

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WESTERN BRANCH PRESERVE**



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WESTERN BRANCH PRESERVE

TABLE OF CONTENTS

The paragraph headings and captions used herein are intended for convenience of reference only, and do not affect the interpretation or meaning of any provision of this instrument. The numbering of sections or paragraphs is not necessarily strictly sequential and the document as written and numbered contains the entire text of the Declaration.

ARTICLE 1. DEFINITIONS	6
1.1 Definitions	6
ARTICLE 2. THE GENERAL PLAN FOR WESTERN BRANCH PRESERVE	9
2.1 Plan of Development of The Property	9
2.2 Conveyances Of Common Areas	9
ARTICLE 3. PLAN OF DEVELOPMENT OF CONTIGUOUS WATERFRONT	10
3.1 Slip Assignments, Dock Locations, and Easements	10
3.2 Use of Docks and Slips	10
3.3 VMRC Jurisdiction	11
3.4 Rules and Regulations	11
3.5 Land Disturbance Restrictions	11
ARTICLE 4. ARCHITECTURAL STANDARDS AND USE RESTRICTIONS	11
4.1 Purpose	11
4.2 Architectural Review Committee	11
4.2.1 Liability of Architectural Review Committee Members	11
4.3 Permitted Improvements	11
4.4 Construction of Improvements	11
4.4.1 Siting of Improvements; Setbacks	12
4.4.2 Time of Construction Activities	12
4.4.3 Temporary Structures	12
4.4.4 Construction Debris	12
4.4.5 Occupancy	12
4.4.6 Activities of Declarant	12
4.5 Architectural Approval	12
4.6 Landscaping Approval	13
4.6.1 Applicable Tree Ordinances	13
4.7 Approval Not a Guarantee	14
4.8 Building Restrictions	14
4.8.1 Number of Buildings on Lots	14
4.8.2 Square Footage Requirements	14
4.8.3 Other Requirements of Residences	14
4.9 Use of Lots and Dwellings	14
4.10 Exterior Appearance	14
4.11 Signs	15

4.12 Lights	15
4.13 Antennas	15
4.14 Pets	15
4.15 Nuisances	16
4.16 Motor Vehicles, Trailers, Boats, Etc.	16
4.17 Multiple Ownership	16
4.18 Fire Breaks	16
4.19 Owner's Resubdivision.	16
4.19.1 Consolidation of Lots.	17
4.20 Owner Recording Additional Restrictions on Property	17
4.21 Trespass	17
4.22 Assignment of Declarant's Rights to the Association	17
4.23 Other Rights and Reservations	17
4.24 Leasing of Units	17
ARTICLE 5. PROPERTY RIGHTS	17
5.1 General Rights of Owners	17
5.2 Owner's Easement of Enjoyment	18
5.2.1 Right Of Association To Borrow Money	18
5.2.2 Declarant's Reserved Rights and Easements	18
5.2.3 Association's Rights to Grant and Accept Easements	18
5.2.4 Association's Rights and Easements	18
5.3 Recreational Amenities	18
5.3.1 Access and Use of Recreational Amenities	18
5.4 Access, Ingress and Egress; Roadways	19
5.5 Easements for Declarant	19
5.6 Changes in Boundaries; Additions to Common Areas	19
5.7 Easements for Utilities	19
5.8 Easements for Association	19
5.9 Maintenance Easement	19
5.10 Environmental Easement	20
5.11 No Partition	20
ARTICLE 6. MEMBERSHIP	20
6.1 Membership	20
6.2 Voting Rights	20
6.2.1 Voting By Multiple Owners	20
6.3 Governance	21
6.4 Election of the Board of Directors	21
6.5 Special Meetings of Members	21
6.6 Quorum For Meetings	21
6.6.1 Notice of Meetings	21
6.7 Proxies	21
6.8 Voting By Proxy	21
ARTICLE 7. MAINTENANCE	22
7.1 Responsibilities of Owners	22
7.2 Association's Responsibility	22
7.2.1 General	22

7.2.2 Work In Behalf of Owners	22
ARTICLE 8. INSURANCE AND CASUALTY LOSSES	23
8.1 Insurance.	23
8.1.1 Association's Property Insurance	23
8.1.2 Association's Liability Insurance	23
8.1.3 Association's Other Insurance	23
8.1.4 Association's Policies	23
8.1.5 Owner's Insurance	24
8.2 Damage or Destruction to Common Areas.	24
8.3 Damage or Destruction to Owners' Properties	24
ARTICLE 9. CONDEMNATION	25
9.1 Condemnation of Common Areas	25
ARTICLE 10. FUNCTIONS OF THE ASSOCIATION	25
10.1 Board of Directors and Officers	25
10.2 Duties and Powers	25
10.2.1 Ownership of Properties	25
10.2.2 Services	26
10.3 Agreements	27
10.4 Mortgage or Pledge	27
10.5 Personal Property and Real Property for Common Use	27
10.6 Rules and Regulations	27
10.7 Reduction in Services	28
10.8 Obligation of the Association	28
ARTICLE 11. ASSESSMENTS	28
11.1 Purpose of Assessments	28
11.2 Creation of Lien and Personal Obligation of Assessments	28
11.3 Establishment of Annual Assessment	28
11.3.1 Approval of Annual Assessments	29
11.3.2 Special Meeting to Increase	29
11.3.3 Initial Annual Assessments	29
11.3.4 Billing of Annual Assessments	29
11.3.5 Rounding	29
11.3.6 For Common Expenses	29
11.4 Determination of Maximum Budget and Maximum Annual Assessment	30
11.5 Special Assessments for Improvements and Additions	30
11.5.1 Approval of Special Assessments	30
11.5.2 Apportionment	31
11.6 Emergency Special Assessments	31
11.7 Declarant's Properties	31
11.8 Individual Assessments	31
11.9 Effect of Nonpayment; Remedies of the Association	31
11.10 Certificate	31
11.11 Date of Commencement of Assessments	32
11.11.1 Working Capital And Long-Term Road Maintenance Funds Collected At Closing	32
ARTICLE 12. RULE MAKING	32
12.1 Rules and Regulations	32

12.2 Authority and Enforcement	32
12.3 Procedure	32
12.3.1 Demand to Cease and Desist	32
12.3.2 Notice of Hearing	33
12.3.3 Hearing	33
ARTICLE 13. GENERAL PROVISIONS	33
13.1 Control of Declarant	33
13.1.1 Voting Agreement and Proxy	33
13.1.2 Creation of New Board	34
13.2 Amendments by Declarant	34
13.3 Amendments by Association	35
13.4 Enforcement	35
13.5 Duration	35
13.6 Litigation	35
13.7 Interpretation	35
13.8 No Affirmative Obligation Unless Stated	36
13.9 No Implied Liabilities or Duties	36
13.10 Gender and Grammar	36
13.11 Severability	36
13.12 Rights of Third Parties	36
13.13 Notice of Sale, Lease or Mortgage	36
13.14 No Trespass	36
13.15 Notices	36

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR WESTERN BRANCH PRESERVE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WESTERN BRANCH PRESERVE is made this February 14, 2005, by Western Branch Preserve, LLC, a Virginia limited liability company (the "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner of certain real property located in Lancaster County, Virginia, and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the community of Western Branch Preserve is planned to evolve into a residential community under the planning ordinances adopted by Lancaster County, Virginia; and

WHEREAS, Declarant deems it to be in the best interest of the community to be developed within the property more particularly described in Exhibit "A", as it exists today and as it shall evolve in the future, to establish Covenants, Conditions and Restrictions to promote efficiencies and to provide a flexible mechanism for the administration and maintenance of community facilities, amenities and services which are for the common use and benefit of all property owners.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property that may be added by subsequent amendment hereto, in accordance with the terms and conditions hereof, is subjected to this Declaration of Covenants, Conditions and Restrictions for Western Branch Preserve, and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the value and desirability of, and which shall touch and concern and run with title to, the real properties subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

1.1 Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following words, shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(a) "Architectural Review Committee" shall mean and refer to the board established herein to approve exterior and structural improvements, additions, and changes within the Development as provided in Articles 3 and 4.

(b) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Western Branch Preserve Home Owners Association, Inc. as amended from time to time.

(c) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

(d) "Association" shall mean and refer to Western Branch Preserve Home Owners Association, Inc., a Virginia not-for-profit corporation.

(e) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(f) "By-Laws of the Association" or "By-Laws" shall mean and refer to those By-Laws of Western Branch Preserve Home Owners Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time. An initial copy of the By-Laws is attached hereto as Exhibit B.

(g) "Common Areas" shall mean and refer to all real and personal property now or hereafter deeded or leased to, or which are the subject of a use agreement with, the Association, and wherein the property therein described is specifically denominated to be a part of the Common Areas. Common Areas shall include the Docks, boat ramp, private roads, streets, road shoulders, Conservation Easement Area, walkways, leisure trails, signage, and such maintenance and drainage areas, easements, and shall specifically include water system and facilities located within the Development, other than upon property owned by an Owner, providing for the distribution and transmission of such utility services to the Development as a whole and not maintained by a private or public utility company, and all land excluding individual Lots, and such areas denominated herein or in any license, use agreement, lease or easement agreement as Exclusive Common Area. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use of enjoyment therein. Subject to the reservations to Declarant set forth herein and the limitations upon use and benefit applicable to Exclusive Common Area set forth herein, all Common Areas are to be devoted to and intended for the common use and enjoyment of the Declarant, Owners, and their respective guests, and invitees and subject to any operating rules adopted therefor.

(h) "Conservation Easement Area" shall mean and refer to that area of land encumbered by a conservation easement dated December 20, 2004, recorded in the Clerk's Office Circuit Court of Lancaster County, Virginia as instrument number 050000090.

(i) "Dock(s)" shall mean and refer to any dock(s) planned by Declarant.

(j) "Covenants" shall mean and refer to these Western Branch Preserve Covenants, as amended, from time to time, by any Supplemental Declaration filed Of Record.

