to accept an adjusting or correcting payment made by or for the benefit of Declarant. Notwithstanding any inferences to the contrary in the preamble paragraph of this Article 15, Declarant's rights under this Section 15.4.7 will not terminate until 5 years following the last day of the Development Period.

15.5. DEVELOPMENT PERIOD ADDITIONAL RESERVATIONS. Declarant reserves the following servitudes and rights, exercisable at Declarant's sole discretion, at any time during the Development Period, regardless of whether Declarant owns any Property at the time of use of the servitude or exercise of the right:

15.5.1. Platting. Unplatted parcels, if any, may be platted in whole or in part, and in phases. The right to plat belongs to the owner of the unplatted parcel, provided, however, that a plat that creates Common Areas or obligations for the Association must also be approved by Declarant.

15.5.2. Expansion. During the Development Period, Declarant may, in its sole discretion, annex to declare to be included as part of the Property: (a) any immovable property any portion of which is contiguous with, adjacent to, or within 1,000 feet of any immovable property that is subject to this Declaration, (b) any immovable property in any addition or subdivision platted by the County as a phase or section of the Property, or (c) located in a planned development district created by the County for the property subject to this Declaration. Declarant annexes immovable property by subjecting it to the Declaration and the jurisdiction of the Association by recording a supplement or an amendment of this Declaration, executed by Declarant, in the conveyance records of the County. The supplement or amendment of annexation must include a description of the additional immovable property or a reference to the recorded plat that describes the additional immovable property.

15.5.3. Withdrawal. Declarant may withdraw immovable property from the effect of this Declaration (a) if the owner of the withdrawn property consents to the withdrawal, and (b) if the withdrawal does not significantly and detrimentally change the appearance, character, operation, or use of the Property.

15.5.4. Changes in Development Plan. Declarant may modify the initial development plan to respond to perceived or actual changes and opportunities in the marketplace. Declarant may (a) change the sizes, dimensions, and configurations of Lots and streets; (b) change the minimum dwelling size; (c) change the building setback requirements; and (d) eliminate or modify any other feature of the Property.

15.5.5. Architectural Control. Declarant has the absolute right to serve as the Architectural Reviewer. Declarant may from time to time, but is not obligated to, delegate all or a portion of its reserved rights as Architectural Reviewer. Any such delegation must be in writing and must specify the scope of delegated responsibilities. Any such delegation is at all times subject to the unilateral rights of Declarant (a) to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (b) to veto any decision which Declarant in its sole discretion determines to be inappropriate or inadvisable for any reason. Declarant also has the unilateral right to exercise architectural control over vacant Lots in the Property.

15.5.6. Amendment. Declarant may Unilaterally amend this Declaration and the other Community Documents, for any purpose, without consent of other Owners or any mortgagee.

15.5.7. Completion. Declarant has (a) the right to complete or make improvements indicated on the Plat; (b) the right to sell or lease any Lot owned by Declarant; and (c) a servitude and right to erect,

construct, and maintain on and in the Common Area and Lots owned or leased by Declarant whatever Declarant determines to be necessary or advisable in connection with the construction, completion, management, maintenance, leasing, and marketing of the Property, including, without limitation, parking areas, temporary buildings, temporary fencing, portable toilets, storage areas, dumpsters, trailers, and commercial vehicles of every type.

15.5.8. Servitude to Inspect and Right to Correct. Declarant reserves for itself the right, but not the duty, to inspect, monitor, test, redesign, correct, and relocate any structure, improvement, or condition that may exist on any portion of the Property, including the Lots, and a perpetual nonexclusive servitude of access throughout the Property to the extent reasonably necessary to exercise this right. Declarant will promptly repair, at its sole expense, any damage resulting from the exercise of this right.

15.5.9. Promotion. Declarant reserves for itself a servitude and right to place or install signs, banners, flags, display lighting, potted plants, exterior decorative items, seasonal decorations, temporary window treatments, and seasonal landscaping on the Property, including items and locations that are prohibited to other Owners and residents, for purposes of promoting, identifying, and marketing the Property and/or Declarant's dwellings, Lots, developments, or other products located outside the Property. Declarant reserves a servitude and right to maintain, relocate, replace, or remove the same from time to time within the Property. Declarant also reserves the right to sponsor marketing events (e.g., open houses, MLS tours, and brokers parties) on the Property to promote the sale of Lots.

15.5.10. Offices. Declarant reserves for itself the right to use dwellings owned or leased by Declarant as models, storage areas, and offices for the marketing, management, maintenance, customer service, construction, and leasing of the Property and/or Declarant's developments or other products located outside the Property. Also, Declarant reserves for itself the servitude and right to make structural changes and alterations on and to Lots and dwellings used by Declarant as models, storage areas, and offices, as may be necessary to adapt them to the uses permitted under this Declaration.

15.5.11. Access. Declarant has a servitude and right of ingress and egress in and through the Property for purposes of constructing, maintaining, managing, and marketing the Property, and for discharging Declarant's obligations under this Declaration. Declarant also has the right to provide a reasonable means of access for the homebuying public through any existing or future gate that restricts vehicular access to the Property in connection with the active marketing of Lots and homes by Declarant, including the right to require that the gate be kept open during certain hours and/or on certain days. This provision may not be construed as an obligation or intent to gate the Property.