(k) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves for the maintenance, repair and management of the Common Areas, and for the maintenance, repair and management of other property, whether owned by the Association or not and set forth in these Covenants or incorporated herein by a Supplemental Declaration, for which the Association has responsibility.

(l) "Declarant" shall mean and refer to Western Branch Preserve, LLC, or any successor-in-title to the entire interest of such person with respect to the Property at the time of such transfer to said successor-in-title, or any party designated Of Record to succeed to the rights of Declarant hereunder as to the matters set forth in such writing.

(m) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Western Branch Preserve and all amendments and supplements hereto filed Of Record.

(n) "Dependent Children" shall mean and refer to any Person's unmarried, dependent children under the age of twenty-five (25) who are either living at home with such Person or attending school on a full time basis.

(o) "Development" shall mean and refer to the Property and all improvements located or constructed thereon, and being a part of the overall plan, from time to time existing hereunder, for the community known as "Western Branch Preserve".

(p) "Exclusive Common Area" shall mean and refer to the portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Owners.

(q) "Exclusive Common Area Expenses" shall mean and refer to the costs and expenses of owning, maintaining, repairing and restoring an Exclusive Common Area, which shall be levied and assessed as an Individual Assessment against the Lots and Owners sharing, exclusively, such Exclusive Common Area.

(r) "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

(s) "Institutional Mortgage" shall mean and refer to a Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(t) "Living Space" shall mean and refer to enclosed and covered areas within a single-family, residential dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyard, greenhouses, atriums, bulk storage areas, attics, and basements.

(u) "Lot" shall mean and refer to any portion of the Property, whether improved or unimproved, intended for development, use and occupancy as a single-family detached residence. The term shall mean the land as well as any improvements thereon and shall include platted lots which are vacant as well as platted lots upon which single-family detached homes have been constructed.

(v) "Master Plan" shall mean and refer to that plan approved by Lancaster County Board of Supervisors on April 29, 2004 and entitled "WESTERN BRANCH" and all modifications, revisions, and additions thereto.

(w) "Member" shall mean and refer to an Owner who is a Member of the Association.

(x) "Mortgage" shall mean and refer to a mortgage, security deed, deed of trust, installment lands sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot.

(y) "Mortgagee" shall mean and refer to the holder of a Mortgage.

(z) "Occupant" shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, or family member of an Owner, occupying or otherwise using a single-family, residential dwelling within the Development.

(aa) "Of Record" shall mean recorded in the Clerk's Office of the Circuit Court of Lancaster County.

(bb) "Owner" shall mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot, excluding, however, those persons having such an interest under a Mortgage.

(cc) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust, limited liability company or other legal entity, or any combination thereof.

(dd) "Property" shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements thereon.

(ee) "Recreational Amenities" shall include such recreational facilities and improvements as are, from time to time, located within and a part of the Common Areas, and as are specifically designated in writing by the Declarant and/or the Association as being Recreational Amenities, including such amenities as parks, open spaces, leisure trails, equestrian trails and pasture lands, garden plots, wildlife observation areas, community docks, boat launch, and such other facilities and services as may be designated by the Declarant and/or the Association from time to time for the use and benefit of the Owners of Lots as set forth in Section 5.3.

(ff) "Subdivision Plat" shall mean and refer collectively to those two certain plats prepared by Bay Design Group, as follows:

- (1) As to Parcels 1,121, 122, 123, and 124, the plat entitled "Plat Showing a Property Line Adjustment And Proposed Conservation Easement on the Land of Western Branch Preserve, L.L.C.", dated March 9, 2004; revised August 16, 2004 and November 1, 2004; revised

November 10, 2004 to show adjustment of property lines on parcels 122 & 124, of record in the Clerk's office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 79D, 80A, & 80B.

- (2) As to Lots 1 through 36, the plat entitled "Plat Showing 'Western Branch' Being a Subdivision of the Land of Western Branch Preserve, L.L.C.", dated October 28, 2004, of record in the Clerk's office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 83C & D, 84A-D, and 85A.

(gg) "Supplemental Declaration" shall mean and refer to any amendment to these Covenants filed Of Record.

(hh) "Tenant" shall mean and refer to a Person holding a lease with an Owner of a Lot of twelve (12) months or more, or with respect to which there is a holding over on a month-to-month basis following the expiration of such minimum twelve (12) -month period.

ARTICLE 2. THE GENERAL PLAN FOR WESTERN BRANCH PRESERVE

2.1 Plan of Development of The Property. The Property shall initially contain forty-one (41) platted Lots as shown on the Subdivision Plat, and except as set forth in Section 4.8.1, no more than one (1) single-family, residential dwelling may be constructed on each such Lot. An improved Lot with a single-family, residential dwelling constructed thereon, shall constitute a Lot hereunder. The Property shall also include the use of Common Areas, including Recreational Amenities, private roads, utility systems, drainage systems, and other improvements serving the Lots, to the extent the same are from time to time denominated as such by Declarant on the Subdivision Plat or in any deed, lease, use agreement or memorandum thereof filed Of Record, and are installed and existing. The dimensions of the Lots shall be shown on the Subdivision Plat. All Lots within the Development shall be and are hereby restricted exclusively to single-family residential use, except as set forth in Section 4.9, and shall be subject to the standards and restrictions set forth in the Declaration. Without the consent of any person, Declarant shall have the right, but not the obligation, for so long as Declarant has the right to appoint and remove any members or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and to make improvements and changes to all Common Areas, Recreational Amenities, and to all such properties owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, (c) installation and maintenance of any water, sewer, and other utility systems and facilities, and (d) installation of security and/or refuse facilities.

2.2 Conveyances Of Common Areas. All parcels of land referred to herein which are denominated by Declarant as Common Areas shall be deeded, by Declarant to the Association within two (2) years after the Declarant has completed improvements thereon, if such be required. Upon such conveyance, or upon completion of any improvements thereon by the Declarant, if such be required, the Association shall immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors. For purposes of measuring the foregoing two (2) -year period, any such improvements shall be deemed completed the date such improvements may be used in the manner and for the purposes for which they are constructed. It is the purpose of this provision to provide that the Association shall be responsible for all maintenance of Common Areas upon which all improvements required to be made by the Declarant have been completed, notwithstanding the fact that the Declarant is not obligated to deed such properties until two (2) years after such improvements have been completed thereon. Any such conveyance by the Declarant shall be conveyed subject to:

- (a) All restrictive covenants filed Of Record at the time of conveyance; and
- (b) The right of access of the Declarant, its successors and assigns, over and across such property; and
- (c) The right of the Declarant, its successors and assigns to approve all structures, construction, repairs, changes in elevation and topography and the location of any object (including vegetation) within the Common Areas prior to the commencement of such activities or location of any object therein;
- (d) All utilities and drainage easements; and
- (e) All reserved rights set forth in the Declaration.

In consideration of the benefits accruing to the Association and to the Members under this Declaration and in consideration of the covenants and agreements of the Declarant hereunder, the Association hereby agrees to accept

title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed of conveyance Of Record to the Association, title or such other interest in property conveyed shall vest in and to the Association without the necessity of any further act, deed or approval of any person, including the grantor or Association.

ARTICLE 3. PLAN OF DEVELOPMENT OF WATERFRONT DOCKS AND BOAT RAMP

3.1 Slip Assignments, Dock Locations, and Easements. Each Lot is hereby granted the right to exclusive use of the boat slip indicated as being assigned to that Lot on that certain plat of survey entitled “Plat Showing Location of Proposed Piers and Pier Easements on the Land of Western Branch preserve, L.L.C.”, prepared by Bay Design Group, dated February 8, 2005, of record in the Clerk’s Office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 85C & D, and 86 A & B.

For access to each of the Docks shared by two waterfront Lots, the Lot on which the Dock is not located is hereby granted an access easement over the Lot on which the Dock is located as shown on the aforesaid plat of survey as “Proposed Pier Easement”, as well as a nonexclusive easement over the Dock itself.

3.2 Use of Docks and Slips. The Slips are for use solely by the Owners and occupants of the Lots to which they are assigned, and for occasional use by guests who are visiting such owners or occupants. The slips shall be used solely for the mooring of boats. The Declarant and the Association may adopt rules and regulations governing any and all aspects of the use of slips including, without limitation, installation, use, and maintenance of utilities on Docks, the types of boats or other vessels that may be moored there, limitations on the types of activities that may be conducted on boats that are moored, limitations on noise and other matters that may constitute a nuisance, hours of operation, and requirements for providing evidence of proper registration of and insurance for boats moored in the slips. No owner shall make any use of any slip that violates any applicable legal requirement including, without limitation, the requirements imposed in connection with any Health Department, Virginia Marine Resources Commission or other permits for the slips. Each Owner, Lessees of Owners, their families and guests are liable for any damage to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged property, coastal waters, wetlands, or any other critical area constituting any portion of the common areas. Solid waste must be disposed of properly and trash is not allowed to be thrown or blown overboard. Control of oil in the bilge by use oil absorbent pads or bioremediating bilge booms is required. It is illegal to discharge bilge water with an oil sheen. Use phosphate-free, biodegradable, non-toxic cleaners sparingly when cleaning boats. Never discharge raw sewage overboard.

Owners sharing an adjacent Dock will be responsible for running their own utilities. Owners sharing a community Dock will be responsible for running their own utilities from the landward end of the docks to their slips, including the cost of an electric meter such that the Association is able to allocate electricity charges to the slip owner. The Declarant will run electricity and water lines to the landward end of the docks. All aspects of the installation and maintenance of utilities on the Docks including but not limited to components used and the location of utilities shall be approved by the Architectural Review Committee.

Boats must be kept in “bristol” condition. Custom covers for consoles, outboard motors, electronics, tables, handrails, etc. in usual and customary colors will be allowed. Tarps, plastic, or poorly fitting generic covers will not be allowed. Boat covers must be custom fitted and neutral and muted in color. One standard sized fiberglass dock box will be allowed for each slip. Low profile boat lifts will be allowed. Size and type of boats allowed on lifts will be at sole discretion of the Declarant or the Association.