15.5.12. Utility Servitudes. Declarant may grant permits, licenses, and servitudes over, in, on, under, and through the Property for utilities, roads, and other purposes necessary for the proper development and operation of the Property. Declarant reserves the right to make changes in and additions to the servitudes on any Lot, as shown on the Plat, to more efficiently or economically install utilities or other improvements. Utilities may include, but are not limited to, water, sewer, trash removal, electricity, gas, telephone, television, cable, internet service, and security. To exercise this right as to land that is not a Common Area of the Property or not owned by Declarant, Declarant must have the prior written consent of the Owner.

15.6. DIFFERENT STANDARDS. Declarant has the right (1) to establish specifications for the construction of all initial improvements in the Property, (2) to establish different specifications for each neighborhood within the Property, and (3) to grant variances or waivers from community-wide standards to certain neighborhoods of the Property.

15.7. MARKETING OTHER LOCATIONS. This Declaration grants to Declarant a number of significant rights to market the Property. Declarant hereby reserves for itself and any current or future Declarant Affiliates the right to use each and every such right for the additional purposes of promoting, identifying, and marketing off-site developments of Declarant or Declarant Affiliates for the duration of the Development Period, even though Declarant and Declarant Affiliates may have completed the marketing of Lots or dwellings in the Property.

15.8. COMMON AREAS. For every Common Area capable of being conveyed to the Association, Declarant will convey title to the Common Area to the Association by one or more deeds - with or without

warranty. Declarant's conveyance of title is a ministerial task that does not require and is not subject to acceptance by the Association or the Owners.

15.9. SUCCESSOR DECLARANT. Declarant may designate one or more Successor Declarants for specified designated purposes and/or for specified portions of the Property, or for all purposes and all of the Property. To be effective, the designation must be in writing, signed and acknowledged by Declarant and Successor Declarant, and recorded in the conveyance records of the County. Declarant (or Successor Declarant) may subject the designation of Successor Declarant to limitations and reservations. Unless the designation of Successor Declarant provides otherwise, a Successor Declarant has the rights of Declarant under this Section and may designate further Successor Declarants.

ARTICLE 16
GENERAL PROVISIONS

16.1. HIGHER AUTHORITY. In the event of a conflict between the Community Documents, the hierarchy of authority is as follows: the Plat (highest), this Declaration, Association's Articles of Incorporation, Bylaws, and the rules (lowest). Within the Declaration, Article 15 has the highest authority. In the event of any conflict between an action by, or decision of, Declarant pursuant to its rights under this Agreement and an action by, or decision of, the Association (including without limitation any agency, department, committee or other division of the Association), the action by, or decision of, Declarant will control.

16.2. NOTICE. All demands or other notices required to be sent to an Owner or resident by the terms of this Declaration may be sent by electronic, ordinary, or certified mail, postage prepaid, to the party's last known address as it appears on the records of the Association on the date the notice is issued. If an Owner fails to give the Association an address for sending notices, all notices may be sent to the Owner's Lot, and the Owner is deemed to have been given notice whether or not he actually receives it.

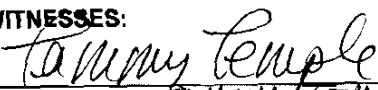
16.3. LIBERAL CONSTRUCTION. The terms and provisions of each Community Document are to be liberally construed to give effect to the purposes and intent of the Community Document. All doubts regarding a provision, including restrictions on the use or alienability of property, will be resolved first to give effect to Declarant's intent to protect Declarant's interests in the Property, and second in favor of the operation of the Association and its enforcement of the Community Documents, regardless which party seeks enforcement.

16.4. RULES OF CONSTRUCTION. Invalidation of any provision of this Declaration by judgment or court order does not affect any other provision, which remains in full force and effect. The effect of a general statement is not limited by the enumeration of specific matters similar to the general. The captions of articles and sections are inserted only for convenience and are in no way to be construed as defining or modifying the text to which they refer. Unless the context provides otherwise, a reference to a gender includes all genders. Similarly, a reference to the singular includes the plural, the plural the singular, where the same would be appropriate. The word "shall" and "will" have the same meaning in this Declaration and are both to be interpreted as mandatory.

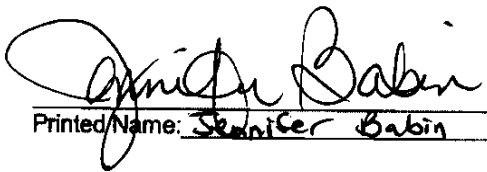
16.5. DURATION. Unless terminated or amended by Owners as permitted in this Declaration, the provisions of this Declaration run with and bind the Property and will remain in effect perpetually to the extent permitted by law.

THUS DONE AND PASSED, in multiple originals on the day, month, and year first above written, and in the presence of the undersigned, competent witnesses, who hereunto sign their names with the said Declarant/Approver and me, Notary, after reading of the whole.