3.3 VMRC Jurisdiction. Designated Dock(s) shall be built and used on the authority of permit number 04-2132 issued by VMRC on February 3, 2005. No individual private piers other than those allowed under the aforementioned permit shall be built on any waterfront lot within Western Branch Preserve. Each Owner is liable for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged property, coastal waters, or any other critical area constituting the whole or any portion of the Common Areas.

3.4 Rules and Regulations. The Declarant and/or the Board of Directors shall be entitled to promulgate reasonable rules and regulations from time to time, which shall be binding on the Association and all Owners and lessees of Owners, their families, invitees and guests, regarding the use and enjoyment of the Designated Dock(s).

3.5 Land Disturbance Restrictions. Lancaster County has adopted an ordinance to comply with the Chesapeake Bay Preservation Act pursuant to Section 10.1-2100 et seq. of the Code of Virginia, 1950 as amended. As of the date hereof, the ordinance requires a one hundred (100) foot buffer zone beginning with the edge of tidal wetlands and permits limited development activities within this zone for Lots 1 through 36. Other federal, state, and local restrictions may apply to and permits may be required for activities on, in and near the waterfront area of each of the Lots and the Common area. All Owners; and occupants' activities shall comply with these restrictions and requirements. Additional information is available from the Lancaster County Planning Commission, the Chesapeake Bay Local Assistance Department, the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality, and the U.S. Army Corps of Engineers. Parcels 1, 121, 122, 123, and 124 are parcels recorded prior to the aforementioned restrictions and have been granted variances to encroach into the one hundred (100) foot buffer zone.

ARTICLE 4. ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

4.1 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots, and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

4.2 Architectural Review Committee ("ARC"). The Association shall establish an Architectural Review Committee which shall consist of not more than five (5) nor less than three (3) Members. The regular term of office for each member shall be one year. Any member appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the Architectural Review Committee by the Board of Directors upon assignment to the Association of the whole or any portion of Architectural Review Committee functions pursuant to the Declaration shall be subject to the prior approval of Declarant until that date which is three (3) years from and after the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and is terminated. The Architectural Review Committee shall elect a chairman and he, or in his absence, the vice chairman, shall be the presiding officer at its meetings. The Architectural Review Committee shall meet upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. A majority of the Architectural Review Committee shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Architectural Review Committee shall constitute the action of the Architectural Review Committee on any matter before it. The Architectural Review Committee is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Architectural Review Committee in performing its functions set forth herein. Members of the Architectural Review Committee are not required to be Lot owners.

4.2.1 Liability of Architectural Review Committee Members. No member of the Architectural Review Committee shall be liable to any Lot Owner for any decision, action or omission made or performed by such Architectural Review Committee member in the course of his duties.

(a) Indemnification. Members of the Architectural Review Committee shall be indemnified by the Association pursuant to the provisions of the By-Laws.

4.3 Permitted Improvements No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Development, except (a) improvements which are constructed by Declarant; (b) such improvements as are approved by the Architectural Review Committee in accordance with this Article ; or (c) improvements which pursuant to this Article do not require the consent of the Architectural Review Committee. No manufactured housing shall be permitted on any Lot.

4.4 Construction of Improvements.

4.4.1 Siting of Improvements; Setbacks. Since the establishment of standard, inflexible building setback lines for the location of structures tend to force construction of such buildings both directly behind and directly to the side of each other with detrimental effects on privacy, views, preservation of important trees, etc., building setbacks and buffers are published in section 3d of the Architectural Review Committee's Design Guidelines and Procedures provided that the Architectural Review Committee shall be empowered to grant variances with respect to such setback lines.

4.4.2 Time of Construction Activities. No construction of improvements on any Lots shall be undertaken or conducted on any Sundays or holidays as established by the Architectural Review Committee, except for (a) construction activities of Declarant, (b) emergency situations involving the potential loss, injury, or damage to persons or property, and (c) as otherwise permitted by the Architectural Review Committee.

4.4.3 Temporary Structures. No structure of a temporary character shall be placed upon any property subject to this Declaration at any time, provided, however, that this prohibition shall not apply to Declarant's sales and construction activities pursuant to Section 4.4.6 or to temporary structures used by the contractor during construction of permanent structures, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the subject property after completion of construction. The design and color of structures temporarily placed by a contractor shall be subject to reasonable aesthetic control by the Architectural Review Committee. The provisions of this Section shall not prohibit the erection of temporary structures for social functions as may be permitted by rules and regulations promulgated by the Architectural Review Committee.

4.4.4 Construction Debris. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the property upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the property on which such construction has been completed.

4.4.5 Occupancy. Lots may not be temporarily or permanently occupied until proper and suitable provision has been made for the disposal of sewage by connection with sewer drain fields, the construction of improvements to the Lot have been completed, and a certificate of occupancy has been issued by both the Architectural Review Committee and by the political subdivision with jurisdiction thereof.

4.4.6 Sales and Construction Activities of Declarant. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of the whole or any portion of the Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model dwellings provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 4.4.6 will be subject to Declarant's approval. The right of Declarant to maintain and carry on such facilities and activities shall include specifically the right to use dwellings as model residences, and to use any dwelling as an office for the sale of Lots and/or dwellings and for related activities.

4.5 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by the Association or any Owner, other than Declarant, with respect to the construction of any improvement, structure, single-family, residential dwelling or with respect to any other portion of the Development, including, without limitation, the construction or installation of driveways, mail boxes, decks, patios, courtyards, swimming pools, greenhouses, awnings, walls, fences, exterior lights, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature,

color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Review Committee. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Review Committee, and the other copy shall be returned to the Owner marked approved or disapproved. The Architectural Review Committee shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. The fees initially established for such reviews shall be outlined in the Architectural Review Committee's Design Guidelines and Procedures and the Architectural Review Committee shall have the right to increase this amount from time to time. For purposes of such review, if the Architectural Review Committee determines, in its sole discretion, that an Owner has failed to follow the standards of the Board, it may give notice to the Owner that if the Board is required to take up any additional time following its review to take place after such notice, then such later additional time shall be deemed a new submission requiring payment of another review fee as a condition to its taking such additional time. The Architectural Review Committee shall not be limited in the number of such notices it may give or the number of such additional review fees it may collect as a result of Owner's continued failure to follow the standards. Notwithstanding the foregoing requirement of architectural review, an Owner of any enclosed Lot, or other building or structure may make interior improvements and alterations therein without the necessity of approval or review by the Architectural Review Committee; provided, however, such approval shall be required if such interior improvements are made within any garage, underneath parking area or similar area plainly within view of adjacent properties. The Architectural Review Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association. In connection with approval rights and to prevent excessive drainage or surface water run-off, the Architectural Review Committee shall have the right to establish a maximum percentage of a property which may be covered by buildings, structures, or other improvements, which standards shall be promulgated on the basis of topography, percolation rate of the soil, soil types and conditions, vegetation cover, and other environmental factors. Following approval of any plans and specifications by the Architectural Review Committee, representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any property or improvements with respect to which construction is underway within the Development to determine whether or not the plans and specifications thereof have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In the event the Architectural Review Committee fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved. Upon approval of plans and specifications, no further approval under this Article shall be required with respect thereto, unless such construction has not substantially commenced within twelve (12) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

4.6 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by the Association or any Owner, other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Committee. The provisions of Section 4.5 regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. All of the landscaping within a Lot must be completed within ninety (90) days of occupancy or substantial completion of the Lot, whichever date shall first occur.

4.6.1 Applicable Tree Ordinances. Anything contained herein to the contrary notwithstanding, the limitations herein provided are in addition to, and not substitutions for, the ordinances, rules, regulations, and conditions of any political subdivision of the Commonwealth of Virginia with jurisdiction of the cutting and removal of trees. In the event of any conflict between the limitations and standards herein provided and those provided in any such ordinance or statute, the more restrictive of the two shall take precedence over the other.

4.7 Approval Not a Guarantee. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Architectural Review Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article, nor any defects in construction undertaken pursuant to such plans and specifications.

4.8 Building Restrictions. Except as may be otherwise set forth in this Declaration, in the Subdivision Plat, in any Supplemental Declaration, in any agreement with Declarant, or by specific deed restriction, the following building restrictions shall apply with respect to the properties subject to this Declaration:

4.8.1 Number of Buildings on Lots. On a Lot, no structure shall be constructed other than one (1) principal or primary detached single-family, residential dwelling and such accessory building as shall be permitted or approved by Lancaster County, and as shall not overcrowd a lot, which may include a detached garage, guest house, or garden shed. In any event, no more than two buildings will be allowed on a lot (the primary dwelling and one accessory building).

4.8.2 Square Footage Requirements. All primary single-family, residential dwellings constructed on Lots shown on the Subdivision Plat shall have a minimum of fifteen hundred (1,500) square feet of Living Space. Owners shall be limited to one (1) primary single-family, residential dwelling per lot in excess of 1,500 square feet of Living Space and one garage which may include guest suite, which may not exceed 1,000 square feet. Building footprints in excess of 3,424 square feet must be approved by Lancaster County as a change to the Master Plan.

4.8.3 Other Requirement of Residences. In addition, all residential structures constructed on a Lot shall be designed and constructed in compliance with the requirements of applicable Building Codes.

4.9 Use of Lots and Dwellings. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Lot as an office, studio, workshop or other such accessory use by an Owner shall not be considered to be a violation of this covenant if such use does not create customer, client, or employee traffic.

4.10 Exterior Appearance. No chain-link fences shall be permitted within the Development, except with regard to maintenance areas within the Common Areas. Also, any unenclosed garages or carports must be adequately screened from street views. Further, no foil or other reflective materials shall be used on any windows for sun screens, blinds, shades, or other purpose, except as specifically permitted by the Architectural Review Committee, nor shall any window-mounted heating or air-conditioning units be permitted. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained, nor shall any clothing, rugs, or other item be hung on any railing, fence, hedge, or wall.

No portion of the Property outside of enclosed structures shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or an untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. Auto courts, patios, porches, and roof decks are to be kept neat and orderly at all times. Patios and porches are for patio and porch furniture, grills etc. (no storage of toys, bicycles, boat equipment, etc.) ARC shall have the right to direct Owners to maintain and or repair the exterior of a residence or other out building to present a neat and well-maintained appearance in keeping with the overall high standards of the community.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which

might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property.

No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with this Declaration.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Review Committee.

No overhead utility lines, including lines for electricity, cable, phone, or television, shall be permitted within the property, except for temporary lines as required during construction.

Fencing and landscape planting for screening or privacy may be appropriate in certain circumstances, but will be subject to strict architectural review. Screening or planting shall not substantially block the views of neighbors. In the event any screening is allowed, plans, specifications and materials must be approved by the Architectural Review Committee.

4.11 Signs. No signs or advertising posters of any kind except for those required by legal proceedings, for-sale identification, or security systems, shall be maintained or permitted within any windows or on the exterior of any improvements or on any unimproved portion of property located within the Development. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Architectural Review Committee and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 4.11 shall not apply to Declarant. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within easement areas and in accordance with architectural standards adopted therefor by the Architectural Review Committee.

4.12 Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Architectural Review Committee. Neither these nor any other illumination devices, including, but not limited to, seasonal, holiday ornaments, located anywhere on the structures or grounds of any of the Property shall be located, directed, or of such intensity to affect adversely, in the sole discretion of the Architectural Review Committee, the night-time environment of any adjoining property.

Seasonal decorative lights may be displayed between Thanksgiving and January 10 only. Seasonal lightning will be limited to white window candles and reasonable front entry lighting. No lights will be allowed on roofs or eaves. No icicle lights will be allowed without prior approval from the ARC.

4.13 Antennas. No television antenna, radio receiver or sender or other similar device may be installed without ARC approval. No transmission of radio, television, or any other form of electromagnetic signal which may unreasonably interfere with the reception of television or radio signals is permitted. Satellite Dishes are permitted, however, they must be placed in either an inconspicuous location, a service yard, or on the ground if they are adequately screened from view from the street and adjacent neighbors. The ultimate location of dishes must be approved by the ARC. Exterior sound devices, with the exception of security alarms, shall be located and controlled so as not to interfere with the peace and privacy of neighbors. This will be strictly enforced.

4.14 Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by any Owner upon any portion of the Development except as herein provided and except for such activity conducted upon Common Areas specifically established by the Board therefor; provided, however, a reasonable number of generally recognized house pets may be kept in Lots, subject to rules and regulations adopted by the Association, through its Board of Directors; provided, however, that such pets are kept or maintained solely for the Owner's personal pleasure and not for breeding, sale or any other commercial purpose. No permitted animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. In addition to the foregoing permitted animals, upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 4.14, a particular animal is a nuisance, and the Board shall have the right to require the owner of a particular animal to remove it from the Development if it is found to be a nuisance or to be in

violation of these restrictions. The Board of Directors shall have the further right to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these restrictions by such Owner or an Occupant of his Lot, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the animal of such Owner or of an Occupant of such Owner's Lot. Any such fine or cost of repair shall be added to and become a part of that portion of any Assessment next coming due to which such Lot and its Owner are subject. Dogs must be under owner control at all times. Invisible fencing will not serve as owner control.

4.15 Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any part of the Development, and the Association and each Owner, his family, Tenants, guests, invitees, servants, and agents shall refrain from any act or use which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisance to the Occupants of other portions of the Development or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development, or except as may be permitted pursuant to terms, conditions, rules and regulations adopted therefor by the Architectural Review Committee. Any Owner, or his family, Tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$1,000.00, whichever is greater, and such sum shall be added to and become a part of that portion of any Assessment next becoming due to which such Owner and his property are subject.

4.16 Motor Vehicles, Trailers, Boats, Etc. Each Owner shall provide for parking of automobiles off the streets and roads within the Development. There shall be no outside storage or parking upon any portion of the Development of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other water craft, boat trailer, unlicensed motorcycle, motorized bicycle, motorized go-cart, or any other related forms of transportation devices, other than common storage area provided by Declarant. Furthermore, gas powered vehicles (other than an automobile, pick-up truck, or licensed motorcycle) are expressly prohibited hereby, including, but not limited to, mobile homes, motor homes, campers, trailers of any kind, unlicensed motorcycles, motorized bicycles, motorized go-carts or scooters, all terrain vehicles (ATVs), and other vehicles, or any of them. Such gas powered vehicles are prohibited from entering and/or being kept, placed, stored, maintained, or operated upon any portion of the Development; however they may be hauled by trailer into the Development and stored wholly within a garage or aforementioned common storage area provided by Declarant. It is the intention of Declarant that the Architectural Review Committee shall restrict the type and number of automobiles and pick-up trucks allowed within the Development. The purpose of vehicle restrictions is to minimize the impact of vehicles on the natural environment and roads. No Owners or other Occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within a property subject to this Declaration except (a) within enclosed garages or workshops, or (b) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

4.17 Multiple Ownership. The Property subject to this Declaration, including any improvements thereon or to be built thereon, shall not be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan.

4.18 Fire Breaks. The Declarant reserves unto itself, its successors and assigns a perpetual, alienable and releasable easement and right on and over and under any property to cut fire breaks and other activities which in the opinion of the Declarant are necessary or desirable to control fires on any property, or any improvements thereon. Entrance upon property pursuant to the provisions of this Section shall not be deemed a trespass.

4.19 Owner's Resubdivision. No Common Area or Lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to any political subdivision with jurisdiction thereof, except with the prior written approval of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and

thereafter except with the prior written approval of the Board of Directors. However, the Declarant reserves the right to so subdivide pursuant to the Declaration, and to take such other steps as are reasonably necessary to make such replatted property suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, and Common Areas.

4.19.1 Consolidation of Lots. The provisions of Section 4.19 shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this Declaration. Consolidation of Lots, as described herein, must be approved by the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association said approval to be granted in its sole discretion upon such terms and conditions as may be established by it from time to time, including specific provisions for the payment of Assessments.

4.20 Owner Recording Additional Restrictions on Property. No Owner may impose additional restrictive covenants on any lands within the Property beyond those contained in this Declaration without consent of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association and thereafter without consent of the Board of Directors. The Declarant may impose additional restrictive covenants on property then owned by the Declarant without the consent of any other Owner or the Association.

4.21 Trespass. Whenever the Declarant, the Association or the Architectural Review Committee is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on the property of any Owner, or on the easement areas adjacent thereto entering the property and taking such action shall not be deemed a trespass.

4.22 Assignment of Declarant's Rights to the Association. The Declarant reserves the right to assign to the Association, at its sole discretion, its rights reserved in this Declaration, including all rights set forth in this Article. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action shall be required by it.

4.23 Other Rights and Reservations. The omission of any right or reservation in this article shall not limit any other right or reservation by the declarant, which is expressly stated in or implied from any other provisions in this declaration.

4.24 Leasing of Units. Units may be rented only in their entirety; no fraction or portion may be rented. All leases shall be in writing and shall be for an initial term of no less than six (6) months, except with the prior written consent of the Board of Directors. The Owner must make available to the lessee copies of the Declaration, Bylaws, and the rules and regulations. The Board of Directors may adopt reasonable rules regulating leasing and subleasing.

Every owner shall cause all occupants of his or her unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the common areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto.

ARTICLE 5. PROPERTY RIGHTS

5.1 General Rights of Owners. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his said property, subject to the provisions of this Declaration, including without limitation, the provisions of this Article. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services or for the provision of support to such a property lie partially within and partially outside of the designated boundaries thereof, any portions thereof which serve only such property shall be deemed to be a part of such property, and any portions thereof which serve more than one such property or any portion the Common Areas shall be deemed to be a part of the Common Areas. The ownership

of each property subject to this Declaration shall include, and there shall pass with each property as an appurtenance thereto, whether or not separately described, all of the right and interest in and to the Common Areas as established hereunder, and the limitations applicable, which shall include, but not be limited to, membership in the Association. Each Owner shall automatically become a Member of the Association and shall remain a Member thereof until such time as his Lot ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his or its Lot, and upon such transfer, the successor-in-title shall automatically succeed to membership in the Association.

5.2 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors, every Owner, his family, and guests shall have a non-exclusive right, privilege, and easement of use and enjoyment in and to the Common Areas, to the extent so entitled hereunder, such easement to be appurtenant to and to pass and run with title, subject to the rights, restrictions, reservations, covenants, easements and obligations reserved, granted or alienable in accordance with this Declaration, including, but not limited to:

5.2.1 Right Of Association To Borrow Money. The right of the Association to borrow money (a) for the purpose of improving the Development, or any portion thereof, (b) for acquiring additional Common Areas, (c) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, or (d) for providing the services authorized herein, and, subject to the provisions of Section 10.4, to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association shall be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

5.2.2 Declarant's Reserved Rights and Easements. The rights and easements specifically reserved to Declarant in this Declaration, include but are not limited to, the Declarant's rights to grant exclusive drainfield easements and force main easements to Lot Owners within the Common Areas.

5.2.3 Association's Rights to Grant and Accept Easements. The right of the Association to grant and accept easements to dedicate or transfer fee simple title to all or any portion of the Common Areas to any public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by a majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale.

5.2.4 Association's Rights and Easements. The rights and easements specifically reserved in this Declaration for the benefit of the Association, its directors, officers, agents, and employees.

5.3 Recreational Amenities.

5.3.1 Access and Use of Recreational Amenities. Subject to the terms and provisions of this Declaration and the rules and regulations from time to time established by the Board of Directors, every Owner of a Lot and his family, Tenants, and guests shall have the non-exclusive right, privilege, and easement of access to and the use and enjoyment of the Recreational Amenities.