WITNESSES:


Printed Name: TAMMY TEMPLE

DECLARANT/APPEARER
Stenen Development, Inc.
BY: Stenen Development, Inc.,


Printed Name: Jennifer Babin

Manager

By: 


NOTARY PUBLIC, in and for

My Commission Expires: _____

Printed Name of Notary Public: _____

Number Assigned to Notary1 Public : _____

Donald L. Miers, Jr.
Attorney at Law
Bar Roll No. 26687
Commissioned for Life
All Louisiana Parishes

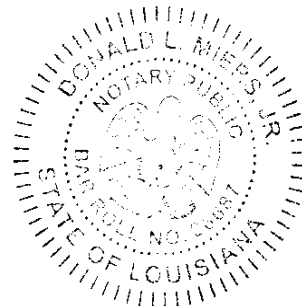


EXHIBIT A
DESCRIPTION OF SUBJECT LAND

[NEED TO VERIFY LEGAL DESCRIPTION]

EXHIBIT B**CONSTRUCTION SPECIFICATIONS**

All improvements on a Lot must (1) comply with any applicable governmental ordinances and codes, (2) have a building permit issued by the appropriate governmental entity, if the type of improvement requires a permit, and (3) have the Architectural Reviewer's prior written approval. These three requirements are independent - one does not ensure or eliminate the need for another. The Owner and/or Owner's contractor must comply with all three requirements. Without the Architectural Reviewer's prior written approval for a variance, improvements constructed on every Lot must have the following characteristics:

B.1. **HOUSES**. The principal improvement on a Lot must be one detached single family dwelling. The dwelling size, setbacks, and exterior materials must comply with the applicable ordinances and with any higher standards established by the Architectural Reviewer. Homes are to be a minimum of 1600 square feet heated and cooled with a minimum of a nine foot ceiling on the first floor and a minimum of eight feet on the second floor.

B.2. **NEW CONSTRUCTION**. The dwelling must be constructed on the Lot. A dwelling or addition constructed elsewhere may not be moved onto a Lot. Factory-built homes are not permitted, even though assembled or finished on the Lot. However, components of dwellings (such as roof trusses) may be manufactured off-site. The construction of a dwelling must be started promptly after the Architectural Reviewer approves the dwelling's plans and specifications. At the start of construction - but not before - building material to be used in the construction may be stored on the Lot. Once started, the dwelling and all improvements on the Lot must be completed with due diligence. Lots are to be fully sodded where cleared with an irrigation system.

B.3. **EXTERIOR WALL MATERIALS**. The type, quality, and color of exterior wall materials must be approved by the Architectural Reviewer. Generally, the dwelling's total exterior area, minus windows and doors, must be masonry or masonry veneer, such as brick, stone, or stucco or siding which must be a cement fiber board product, such as HardiPlank. Vinyl is allowed for soffits and porch ceilings.

B.4. **ROOFS**. Roofs must be covered with material having a manufacturer's warranty of at least 20 years. The use of fiberglass shingles is permitted. The color of roofing material must be weatherwood or an equivalent earth tone color. The Architectural Reviewer may permit or require other weights, materials, and colors. Roofing materials are to be dimensional shingles with a minimum pitch of 7/12.

B.5. **GARAGE AND DRIVEWAY**. Each dwelling must have an attached garage for at least two standard-size cars. The driveway must be surfaced with concrete.

B.6. **CARPORTS**. A carport may not be installed, constructed, or maintained on a Lot without the prior written consent of the Architectural Reviewer.

B.7. **FENCES**. This Section is subject to the Architectural Reviewer's right to adopt additional or different specifications for construction or reconstruction of fences. The height of fences must be 6 feet. Fences must be six foot shadowbox design. Any portion of a fence that faces a street, alley, or Common Area must have a "finished side" appearance. Retaining walls must be constructed entirely with Architectural Reviewer-approved materials, however railroad ties may not be used for a retaining wall visible from a street. Fences may not be constructed between a dwelling's front building line and the street. The use of barbed wire and chain link fencing is prohibited. The use or application of a stain that cures in a solid color or paint is prohibited. Wood fences may be left in their natural state. No wood fence may be stained to alter the fence color from a natural wood color. Without prior approval of the Architectural Reviewer, clear sealants may be applied.

B.8. **ACCESSORIES**. Installation of all exterior items and surfaces, including address numbers, decorative hardware, external ornamentation, lights fixtures, and exterior paint and stain, is subject to the Architectural Reviewer's prior approval, including approval of design, color, materials, and location.

B.9. **MAILBOXES**. If curbside boxes are permitted by postal authorities, the Architectural Reviewer may require a uniform size and style of mailbox and pedestal.

B.10. AIR CONDITIONERS. Air conditioning equipment may not be installed in the front yard of a dwelling. Window units are prohibited.

B.11. NO SUBDIVISION. No Lot may be subdivided. One or more Lots may be replatted with the approval of all Owners of the Lots directly affected by the replatting, and subject to the approval of the city. The parties executing the replat will provide a copy of the recorded replat to the Association. Replatting of Lots may not alter the number of votes and Assessments allocated to the Lots as originally platted. If replatting reduces the number of Lots by combining Lots, the joined Lot will have the votes and Assessments allocated to the Lots as originally platted.

B.12. DEBRIS. No Lot or other part of the Property may be used as a dumping ground. Waste materials incident to construction or repair of improvements on a Lot may be stored temporarily on the Lot during construction while work progresses and must be removed when construction or repair is complete.