5.4 Access, Ingress and Egress; Roadways. All Owners, by accepting title to property conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress shall be limited to roads, walkways and trails located within the Development from time to time, provided that pedestrian and vehicular access to and from all such property shall be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to maintain gates controlling vehicular access to and from the Development. The Association may adopt reasonable rules and regulations regarding the operation of motorized vehicles within the Property, provided such rules and regulations recognize the character of the Property and the inherent need to provide for the allowed use of farm and maintenance vehicles. The Declarant, or the Association after title to any private roadways has passed to it from the Declarant, may post no

parking signs along such private roadways within the Development where it, in its sole discretion, determines appropriate to do so. Violators of said no parking signs are subject to having their vehicles towed away and shall be required to pay the cost of such towing and storage before their vehicle may be recovered. The act of towing said vehicles shall not be deemed a trespass or a violation of the Owners' property rights, because the Owner shall be deemed to have consented to such action by accepting the right to use the private roads and streets within the Development.

5.5 Easements for Declarant. During the period that Declarant owns any of the Property for sale, Declarant shall have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing improvements in and to the Lots and for installing, maintaining, repairing and replacing such other improvements to the Property (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described in the Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing.

5.6 Changes in Boundaries; Additions to Common Areas. Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas and any Lots between such adjacent properties owned by Declarant, provided that any such change or realignment of boundaries shall not materially decrease the acreage of the Common Areas and shall be evidenced by a revision of or an addition to the Subdivision Plat which shall be filed Of Record.

5.7 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility, or other person, upon, over, under, and across (a) all of the Common Areas in accordance with this Declaration; (b) all portions of the Recreational Amenities in which improvements are not constructed or erected; (c) those strips of land, twenty (20) feet in width, running adjacent to and parallel with the front lines of Lots, and ten (10) feet in width running five (5) feet on either side of the side lot line of each Lot, not to conflict with any drainage easements thereon, and as further shown on the subdivision plats of the Lots; and (d) such other such easement areas shown on any Subdivision Plat or recited in any Supplemental Declaration for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water, and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and , the Board of Directors must obtain the written consent of Declarant prior to granting and accepting any such easements. To the extent practical and economical, in its sole discretion, Declarant shall endeavor to locate utility lines and facilities serving the Development underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

5.8 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby.

5.9 Maintenance Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any property subject to this Declaration for the purpose of providing, mowing, removing,

clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions, or to provide garbage or trash removal services. Furthermore, it is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of properties subject to this Declaration which are located within twenty (20) feet from the water's edge of any body of water within the Development for the purpose of (a) mowing such area and keeping the same clear and free from unsightly growth and trash, (b) maintaining such bodies of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards, and (c) installing, constructing, repairing, replacing, and maintaining soil erosion control measures.

5.10 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all unimproved portions of properties subject to this Declaration for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors, the Architectural Review Committee, or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, and the right to drain standing water.

5.11 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

ARTICLE 6. MEMBERSHIP

6.1 Membership. Every Owner, including the Declarant, of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot and ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association.

6.2 Voting Rights. The Association shall have two (2) types of voting memberships which are as follows:

TYPE A: Type A Members shall be Owners (including the Declarant) of Lots. The Type A Member shall be entitled to one (1) vote for each Lot owned.

TYPE B: The Type B Member shall be the Declarant or its designated assign. The Type B Member shall be entitled to one (1) vote for each vote held by Type A Members, plus two (2) votes, until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant the Declaration is terminated; or (iii) the date the Type B Member relinquishes its voting rights as a Type B Member in a Supplemental Declaration filed Of Record. Thereafter, the Type B Member shall exercise votes only as to its Type A Memberships. Payment of Special Assessments or Emergency Special Assessments shall not entitle Type A Members to additional votes.

6.2.1 Voting By Multiple Owners. When any Lot of a Type A Member of the Association is owned Of Record in the name of two or more persons, other than husband and wife, or entities, in any manner of joint or common ownership, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting; or the vote shall be exercised by such co-Owner, or his duly appointed proxy, as shall be designated in a writing by all co-Owners recorded in the Clerk's

Office of the Circuit Court of Lancaster County, a copy of which shall be delivered to the Secretary of the Association and shall remain effective for all meetings until revoked by the co-Owners in a similar writing or until such designation terminates pursuant to the terms of such writing.

6.3 Governance. The Association shall be governed by a Board of Directors consisting of Three (3), Five (5), Seven (7), or Nine (9) members. Initially, the Board shall consist of Three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the By-laws of the Association.

6.4 Election of the Board of Directors. Each Member of Types A and B membership classes shall be entitled to as many votes as equals the number of votes he is entitled to, based on his ownership of one or more of the various classifications of property or property interests as computed by the formula set out herein above. All votes must be cast in whole numbers and not fractions thereof. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

6.5 Special Meetings of Members. Where specifically provided for herein, or on call of the Board of Directors or the person authorized to do so by the Bylaws, the Association shall hold special meetings of Members to approve or reject such actions proposed to be taken by the Association. The Association shall notify the Members of the date, time and place of such special meeting no fewer than ten (10) not more than sixty (60) days before the meeting date. Such notice shall include a description of the purpose for which the meeting is called and shall provide for voting by proxy.

6.6 Quorum For Meetings. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be as follows:

(a) At any meeting, the presence of Members representing fifty (50%) percent of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business; provided, however, if the required quorum is not present, another meeting may be called, not earlier than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to votes cast at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section, and any other requirements for such duly called meeting which may be established by the Bylaws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Section 13.3 shall govern in that instance.

6.6.1 Notice of Meetings. Notice of any meetings shall be given to the Members by the Secretary. Notice may be given to each Member either personally or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary and notices of meetings shall be mailed to such address. Notice of any meeting, regular or special, shall be mailed not more than sixty (60) days, and not fewer than ten (10) days in advance of the meeting and shall set forth the date, time and place of the meeting and in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve and be governed by this Declaration or any action for which other provision is made in the Bylaws, notice of such meeting shall be given or sent as herein or therein provided.

6.7 Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing, and in accordance with the By-Laws. Notwithstanding the foregoing, Members shall irrevocably appoint Declarant as their attorney-in-fact pursuant to the Declaration to vote on those matters reserved to and designated for Declarant, as set forth in the Declaration.

6.8 Voting By Proxy. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot in the form of a proxy on which each Member may, subject to the Declaration, vote for or against the motion. Each proxy which is presented at such meeting shall be counted in calculating the quorum requirements set out in the Declaration. Provided, however, such proxies shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the proxy.

ARTICLE 7. MAINTENANCE

7.1 Responsibilities of Owners. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots, or the marsh and waterfront property adjacent to any such property, together with all other improvements thereon or therein and all lawns, landscaping, grounds trees and shrubs on and within such property shall be the responsibility of the Owner thereof. Each Owner shall be responsible for maintaining his or its property in a neat, clean, and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of the improvements to all Lots and other structures and all lawns, trees, shrubs, hedges, grass, and other landscaping. As provided in the Declaration, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge. No Owner shall do any work which, in the reasonable opinion of the Architectural Review Committee, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Committee and the Owners, and the Mortgagees of property directly affected thereby or benefiting from such easement or hereditament. The Association may have the lawns mowed on individual Lots with a surcharge to the Lot Owner. Owners who elect to maintain their own lawn mowing must do so on a schedule with the Association mowing or Lots will be mowed by the Association at Owner's expense.

7.2 Association's Responsibility.

7.2.1 General. Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas and any easement area encumbering properties of Owners for which the Association is responsible under this Declaration, including responsibility prior to transfer to the Association in accordance with the Declaration, or any Supplemental Declaration, which responsibility shall include the maintenance, repair, and replacement of (a) the Recreational Amenities, (b) all drainage, walking, ingress and egress easements shown and noted on the Subdivision Plat, (c) all private roads, road shoulders, walks, trails, lots, landscaped areas, and other improvements situated within the Common Areas or easements, (d) security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of its said properties and which are not maintained by a public authority, public service district, public or private utility, or other person, and (e) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon its said properties. The Association shall not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of its properties, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of its properties or any other portion of the Property. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner.

7.2.2 Work In Behalf of Owners. In the event that Declarant or the Board of Directors determines that: (a) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (b) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, Tenant, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice in accordance with Section 13.17 of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15)

days within which to complete the same in a good, workmanlike and timely manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15)-day period, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost shall be added to and become a part of the Assessment to which such Owner and his property are subject and shall become a lien against such property. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

ARTICLE 8. INSURANCE AND CASUALTY LOSSES

8.1 Insurance.

8.1.1 Association's Property Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

8.1.2 Association's Liability Insurance. The Board or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its Members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

8.1.3 Association's Other Insurance. The Board or its duly authorized agents shall have the authority and may obtain (a) worker's compensation insurance to the extent necessary to comply with any applicable laws and (b) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

8.1.4 Association's Policies. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in the Commonwealth of Virginia and holding a rating of A-IX or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.

(b) All property insurance policies shall be for the benefit of the Owners and their Mortgagees as their interests may appear.

(c) All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

(e) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, and their respective families, servants, agents, Tenants, guests, and invitees, including, without limitation, the Association's manager.

(f) All policies shall contain a provision that no policy may be canceled, invalidated, or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, Tenants, guests, and invitees, or on account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(g) All liability insurance shall contain cross-liability endorsements to cover liability of the Association to an individual Owner.

8.1.5 Owner's Insurance. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, title, and other insurance with respect to his or its own property. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective properties and to furnish copies or certificates thereof to the Association.

8.2 Damage or Destruction to Common Areas. Immediately after the damage or destruction by storm, fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the storm, fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas, Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale, and the Board acting on the vote of at least seventy-five percent (75%) of the vote of the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to the Declaration, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost or repair or reconstruction. Such a Special Assessment shall be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and Assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by storm, fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe, and slightly condition.

8.3 Damage or Destruction to Owners' Properties. In the event of damage or destruction by storm, fire or other casualty to any Lot subject to this Declaration, or the improvements thereon, and in the further event that the Owner responsible for the repair and replacement of such property elects not to repair or rebuild, such Owner shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such property in a clean, orderly, safe, and slightly condition. Should such Owner elect to repair or rebuild such property or other improvements thereon, such Owner shall repair or rebuild to substantially the same condition as existed prior to such storm, fire or other casualty and in accordance with all applicable standards, restrictions, and provision of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. All such work

or repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

ARTICLE 9. CONDEMNATION

9.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the approval in writing by Members present, in person or by proxy, at a duly called meeting, representing seventy-five percent (75%) of the Members, and of Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or any portion thereof to the Development, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association.

ARTICLE 10. FUNCTIONS OF THE ASSOCIATION

10.1 Board of Directors and Officers. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in a good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions thereof. Except to the extent otherwise required by the provisions of this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners. As provided in the Declaration and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant one hundred (100%) percent of the Lots developed within the Property or (iii) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and filed Of Record by Declarant. Each Owner, by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section.

10.2 Duties and Powers. The duties and powers of the Association shall be those set forth in the provision of this Declaration, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided; however, that if there are conflicts or inconsistencies between the this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of this Declaration, the Articles of Incorporation, and the By-Laws, in that order, shall prevail, and each Owner of a property within the Development, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association shall include, but shall not be limited to, the power to purchase one or more properties subject to this Declaration and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to the Owners, to furnish trash collections, water, sewer, and/or security service for the properties subject to this Declaration. Notwithstanding the foregoing provision of this Section or any other provision of this Declaration to the contrary, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, the Association shall not, without the consent of Declarant, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Areas.

10.2.1 Ownership of Properties. The Association shall be authorized to own, purchase, lease, use under any use agreement, and maintain (subject to the requirements of any Federal, State or Local Governing body of Virginia) Common Areas, equipment, furnishings, and improvements devoted to the uses and purposes expressed and implied in this Declaration, including, but not limited to, the following uses:

- (a) For walking paths or trails, and bicycle paths throughout the Property;
- (b) For security services including security stations, maintenance building and/or guardhouses;
- (c) For providing any of the services which the Association is authorized to offer;
- (d) For purposes set out in deeds or long-term leases or use agreements by which Common Areas are conveyed or leased by which use rights are granted to the Association;
- (e) For lakes, play fields, drainage areas and easements, wildlife areas, fishing facilities;
- (f) For water and sewage facilities and any other utilities, if not adequately provided by a private utility or public body; and
- (g) For renourishment and installation and/or maintenance of any shore protection device, including, but not limited to, shore revetments and groins.

10.2.2 Services. The Association shall be authorized (unless prohibited by the requirements of any Federal, State or Local governing body) to provide such services as shall be required or would promote the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

- (a) Cleanup and maintenance of all private roads, roadways, road shoulders, roadway medians, waterways, drainage areas and easements, marshes and Common Areas within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (b) Landscaping and lighting of walking paths and any other Common Areas;
- (c) Security provisions including, but not limited to, the employment of security personnel, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Property and assistance to the local police and sheriff departments in the apprehension and prosecution of persons who violate the laws of the Commonwealth of Virginia within the Property;
- (d) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;
- (e) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration and to collect regular Annual Assessments, Special Assessments, Emergency Special Assessment, and other fees and charges collectable from the Owners hereunder;
- (f) To take any and all actions necessary to enforce these and all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;
- (g) To operate an Architectural Review Committee;
- (h) To conduct recreation, sport, craft, fishing, farming, husbandry and cultural programs of interest to Members, their children and guests;
- (i) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this Section or as the Board shall elect pursuant to its authority under other provisions of this Declaration;

- (j) To provide administrative services including but not limited to legal, accounting and financial; and communications services informing Members of activities, notice of Meetings, Referendums, etc., incident to the above listed services;
- (k) To provide liability and hazard insurance covering improvements and activities on Common Areas; and
- (l) To provide for hearings and appeal process for violations of rules and regulations.

10.3 Agreements. Subject to the prior approval of Declarant for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon the Association and all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development shall comply with and be subject to the authorized actions of the Board of Directors; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

10.4 Mortgage or Pledge. Subject to the provisions of Section 5.2.1, the Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

10.5 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot also transfers the membership in the Association which is an appurtenance to such Lot.

10.6 Rules and Regulations. As provided in Article 10 hereof, the Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots and Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

10.7 Reduction in Services. During the calendar year of 2005, the Board of Directors of the Association shall define and list a minimum level of services which shall be furnished by the Association. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association shall not reduce the level of services it furnishes below such minimum level. Such minimum level of service shall expressly include an obligation of the Association to maintain the Common Areas and pay the costs and expenses set forth in any lease or use agreement therefor.

10.8 Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified the Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. Special Assessments shall be submitted for approval as herein provided. Subject to the provisions of Section 10.2 above, and for so long as Declarant retains its voting rights as a Type B Member, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of a majority of the votes cast by Members present, in person or by proxy, and entitled to vote at a duly called special meeting of the Members. At such time as Declarant no longer has voting rights as a Type B Member, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of two-thirds (2/3) of the votes cast by the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members.

ARTICLE 11. ASSESSMENTS

11.1 Purpose of Assessments. The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

11.2 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments, such Assessments to be established and collected as provided in this Section, (b) Special Assessments, such Assessments to be established and collected as provided in the Declaration (c) Emergency Special Assessments, such Assessments to be established and collected as provided in the Declaration, and (d) individual or specific Assessments against any particular property which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed against a property in accordance with the Declaration. Any such Assessments, together with late charges, simple interest at the rate of fifteen percent (15%) per annum, and court costs and attorneys' fees incurred to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon the Lot of the Owner thereof which is responsible for payment. Each Owner shall be personally liable for Assessments coming due while he is the Owner of a Lot, and his grantee shall take title to such property subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments shall be subordinate to the lien of any unpaid taxes and any Institutional Mortgage, and their respective successors and assigns. Sale or transfer of any Lot shall not affect the lien of the Assessments; however, the sale or transfer of any Lot, which is subject to any Institutional Mortgage, pursuant to a decree of foreclosure or any proceeding or conveyance in lieu of foreclosure thereof, shall extinguish the lien of the Assessments as to payment thereof which became due prior to such sale or transfer. In the event of co-ownership of any property subject to this Declaration, all of such co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors provided that unless otherwise provided by the Board, the Annual Assessments shall be paid in equal quarterly installments.

11.3 Establishment of Annual Assessment. It shall be the duty of the Board of Directors at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the Annual Assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total Annual Assessments shall be divided among the said Lots equally.

11.3.1 Approval of Annual Assessments. The annual budget and Annual Assessments, as determined by the Board of Directors, as herein above provided, shall become effective unless disapproved (a) by the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, or (b), following termination Declarant's right to appoint and remove a member of the Board or an officer, by a majority of the votes cast, in person or by proxy, by Members entitled to vote at a duly called meeting. Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are not approved or the Board of Directors fails for any reason to determine the budget for the succeeding year and to set the Assessments, then and until such time as a budget and Annual Assessment shall have been determined as provided herein, the budget and Annual Assessments for the succeeding year shall be the Maximum Budget and Maximum Annual Assessments calculated in accordance with Section 11.4.

11.3.2 Special Meeting to Increase. If the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Annual Assessment herein provided, it may call a special meeting of the Members in accordance with the provisions of the Declaration requesting approval of a specified increase in such Assessment. The proposed increased Assessment shall be levied upon the affirmative vote of two-thirds (2/3) of the votes cast by Members present, in person or by proxy, and entitled to vote at the special meeting. An increase in Annual Assessments in any year pursuant to a special meeting taken as aforesaid shall in no way affect Annual Assessments for subsequent years.

11.3.3 Initial Annual Assessments. The initial Association budget and Annual Assessment for all Owners shall be established within ninety (90) days of this Declaration being filed Of Record.

11.3.4 Billing of Annual Assessments. The Annual Assessments may, in the sole discretion of the Board of Directors, be billed monthly, quarterly, semiannually or annually, and bills therefor shall be due and payable thirty (30) days from the date of mailing of same.

11.3.5 Rounding. All Annual Assessments charged by the Association shall be rounded off to the nearest dollar.

11.3.6 For Common Expenses. The Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

- (a) management fees and expenses of administration, including legal and accounting fees;
- (b) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (c) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;
- (d) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;
- (e) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Board from time to time determines to be in the best interest of the Association;
- (f) the expenses of the Architectural Review Committee, which are not defrayed by plan review charges;

(g) ad valorem real and personal property taxes assessed and levied against the Common Areas;

(i) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots; and

(j) the establishment and maintenance of a reasonable reserve fund or funds, which shall be held in an interest-bearing account (i) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (ii) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (iii) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

11.4 Determination of Maximum Budget and Maximum Annual Assessment. The Maximum Budget and Maximum Annual Assessments shall be the greater of:

(a) The budget and Annual Assessments for the then current year, increased in proportion to the percentage increase, if any, for the then current year, in the "CPI-U", as hereinafter defined, from December of the preceding year to November of the then current year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent, whichever is greater; or

b) The budget and Annual Assessments for the year in which this Declaration is filed Of Record increased, to the year in which the said maximum budget and Annual Assessment is being determined in proportion to the percentage increase, if any, in the "CPI-U" as hereinafter defined, from December of the year preceding the year in which this Declaration is filed Of Record to November of the year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent per annum, compounded, whichever is greater. The "CPI-U" shall mean the Consumer Price Index for All Urban Consumers (1982-84=100), or, if such index is discontinued or revised, by reference to such other government index or computation with which it is replaced or which would produce substantially the same measure as would be obtained if such index had not been discontinued or revised.

11.5 Special Assessments for Improvements and Additions. In addition to the regular, Annual Assessments, the Association may levy Special Assessments, for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) To provide for the necessary facilities and equipment to offer the services authorized herein;

(c) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

11.5.1 Approval of Special Assessments. Except as otherwise permitted, any Special Assessment shall be approved by (i) Declarant, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and , and (ii) thereafter by two-thirds (2/3) of the votes cast by Members in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose in accordance with the provisions of the Declaration. The notice of such special meeting shall include one statement from the Directors favoring the Special Assessment and one statement from those Directors opposing the Special Assessment containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five pages in length.