B.13. UTILITIES. All utility lines and equipment must be located underground, except for: (1) elevated or surface lines or equipment required by a public utility or the city; (2) elevated or surface lines or equipment installed by Declarant as part of the development plan; and (3) surface equipment necessary to maintain, operate, or read underground facilities, such as meters, risers, service pedestals, and transformers. The Architectural Reviewer may require that utility meters, risers, pedestals, and transformers be visually screened from the street and neighboring Lots. Each Lot will use city water and sewage systems. Individual water supply and sewage disposal systems are not permitted.

(End of Exhibit B)

EXHIBIT C
(Articles of Incorporation of the Association)

EXHIBIT D
(Bylaws of the Association)

**BYLAWS
OF
THE WATERS SUBDIVISION OWNERS ASSOCIATION, INC.**

These are the Bylaws of the The Waters Subdivision Owners Association, Inc., a Florida nonprofit corporation (the "Association"), adopted concurrently with the Declaration of Covenants and Restrictions for The Waters Subdivision (the "Declaration") to which these Bylaws are attached as Exhibit D. Capitalized terms used herein without definition shall have the meanings specified for such terms in the Declaration.

**ARTICLE I
GENERAL**

Section 1. Applicability. These Bylaws provide for the governance of that certain residential subdivision known as The Waters Subdivision located in Santa Rosa county Florida, pursuant to the requirements of the applicable law (including applicable ordinances) and the Florida Non-Profit Corporation Law. All references to Owners in these Bylaws will mean Owners of Lots.

Section 2. Compliance. Every Owner and all those entitled to occupy a portion of the Property shall comply with these Bylaws, and the Rules and Regulations adopted by the Association.

Section 3. Office. The office of the Association and the Board of Directors of the Association shall be located within the Property or at such other place as may be designated from time to time by the Board of Directors.

**ARTICLE II
OWNERS ASSOCIATION**

Section 1. Composition.

(a) There are two (2) types of membership in the Association: Class A Membership and Class B Membership. The Class A Membership shall consist of all of the Owners acting as a group in accordance with the Act pursuant to the Declaration and these Bylaws. The Class B Membership shall consist of the Declarant, as defined in the Declaration, until termination of the Class B Control Period, as set forth in the Declaration. After termination of the Class B Control Period, the Association shall consist only of Class A Members.

(b) For all purposes, the Association shall act merely as an agent for the Owners as a group. The Association shall have the responsibility of administering the Property, establishing the means and methods of collecting assessments and charges, arranging for the management of the Property and performing all other acts that may be required or permitted to be performed by the Association by the Declaration and applicable law. Except as to those matters which applicable law specifically requires to be performed by the vote of the Association, the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth in Article III of these Bylaws.

Section 2. Annual Meetings. The annual meeting of the Association shall be held each year on or before March 1 of each year. At such annual meeting, the Board of Directors shall be elected by ballot of the Owners in accordance with the requirements of Sections 3 and 4 of Article III of these Bylaws. So long as Declarant shall be a Class B Member of the Association Declarant shall be entitled to designate the members of the Board of Directors, Declarant shall select the members of the initial Board of Directors as listed in the Articles of Incorporation.

Section 3. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Owners as may be designated by the Board of Directors.

Section 4. Special Meetings.

(a) The President shall call a special meeting of the Association if so directed by resolution of the Board of Directors or upon a petition signed and presented to the Secretary by Owners of not less than fifty (50%) percent of total number of the Lots in The Waters Subdivision. The notice of any special meeting shall state the time, place, and purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

(b) Pursuant to the terms of the Declaration, upon termination of the Class B Control Period, a special meeting of the Association shall be held at which all of the members of the Board of Directors designated by Declarant shall resign, and the Owners, including Declarant if Declarant owns one or more Lots, shall thereupon elect successor members of the Board of Directors.

Section 5. Notice of Meetings. The Secretary shall mail to each Owner a notice of each annual and special meeting of the Owners at least ten (10) days but not more than sixty (60) days prior to the date fixed for the meeting. Such notice of the annual meeting shall state the time and place of the meeting and shall also state the purpose of the meeting if a specified action is to be taken at the meeting. In the case of a special meeting, such notice shall state the purpose of the meeting. Notice shall be deemed given upon delivery, or if the notice is mailed, when such notice is placed in the United States mail, postage prepaid and addressed to an Owner at his or her last known address on record with the Association.

Section 6. Quorum and Adjournment of Meetings. Except as otherwise provided in these Bylaws, the presence in person or by proxy of the voting Members (Owners) holding over fifty (50%) percent of the total number of the Lots in The Waters Subdivision shall constitute a quorum at any meeting of the Association.

If at any meeting of the Association a quorum is not present, or the withdrawal of enough Members leaves less than a quorum present at a meeting already called to order, Owners may continue to transact business, or Owners of a majority of the total number of Lots present at such meeting in person or by proxy may adjourn the meeting to a time and place they determine. Notice of such second meeting shall be attempted pursuant to Section 5 of this Article.

Section 7. Order of Business. The order of business at all meetings of the Association shall be as follows:

- (a) roll call;
- (b) proof of notice of meeting;
- (c) reading of minutes of preceding meeting;
- (d) reports of officers;
- (e) report of Board of Directors;
- (f) reports of committees;
- (g) election or appointment of inspectors of election (when so required);
- (h) old business; and
- (i) new business.