11.5.2 Apportionment. The proportion of each Special Assessment to be paid by the Owners shall be equal to the proportion of the regular Annual Assessments made for the Assessment year during which such Special Assessments are approved by the Members.

11.6 Emergency Special Assessments. In addition to the Annual Assessments and the Special Assessment, the Association may levy Assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Declarant and/or the Board of Directors, in their sole discretion ("Emergency Special Assessment"). Any Emergency Special Assessment may be imposed without a vote of the Members.

11.7 Declarant's Properties. Anything contained herein to the contrary notwithstanding, Declarant shall be exempt from the payment of any Annual Assessments, Special Assessments and Emergency Special Assessments with respect to unimproved and unoccupied properties owned by the Declarant and subject to this Declaration. The Declarant hereby covenants and agrees, however, that, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, it shall pay to the Association, at the end of the annual accounting period, a sum of money equal to any operating deficit experienced by the Association; provided, however, the Declarant shall not pay more than a sum equal to the amount of the Assessment for said year, or portion thereof owned, which the Declarant would have paid if the exempted property were not exempt. Any such payment by Declarant may be made in-kind.

11.8 Individual Assessments. Any expenses of the Association or the Declarant occasioned by the conduct of less than all of the Owners or by the family, Tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual Assessments provided for in this Section shall be levied by the Board of Directors and the amount and due date of such Assessment so levied by the Board shall be as specified by the Board.

11.9 Effect of Nonpayment; Remedies of the Association. Any Assessments of an Owner or any portions thereof which are not paid when due shall be delinquent. Any Assessment delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, shall also commence to accrue simple interest at the rate of fifteen percent (15%) per annum. A lien and equitable charge as herein provided for each Assessment shall attach simultaneously as the same shall become due and payable, and if an Assessment has not been paid within thirty (30) days of its due date, the entire unpaid balance of the Assessment may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment shall include the late charge established by the Board of Directors, and, upon adoption of a policy therefor by the Board of Directors, interest on the principal amount due at the rate of fifteen percent (15%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suite to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments and as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot, and an Owner shall remain personally liable for Assessments, interest, and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot.

11.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by said Treasurer, Assistant Treasurer, or manager setting forth whether the Assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessments stated therein to have been paid.

11.11 Date of Commencement of Assessments. The Assessments provided for herein shall commence as to property subject to this Declaration on the date on which such property is conveyed to a person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments, Special Assessments and Emergency Special Assessments shall be adjusted for such property according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such property is first conveyed.

11.11.1 Working Capital And Long-Term Road Maintenance Funds Collected At Closing. Each Owner of a property subject to this Declaration, other than Declarant, shall pay to the Association a sum equal to two (2) months of the Annual Assessment for working capital, which cost, when paid, can be recovered from the grantee of an Owner upon conveyance of said property by the Owner. Each Owner of a property subject to this Declaration, other than Declarant, shall also pay to the Association a sum equal to Five Hundred Dollars (\$500.00) for long-term road maintenance reserve, which cost, when paid, can be recovered from the grantee of an Owner upon conveyance of said property by the Owner. Such sums are and shall remain separate and distinct from Annual Assessments and shall not be considered advance payments of Annual Assessments. Each such Owner's share of working capital, as aforesaid, shall be collected from such Owner upon his purchase of property subject to this Declaration, and must be transferred to the Association at the time of closing the conveyance from the Declarant to the Owner.

ARTICLE 12. RULE MAKING

12.1 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots and the Common Areas, and facilities located thereon, including, without limitation, the Recreational Amenities. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, Tenants, guests, invitees, servants, and agents, until and unless any such rule or regulation be specifically overruled, canceled, or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the votes cast, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association.

12.2 Authority and Enforcement. Subject to the provisions of this Declaration, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board shall have the power (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot, the Owners, Occupants, or guests of which are guilty of such violation, (ii) to suspend an Owner's right to vote in the Association, or (iii) to suspend an Owner's right (and the right of such Owner's family, guests, and Tenants of the co-Owners of such Owner and their respective families, guests and Tenants) to use any of the Common Areas and Recreational Amenities, and the Board shall have the power to impose all or any combination of these sanctions; provided, however, an Owner's access to its property over the private roads and streets constituting Common Areas will not be terminated hereunder. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or Tenants or by his co-Owners or the family, guests or Tenants of his co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

12.3 Procedure. Except with respect to the failure of to pay Assessments, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

12.3.1 Demand to Cease and Desist. Written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violation specifying:

- (a) The alleged violation;
- (b) The action required to abate the violation; and
- (c) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

12.3.2 Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

- (a) The nature of the alleged violation;
- (b) The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- (c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (d) The proposed sanction to be imposed.

12.3.3 Hearing. The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE 13. GENERAL PROVISIONS

13.1 Control of Declarant. Notwithstanding any other language or provision to the contrary in this declaration, in the articles of incorporation, or in the by-laws of the Association, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association as provided by and for the term set forth in the Declaration. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section and the provisions of the Declaration. The provisions of this Section are supplemental to, and not in substitution of, the rights retained by Declarant pursuant to this Declaration.

13.1.1 Voting Agreement and Proxy. By acceptance of a deed or other conveyance of an interest, all Members do hereby grant, and if further required, do agree to vote in a manner to provide, to Declarant all voting rights and other corporate powers specifically reserved to and designated for Declarant under this Declaration. IN CONNECTION WITH THIS VOTING AGREEMENT, EACH MEMBER APPOINTS DECLARANT AS PROXY FOR SUCH MEMBER WITH FULL POWER OF SUBSTITUTION TO VOTE FOR THE MEMBER ON ALL SUCH MATTERS ON WHICH THE MEMBER MAY BE ENTITLED TO VOTE, AND WITH RESPECT TO WHICH THERE IS A RESERVATION OR DESIGNATION OF VOTING RIGHTS IN DECLARANT UNDER THIS DECLARATION, AND WITH ALL POWERS WHICH THE MEMBER WOULD POSSESS IF PERSONALLY PRESENT AT ANY MEETING OF MEMBERS. SUCH APPOINTMENT SHALL BE, UPON ACCEPTANCE OF A DEED OR OTHER CONVEYANCE BY THE MEMBER AND WITHOUT THE NECESSITY OF FURTHER ACTION BY THE DECLARANT OR THE MEMBER, A POWER COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE. Such appointment shall be effective as of the date on which a deed or other conveyance of an interest to the Member is filed Of Record. This irrevocable proxy shall automatically terminate on the date Declarant's voting rights as a Type B Member terminate. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Declarant herein provided, which shall run with the Property.

13.1.2 Creation of New Board. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of the Declaration, such right shall pass to the Owners, including Declarant if Declarant then owns one or more properties subject to this Declaration, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board of Directors, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

13.2 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed Of Record without the approval of any Owner or Mortgagee; provided, however, that, (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and shall be effective only upon it being filed Of Record or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance of a Lot, agrees to be bound by such amendments as are permitted by this Section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (b) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (c) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any properties subject to this Declaration, (d) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any properties subject to this Declaration, or (e) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the properties or other improvements subject to this Declaration.

13.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 13.2 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association. Such amendment must be approved by the affirmative vote of Members present, in person or by proxy, entitled to vote and holding at least two-thirds (2/3) of the total votes in the Association, which percentage shall also constitute the quorum required for any such meeting; provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; (ii) during any period in which Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when filed Of Record or at such later date as may be specified in the amendment itself. Anything contained in this Section to the contrary notwithstanding, no

amendment under this Declaration shall be made, or any vote therefor effective, if the result or effect thereof would have a material adverse effect upon Declarant without the prior written consent of the Declarant.

13.4 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed or other instrument of conveyance of his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages, and/or for injunctive relief, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association, or, in a proper case, by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws, and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure, or omission on the part of Declarant, the Association, or any aggrieved Owner in exercising any right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, shall bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, of the provisions of this Declaration, the By-Laws, or any rules and regulations of the Association by any person, however long continued.

13.5 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed Of Record, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30)-year period, this Declaration shall be automatically renewed for successive ten (10)-year periods. The number of ten (10)-year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10)-year renewal period for an additional ten (10)-year period; provided, however, that there shall be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30)-year period or the last year of any ten (10)-year renewal period, seventy-five percent (75%) votes in the Association, by Members present, in person or by proxy and entitled to vote at a duly called meeting of the Members in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of Record, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

13.6 Litigation. No judicial or administrative proceeding shall be commenced or proposed by the Association unless approved in writing by Members present, in person or by proxy, at a duly called meeting, representing seventy-five percent (75%) of the Members. This Section shall not apply, however, to actions brought by the Association to enforce the provisions of this Declaration, including the foreclosure of liens and the imposition and collection of Assessment and other charges, or to proceedings involving ad valorem taxes, or to counterclaims by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes necessary to institute proceedings as provided herein.

13.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing Of Record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the Commonwealth of Virginia.

13.8 No Affirmative Obligation Unless Stated. ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THESE COVENANTS SHALL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.

13.9 No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.

13.10 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

13.11 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

13.12 Rights of Third Parties. This Declaration shall be filed Of Record for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

13.13 Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

13.14 No Trespass. Whenever the Association, Declarant, the Architectural Review Committee, and their respective successors, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not deem to be trespass.

13.15 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association shall be delivered to Western Branch Preserve Home Owner's Association, Inc., 400 South Main Street Kilmarnock, Virginia 22482 or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant's main office, c/o Western Branch Preserve, LLC P.O. Box 520 Lancaster, Virginia 22503., or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder shall be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as shall be, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, the day and year above written.

DECLARANT

WESTERN BRANCH PRESERVE LLC

ASSOCIATION ACKNOWLEDGMENT

The undersigned Officer of Western Branch Preserve Property Owners Association in behalf of itself and its existing and future Members of the Association, does hereby acknowledge the foregoing Covenants, Conditions And Restrictions For Western Branch Preserve, consenting to all the terms and conditions thereof and agreeing to be bound thereby.