Section 8. Title to Lots. Title to a Lot may be taken in the name of one or more Persons, in any manner permitted by law. The Association may acquire, hold and transfer full legal title to one or more Lots in The Waters Subdivision in its own name, but only if the unanimous consent of the Members of the Association is obtained.

Section 9. Voting. To the extent of voting rights granted to Owners, voting at all meetings of the Association shall be exercised by the Owners, unless otherwise set forth in the Declaration. Each Owner shall be entitled to vote based on the number of Lots such Owner owns in The Waters Subdivision. Each Lot shall be entitled to one (1) vote. Where the ownership of a Lot is in more than one Person, the Person who shall be entitled to cast the vote of such Lot shall be the Person named in a certificate executed by all of the owners of such Lot and filed with the Secretary or, in the absence of such named Person from the meeting, the Person who shall be entitled to cast the vote of such Lot shall be the Person owning such Lot who is present. If more than one Person owning such Lot is present then such vote shall be cast only in accordance with their unanimous agreement. Such certificate shall be valid until revoked by a subsequent certificate similarly executed. Wherever the approval or disapproval of an Owner is required by applicable law, the Declaration or these Bylaws, such approval or disapproval shall be made only by the Person who would be entitled to cast the vote of such Lot at any meeting of the Association.

Except where a greater number is required by applicable law, the Declaration or these Bylaws, the owners of more than fifty (50%) percent of the total number of the Lots in The Waters Subdivision voting in person or by proxy at a duly convened meeting at which a quorum is present are required to adopt decisions at any meeting of the Association. Any specified percentage of the Owners means the Owners owning such percentage interests in the aggregate.

If Declarant owns or holds title to one or more Lots, Declarant shall have the right at any meeting of the Association to cast the vote of such Lot or Lots. No Owner may vote at any meeting of the Association or be elected to or serve on the Board of Directors if the Association has perfected a lien and privilege against his Lot as a result of the Owner's failure to pay his assessment of the Common Expenses, and the amount necessary to release such lien and privilege has not been paid at the time of such meeting or election.

Section 10. Amendment of Bylaws. These Bylaws may be amended, altered or rescinded only by the vote of not less than seventy-five percent (75%) of the members of the Board of Directors, subject to the approval of the Owners representing not less than seventy-five percent (75%) of the total number of the Lots in The Waters Subdivision.

Section 11. Proxies. A vote may be cast in person or by proxy. Such proxy may be granted by any Owner in favor of only another Owner, a mortgagee or Declarant. Proxies shall be duly executed in writing, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from the Owner owning such Lot. Except with respect to proxies in favor of a mortgagee, no proxy shall in any event be valid for a period in excess of one hundred and eighty (180) days after the execution thereof.

Section 12. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring during the meeting. The President may appoint a person to serve as a parliamentarian at any meeting of the Association. All votes shall be tallied by persons appointed by the President or other officer presiding over the meeting.

ARTICLE III BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors. Until termination of the Class B Control Period, and thereafter until their successors shall have been elected by the Owners, the Board of Directors shall consist of such persons as may be designated by Declarant.

The Board of Directors shall be composed of not less than three (3) persons nor more than five (5) persons, all of whom shall be Owners or spouses of Owners, mortgagees (or designees of mortgagees) or designees of Declarant. Notwithstanding any statement in these Bylaws to the contrary, during the Class B Control Period, the Board of Directors shall be composed of at least three (3) persons designated by Declarant.

Section 2. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not required to be exercised and done by the Association or Owners by applicable law, the Declaration or these Bylaws. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations deemed necessary for the benefit and enjoyment of the Property; provided, however, that such Rules and Regulations shall not be in conflict with applicable law, the Declaration or these Bylaws. In addition to the duties imposed by applicable law, the Articles of Incorporation, the Declaration, and these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall on behalf of the Association cause each of the following to be done:

- (a) The Board of Directors shall prepare an annual budget in which there shall be established the assessments of Owners for the Common Expenses.
- (b) The Board of Directors shall make assessments against Owners to defray the costs and expenses of the Common Area, establish the means and methods of collecting such assessments from the Owners and establish the period of the installment payment of the annual assessment for Common Expenses. Unless otherwise determined by the Board of Directors, the annual assessment against each Owner shall be payable in equal monthly installments, each such installment to be due and payable in advance on the first day of each month.
- (c) The Board of Directors shall provide for the operation, care, upkeep and maintenance of all of the Common Area and services therefore.
- (d) The Board of Directors shall designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Area and provide service for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the Property.
- (e) The Board of Directors shall collect the assessments against the Owners, deposit the proceeds thereof in Bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Property.
- (f) The Board of Directors shall make and amend the Rules and Regulations, as the Board of Directors, in its discretion to be in the best interest of the Association and the Members.
- (g) The Board of Directors shall open bank accounts on behalf of the Association and designate the signatories thereon.
- (h) The Board of Directors shall make, or contract for the making of, repairs, additions and improvements to or alterations of the Common Area, and repairs to and restoration of the Common Area, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings.
- (i) The Board of Directors shall enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations and act on behalf of the Owners with respect to all matters arising out of any eminent domain proceeding.

- (j) The Board of Directors shall cause the Association to obtain and carry insurance to protect the Association against casualties and liabilities, as necessary in the Board of Directors' discretion, pay the premiums therefor, and adjust and settle any claims thereunder.
- (k) The Board of Directors shall cause the Association to pay the cost of all authorized services rendered to the Association and not charged to Owners of individual Lots or otherwise provided for in these Bylaws.
- (l) The Board of Directors shall cause the books of the Association to be maintained with detailed accounts in chronological order of the receipts and expenditures affecting the Property and the administration of the Property specifying the expenses of maintenance and repair of the Common Area and any other expenses incurred. Such books and vouchers accrediting the entries thereupon shall be available for examination by the Owners, their duly authorized agents or attorneys, during general business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with good and accepted accounting practices, and the same shall be audited at least once each year by an independent accountant retained by the Board of Directors who shall not be an occupant of the Property or an Owner. The cost of such audit shall be a Common Expense.
- (m) If the Board of Directors is notified by a Mortgagee holding a mortgage on any Lot subject to such mortgage that the Mortgagee requests that the Association notify the Mortgagee of any breach under these Bylaws by the Owner of the Lot encumbered by that mortgage, the Board of Directors shall cause the Association to notify that Mortgagee of any default under these Bylaws by the Owner of the encumbered Lot subject to such Mortgage, in the event such default continues for a period exceeding thirty (30) days after notice of such default to the Owner in question. This subpart (m) does not create any rights on the part of Mortgagees and the Association has no obligation to any Mortgagee as a result of this provision. Further, in the event the Association does not send a notice to a Mortgagee under circumstances contemplated by this subpart (m), the Mortgagee will have no right or remedy as against the Association.
- (n) When the Board of Directors, in its discretion, determines that a loan by the Association would be prudent, the Board of Directors shall cause the Association to borrow money on behalf of the Association and the Common Area when required in connection with the operation, care, upkeep and maintenance of the Common Area, provided, however, that the consent of Owners representing at least seventy-five (75%) of the total number of Lots in The Waters Subdivision, obtained at a meeting

duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of Twenty-Five Thousand Dollars (\$25,000).

- (o) When the Board of Directors, in its discretion, determines that it is in the best interest of the Property for the Association to own one or more Lots, the Board of Directors shall acquire, hold and dispose of Lots and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association and the purchase is approved by all of the Owners.
- (p) To the extent not inconsistent with these applicable law, these Bylaws, the Declaration or the Articles of Incorporation of the Association, the Board of Directors shall cause the Association to do such other things and acts which the Board of Directors may be authorized to do by: (1) the Declaration, (2) a resolution of the Association, or (3) applicable law.

Section 3. Election and Term of Office.

(a) The term of the initial directors appointed by Declarant shall be three (3) years. At the special meeting referred to in Article II, Section 4(b) above, the Owners shall elect the Board of Directors, and their terms of office shall be as follows: the term of office of one-third (1/3) of the members of the Board of Directors shall be fixed at three (3) years, the term of office of one-third (1/3) of the members of the Board of the Directors shall be fixed at two (2) years, and the term of office of one-third (1/3) of the members of the Board of Directors shall be fixed at one (1) year. At the expiration of the initial term of office of each member of the initial Board of Directors selected at that special meeting, a successor shall be elected to serve for a term of three (3) years. The members of the Board of Directors shall hold office until their respective successors are elected by the Association except in the case of earlier removal or resignation.

(b) Persons qualified to serve as members of the Board of Directors may be nominated for election only as follows:

(1) Any Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held a nominating petition signed by an Owner and a statement that the person nominated is willing to serve on the Board of Directors. The Secretary shall mail or hand-deliver the submitted items to every Owner along with the notice of such meeting; or

(2) Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy on the Board of Directors for which no more than one person has been nominated by petition.

Section 4. Removal or Resignation of Members of the Board of Directors. Except with respect to Directors designated by Declarant, at any regular or special meeting duly called, any one or more of the members of the Board of Directors may be removed with or without cause by

a majority vote of the Owners and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Owners shall be given at least seven (7) days' notice of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting at which his removal is to be considered. A member of the Board of Directors may resign at any time. A member of the Board of Directors shall be deemed to have resigned upon disposition of his Lot.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Owners shall be filled by a vote of a majority of the remaining Directors at a special meeting of the Board of Directors called for such purpose promptly after the occurrence of any such vacancy, even though the Directors present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Board of Directors for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association. Notwithstanding anything to the contrary in this Section or in the preceding Section 4, during the Class B Control Period, Declarant shall designate the successor to any resigned or removed member of the Board of Directors previously designated by Declarant.

Section 6. Organization Meeting. The first meeting of the Board of Directors following the annual meeting of the Association shall be held within thirty (30) days thereafter at such time and place as shall be fixed by the Association at the meeting at which such Board of Directors shall have been elected, and no notice shall be necessary to the newly elected members of the Board of Directors in order to constitute such meeting, providing a majority of the Board of Directors are present at such first meeting.

Section 7. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as is determined from time to time by a majority of the Board of Directors, but such meetings shall be held at least once every four (4) months during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, by mail, at least three (3) business days prior to the date of such meeting.

Section 8. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) business days' notice to each Director, given by mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors.

Section 9. Waiver of Notice. Any Director may at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to such notice having validly been given. Attendance by a Director at any meeting of the Board of Directors shall constitute a waiver of notice by him of the time, place and purpose of such meeting. If all Directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting.