WESTERN BRANCH PRESERVE
PROPERTY OWNERS ASSOCIATION

By: _____

Title

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this _____ day of _____, 2004, by _____, Managing Member of Western Branch Preserve LLC

Notary Public

STATE OF VIRGINIA
COUNTY OF LANCASTER, to-wit:

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this _____ day of _____, 2004, by _____, Managing Member of Western Branch Preserve Property Owners Association LLC

Notary Public

EXHIBIT A
Legal Description of Property

EXHIBIT B
BY-LAWS
OF
WESTERN BRANCH PRESERVE
HOME OWNERS ASSOCIATION, INC.

ARTICLE I
NAME AND LOCATION

The name of the Corporation is Western Branch Preserve Home Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located c/o 400 South Main Street Kilmarnock, Virginia 22482 but meetings of Members and Directors may be held at such places within the Commonwealth of Virginia as may be designated by the Board of Directors.

ARTICLE II
GENERAL

As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration of Covenants, Conditions and Restrictions for Western Branch Preserve ("Declaration"), as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

ARTICLE III
DEFINITIONS

To the extent applicable, the Definitions set forth in the Declaration are hereby incorporated herein as if set forth verbatim.

ARTICLE IV
MEMBERSHIP

Section 1. General. Membership in the Association shall be as set forth in the Declaration.

Section 2. Suspension Of Rights. The membership rights of any person whose interest in the Property is subject to Assessments under the Declaration whether or not he be personally obligated to pay such Assessments, may be suspended by action of the Directors during the period when the Assessments remain unpaid; but, upon payment of such Assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of any person thereon, as provided in the Declaration, they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations as set forth therein.

ARTICLE V
VOTING RIGHTS

Voting rights in the Association shall be as provided in the Declaration.

ARTICLE VI
PROPERTY RIGHTS AND RIGHTS OF
ENJOYMENT OF COMMON AREAS

Section 1. Use of Common Areas. Each Member shall be entitled to the use and enjoyment of the Common Areas as provided in the Declaration.

Section 2. Delegation of Rights. Except as otherwise provided in the Declaration, any Member may delegate his rights of enjoyment in the Common Areas and, with respect to an Owner of a Lot or Recreational Amenities, to the members of his Family who reside upon the Property or to any of his tenants or renters who lease or rent from him. Such Member shall notify the Secretary in writing of the name of any such person or persons and of the relationship of the Member to such person or person. The rights and privileges of such person or persons are subject to suspension under Article IV hereof to the same extent as those of the Member.

ARTICLE VII
ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

- (a) to own, acquire, build, operate and maintain the Common Areas, including but not limited to Recreational Amenities, parking areas, buildings, structures and personal property incident thereto;
- (b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Property and the Common Areas;
- (c) to fix Assessments (or charges) to be levied against the Property in the subdivision;
- (d) to enforce any and all covenants and restrictions and agreements applicable to the Property; and
- (e) to pay taxes and insurance, if any, on the Common Areas.

Section 2. Mergers and Consolidations. Subject to the provisions of the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved in writing by Members present, in person or by proxy, at a duly called meeting, representing two-thirds (2/3) of the Members.

Section 3. Mortgages; Other Indebtedness. The Association shall have the power to mortgage the Common Areas as set forth in the Declaration.

Section 4. Dedication of Property or Transfer of Function to Public Agency or Utility. The Association shall have the power to dispose of its real property or dedicate same only as authorized under the Declaration.

ARTICLE VIII
BOARD OF DIRECTORS

Section 1. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors. The initial Board of Directors shall consist of three (3) Directors who shall be selected by the Declarant. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Declaration until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant property representing one hundred percent

(100%) of the total number of Lots intended for development on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed Of Record by Declarant. At the first annual meeting of Members after the occurrence of the first of such events, the Members shall elect five (5) Directors, one of whom must be the President. The Members shall elect two (2) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years and one (1) Director for a term of three (3) years. Notwithstanding the foregoing, in the event that the President is removed from such office pursuant to Article XII below, his term as a Director shall expire upon the effective date of such removal.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor. In the event that any member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without excuse, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said Director to be vacant.

ARTICLE IX ELECTION OF DIRECTORS

Election to the Board of Directors shall be as provided in Article VIII above. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration applicable to the Property. The names receiving the largest number of votes shall be elected.

ARTICLE X POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors. Powers. The Board of Directors shall have power:

- (a) to call special meetings of the Members;
- (b) subject to Article XII herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever;
- (c) to establish, levy and assess, and collect the Assessments;
- (d) to adopt and publish rules and regulations governing the use of the Common Areas and Recreational Amenities, and the personal conduct of the Members and their guests thereon;
- (e) To exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those reserved to the members in the Charter of the Corporation, these Bylaws or the Declaration;
- (f) to fill vacancies on the Board of Directors pursuant to Article VIII above;
- (g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law; and
- (h) to take such other action as provided in the Declaration.

Section 2. Board of Directors. Duties. It shall be the duty of the Board of Directors:

- (a) to cause to be kept a complete record of all its acts and corporate affairs;
- (b) to supervise all officers, agents and employees of this Association and to see that their duties are properly performed;
- (c) to fix the amount of Assessments in accordance with the Declaration;
- (d) to prepare a roster of the Property and Assessments applicable thereto which shall be kept in the Office of the Association and shall be open to inspection by any Member;
- (e) to send written notice of each Assessment to each Property Owner subject thereto; and
- (f) to issue upon demand by any Owner or mortgage lender a certificate setting forth whether any Assessment has been paid. Such certificate shall be conclusive evidence of any Assessment therein stated to have been paid.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors or the President of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. Except as otherwise provided in the Declaration and in Article VIII herein, any Director may be removed, with or without cause, by a vote of the holders of a majority of the votes of the Members present, in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose.

ARTICLE XI DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each member.

Section 2. Notice. Ten (10) days written notice of such annual meeting shall be given to each Director.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days notice to each Director.

Section 4. Waiver of Notice; Action Without a Meeting. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 4, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association. Action taken without a meeting shall be deemed the action of the Board of Directors if all Directors execute, either before or after the action is taken, a written consent thereto and the consent is filed with the records of the Corporation.

Section 5. Board Quorum. The Majority of the Board of Directors shall constitute a quorum thereof.

ARTICLE XII
OFFICERS

Section 1. Association Officers. The Officers shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall be a member of the Board of Directors; all other officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. Election of Officers. The Declarant shall have the sole right to appoint and remove any officer of the Association pursuant to the Declaration until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant property representing one hundred (100%) percent of the total number of Lots intended for development on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed Of Record by Declarant. Thereafter, all officers shall hold office at the pleasure of the Board of Directors.

Section 3. President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments.

Section 4. Vice President. The Vice President shall perform all the duties in the absence of the President.

Section 5. Secretary. The Secretary shall be the ex officio Secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for such purpose. He shall sign all certificates of membership. He shall keep the record of the Association. He shall record in a book kept for that purpose the names of all Members of the Association, together with their addresses as registered by such Members.

Section 6. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business. The Treasurer shall sign all checks and notes of the Association, provided that such notes and checks shall also be signed by the President or Vice President.

ARTICLE XIII
LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Member. No Board Member or Officer of the Association shall be liable to any Property Owner for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-laws.

Section 2. Indemnification. The Association shall, by the full extent permitted by law, indemnify all persons specifically designated from time to time by the board of directors whom it may indemnify pursuant to law.

ARTICLE XIV
MEETINGS OF MEMBERS

Section 1. Membership Annual Meeting. Meetings of the Members shall be held at Western Branch Preserve, Lancaster County, Virginia or at such other location within the Commonwealth of Virginia as the Board of Directors shall determine, and shall occur at least once a year. An annual meeting of the Members shall be held on a day and time to be designated in the notice of the meeting.

Section 2. Membership Special Meetings. Special Meetings of the Members for any purpose may be called at any time by the President, Vice President, Secretary or Treasurer, or by a majority of the Board of Directors, or upon written request of one-fourth (1/4) of the total vote of the Members.

Section 3. Notice. Notice of any meetings shall be given to the Members by the Secretary in accordance with the Declaration.

Section 4. Voting Requirements. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by all Members in person or by proxy.

Section 5. Waiver of Notice. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Quorum. The quorum required for any meeting of Members shall be as set forth in the Declaration.

ARTICLE XV PROXIES

Section 1. Voting by Proxy. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association.

Section 2. Proxies. All of the provisions of this Section 2 are subject to the Declaration. To the extent that a provision set forth in this Section is inconsistent with the Declaration, the provisions of the Declaration shall control. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary. Unless a proxy otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless otherwise specified therein. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date; and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Any proxy shall automatically cease upon sale by the Member of the Member's property.

ARTICLE XVI INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for its improvements and Common Area and a broad form public liability policy covering all common area and all damage or

injury caused by negligence of the Association or any of its agents as more fully describe in the Declaration.

ARTICLE XVII
CORPORATE SEAL

The Secretary may have a seal in circular form having within its circumference the name of the Association, the year of its organization and the words: Corporate Seal, Virginia.

ARTICLE XVIII
AMENDMENTS

These Bylaws may be amended or repealed and new Bylaws adopted by the Directors so long as Declarant has the authority to appoint the Directors and thereafter by a two-thirds (2/3) vote of the Members present, in person or by proxy, and entitled to vote at a regular or special meeting of the Members; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

ARTICLE XIX
FISCAL YEAR

The fiscal year of the Association shall be determined by the Board of Directors.

ARTICLE XX
GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these Bylaws which are not contained in the Declaration, shall operate as the Bylaws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these Bylaws, the Declaration shall control.

Section 2. Waiver. No provision of these Bylaws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and vice versa, whenever the context requires or permits.

Section 6. Roberts Rules. All meetings of the membership of the Board of Directors shall be conducted in accordance with Roberts Rules of Orders Revised.

Western Branch Preserve Home Owners Association, Inc.
_____, 2005