Section 10. Quorum of Board of Directors. At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute

the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting.

Section 11. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book of the Board of Directors recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 12. Action Without Meeting. Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Board of Directors shall individually or collectively consent in writing to such action. Any such written consent shall be filed with the minutes of the proceedings of the Board of Directors.

Section 13. Compensation. No Director shall receive any compensation from the Association for acting in such capacity.

Section 14. Fidelity Bonds. The Board of Directors shall obtain and maintain adequate fidelity bonds in an amount not less than 125% of the total annual Assessments for the year (in such form and in such greater amounts as may be required by the mortgagees) to protect against dishonest acts on the part of the officers, directors, and employees of the Association who handle or are responsible for The Waters Subdivision funds. The premiums on such bonds shall constitute a Common Expense. Such fidelity bonds shall: (a) name the Association as an obligee; (b) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and (c) provide that such bonds may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the mortgagees.

Section 15. No Liability of the Board of Directors, Officers, Owners, Association.

(a) The officers and members of the Board of Directors shall not be liable to the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the officers and directors from and against all contractual liability to others arising out of contracts made by the officers or the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of applicable law, the Declaration or these Bylaws, except to the extent such liability is covered by directors and officers liability insurance. Officers and members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. Every agreement made by the officers, the Board of Directors or a manager on behalf of the Association shall, if obtainable, provide that the officers, members of the Board of Directors or the manager, as the case may be, are acting only as agents of the Association and shall have no personal liability thereunder (except as Owners). No Owner, as a Member of the Association, shall be personally liable for any obligation of the Association.

(b) The Association shall not be liable for any failure of water supply or other services to be obtained by the Association or paid for as a Common Expense, or for injury or damage to person or property caused by the elements or by any Owner or any other person or

resulting from electricity, water, snow or ice which may leak or flow from any portion of the Common Area or from any pipe, drain, conduit, appliance or equipment. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of articles which may be stored upon any of the Common Area. No diminution or abatement of any assessments, as herein elsewhere provided, shall be claimed or allowed for inconvenience or discomfort, arising from the making of repairs or improvements to the Common Area or from any action taken by the Association to comply with any law, ordinance or with the order or directive of any municipal or other governmental authority.

Section 16. Common or Interested Directors. Each member of the Board of Directors shall exercise his powers and duties in good faith and with a view to the best interests of the Property. No contract or other transaction between the Association and any of its directors, or between the Association and any corporation, firm or association (including Declarant) in which any of the directors of the Association are directors or officers or are pecuniarily or otherwise interested, is either void or voidable because any such director is present at the meeting of the Board of Directors or any committee thereof which authorizes or approves the contract or transaction, or because his vote is counted for such purpose, if any of the conditions specified in any of the following subparagraphs exist:

(a) The fact of the common directorate or interest is disclosed or known to the Board of Directors or the committee, and the Board of Directors or committee authorizes, approve or ratifies such contract or transaction in good faith by a vote sufficient for the purpose without counting the vote of the interested director or directors; or

(b) The fact of the common directorate or interest is disclosed or known to the Owners, and the Owners approve or ratify the contract or transaction in good faith by a vote of the Owners sufficient for the purpose; or

(c) The contract or transaction is fair to the Association at the time it is authorized, ratified, approved or executed.

Any common or interested directors may be counted in determining the presence of a quorum of any meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies any contract or transaction.

Section 17. Committees. The Board of Directors may establish committees as it determines are necessary in their sole discretion to assist with the duties and responsibilities of the Board in maintaining and governing the Association.

ARTICLE IV OFFICERS

Section 1. Designation. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint a Vice President, an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President shall be a member of the Board of Directors.

Section 2. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers. Upon the affirmative vote of a majority of all members of the Board of Directors, any officer may be removed, either with or without cause, and a successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 4. President. The President shall be the chief executive Officer of the Association, preside at all meetings of the Association and of the Board of Directors, and have all of the general powers and duties which are incident to the office of president of a non-profit corporation organized under the Florida Nonprofit Corporation Law including without limitation the power to appoint committees from among the Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Secretary. Except as provided in Section 7 of this Article relating to the appointment of a Vice President, the Secretary shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If neither the President nor the Secretary is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis.

The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors, have charge of such books and records as the Board of Directors may direct, maintain a register setting forth the place to which all notices to Owners and mortgagees hereunder shall be delivered, and in general perform all the duties incident to the office of secretary of a non-profit corporation organized under the Florida Nonprofit Corporation Law.

Section 6. Treasurer. The Treasurer shall have the responsibility for Association funds and shall be responsible for keeping full and accurate financial records and books showing all receipts and disbursements, and for the preparation of all required financial data, and be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, the Association or the manager, in such depositories as may from time to time be designated by the Board of Directors, and in general perform all the duties incident to the office of treasurer of a non-profit corporation organized under the Florida Nonprofit Corporation Law.

Section 7. Vice President and Other Officers. In the event the Board of Directors appoints a Vice President, the Vice President shall take the place of the President and perform the President's duties whenever the President shall be absent or unable to act. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

In the event the Board of Directors appoints such other officers as it deems necessary, such officers shall perform such duties as shall from time to time be imposed upon them by the Board of Directors or by the President.

Section 8. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Five Thousand Dollars (\$5,000) shall be executed by any two (2) officers designated by the Board of Directors. All such instruments for expenditures or obligations of Five Thousand Dollars (\$5,000) or less may be executed by any one (1) officer designated by the Board of Directors.

Section 9. Compensation of Officers. No officer who is also a member of the Board of Directors shall receive any compensation from the Association for acting as such officer. All other permitted compensation for officers shall be determined by the Board of Directors.

ARTICLE V OPERATION OF THE PROPERTY

Section 1. Determination of Common Expenses and Common Assessments Against Owners.

(a) Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by the Board of Directors.

(b) Preparation and Approval of Budget.

(1) At least forty-five (45) days before the beginning of the fiscal year, the Board of Directors shall adopt a budget for the Association containing an estimate of the total amount considered necessary to pay the cost of maintenance, management operation, repair and replacement of the Common Area, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Declaration, these Bylaws or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Common Area and the rendering to the Owners of all related services.

(2) Such budget shall also include such reasonable amounts as the Board of Directors considers necessary to provide working capital, a general operating reserve and reserves for contingencies and replacements. At least thirty (30) days before the beginning of each fiscal year, the Board of Directors shall send to each Owner a copy of the budget in a reasonably itemized form which sets forth the estimated amount of the Common Expenses and any special assessment payable by each Owner. Such budget shall constitute the basis for determining each Owner's assessment for the Common Expenses of the Association.

(c) Assessment and Payment of Common Expenses. Subject to the provisions of Articles 8 and 9 of the Declaration, the total amount of the estimated funds required for the operation of the Property set forth in the budget adopted by the Board of Directors shall be a lien against each Owner's Lot as provided in Articles 8 and 9 of the Declaration. On or before the first day of each fiscal year, and the first day of each of the succeeding eleven months in such fiscal year, each Owner shall be obligated to pay to the Board of Directors or the manager (as determined by the Board of Directors) one-twelfth (1/12) of such assessment. Within ninety (90) days after the end of each fiscal year, the Board of Directors shall

supply to all Owners an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the budget adopted by the Board of Directors for such fiscal year, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall, if the Board of Directors deems it advisable, be credited according to each Owner's share of the Common Expenses to the next monthly installments due from Owners under the current fiscal year's budget, until exhausted. Any net shortage shall be assessed promptly against the Owners in accordance with their share of the Common Expenses and shall be payable either (1) in full with payment of the next monthly assessment due, or (2) in not more than six (6) equal monthly installments, as the Board of Directors may determine.

(d) Reserves. The Board of Directors shall build up and maintain reasonable reserves for working capital, operations, contingencies and replacements. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are inadequate for any reason, including non-payment of any Owner's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed against the Owners according to their respective share of the Common Expenses, and which may be payable in a lump sum or in installments as the Board of Directors may determine. The Board of Directors shall serve notice of any such further assessment on all Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, become effective with the next monthly payment which is due more than then (10) days after the delivery of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installments, the amount of such assessment. Such assessment shall be a lien as of the effective date as set forth in the preceding paragraph (c).

(e) Initial Budget and Assessments. Upon taking office, the first Board of Directors elected or designated pursuant to these Bylaws shall determine the budget, as defined in this Section, for the period commencing thirty (30) days after such election and ending on the last day of the fiscal year in which such election occurs. Assessments shall be levied and become a lien against the Owners during such period as provided in paragraph (c) of this Section.

(f) Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Board of Directors to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of an Owner's obligation to pay his share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until notice of the monthly payment which is due more than ten (10) days after such new annual or adjusted budget shall have been delivered.

Section 2. Collection of Assessments. The Board of Directors, or the manager at the request of the Board of Directors, shall take prompt action to collect any assessments for Common Expenses due from any Owner which remains unpaid for more than thirty (30) days from the due date for payment thereof.

Section 3. Statement of Common Expenses. The Board of Directors shall promptly provide any Owner, contract purchaser or mortgagee so requesting the same in writing with a written statement of all unpaid assessments for Common Expenses due from such Owner. The Board of Directors may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

ARTICLE VII MISCELLANEOUS

Section 1. Notices. All notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by registered or certified mail, return receipt requested, postage prepaid (or otherwise as the Board of Directors may determine), (a) if to an Owner, at the address which the Owner shall designate in writing and file with the Secretary or, if no such address is designated, at the address of the Lot of such Owner, or (b) if to the Association, the Board of Directors or the manager, at the principal office of the manager or at such other address as shall be designated by notice in writing to the Owners pursuant to this Section. If a Lot is owned by more than one Person, each such Person who so designates an address in writing to the Secretary shall be entitled to receive all notices hereunder. Notwithstanding anything to the contrary in this Section, notice will always be sufficient upon proof of actual delivery.

Section 2. Captions. The captions herein are inserted only as a matter of convenience and for reference only, and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

Section 3. Gender. The use of a masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

Section 4. Construction. These Bylaws are intended to comply with all applicable provisions of law and shall be so interpreted and applied.

Section 5. Severability. The invalidity in whole or in part of any article, section, subsection, sentence, clause phrase or word or other provision of these Bylaws shall not affect the validity of the remaining portions of any such article, section, subsection, sentence, clause phrase or word or other provision of these Bylaws.