

**WINDERMERE**

**ARCHITECTURAL REVIEW**  
**DESIGN GUIDELINES**



# WINDERMERE DESIGN GUIDELINES

## SECTION I. ARCHITECTURAL REVIEW PROCESS

### A. INTRODUCTION

These Architectural Design Guidelines have been established to provide property owners, architects, and contractors with a set of parameters for the preparation of their dwellings, specifications and plans. The authority for the Architectural Review Committee is established in Article VIII of the Declaration of Covenants, Conditions, and Restrictions for Windermere. The Architectural Design Guidelines are incorporated in the Covenants and made a part thereof.

Great care has been taken in the planning, design and construction phases to insure aesthetic harmony within Windermere. To this end it is of the utmost importance that this special character not be compromised by architectural designs and site plans which are improperly conceived, unresolved or poorly executed.

#### **PLANS MUST BE DESIGNED BY PROFESSIONAL RESIDENTIAL DESIGNERS OR ARCHITECTS.**

By encouraging quality and attention to detail, the aesthetic harmony, natural tranquility and overall property values at Windermere will be enhanced and preserved by the Architectural Review Committee and these Design Guidelines.

For this reason, an Architectural Review Committee will review and approve all construction, designs, and plans for:

- Consideration of primary site design requirements.
- Sensitivity to the existing landscape features of each site.
- The visual relationship or physical impact the proposed home may have on surrounding home sites.
- Excellence of architectural design.

### B. ARCHITECTURAL REVIEW COMMITTEE

- (a) Windermere is designed to be a unique community of residential properties. The Covenants, Conditions, and Restrictions do not list specific design items necessary for plan approval. The authority to approve specific building plans rests solely with the Architectural Review Committee. The Committee does not seek to restrict individual creativity or preference, but rather to maintain a visually pleasing and appropriate appearance for each homesite within the community.
- (b) The Architectural Review Committee is composed of a minimum of three (3) members, all of whom shall be appointed by the Board of Directors of the Windermere Home Owner's Association. Additionally, professional architects may serve as members or consultants of the Committee. All decisions and actions of the Architectural Review Committee shall require an affirmative vote of a

majority of its members. The Committee will use the Architectural Guidelines for the general purpose of reviewing proposed construction but will consider the merits of any particular project because of special conditions that are felt to provide benefits to the adjacent areas, the specific site, or to the community as a whole.

- (c) Notwithstanding the fact that architectural design and “excellence” is and will be a subjective thing, and that there may be some differences of opinion in judging design and “excellence in design”, nevertheless, any person or party acquiring and owning a lot in Windermere understands and agrees to the criteria herein set forth and will be governed thereby.

## **C. APPLICATION PROCESS**

### **1. Application For Approval**

Prior to the commencement of any construction activity of any type on any residential lot, an **APPLICATION FOR APPROVAL** of such work must be submitted by the property owner or their respective agent to the Architectural Review Committee. A fee as listed in paragraph 6 of this section must accompany this application. Included with the application shall be such documents and other information as might be requested by the Committee. Approval by the Committee must be received prior to the start of grading or construction. All building plans, fee payment and the application for approval should be sent to:

Architectural Review Committee  
Windermere Owner’s Association, Inc.  
P O Box 8327  
Laurel, MS 39441-8327

### **2. Pre-Application Research**

It is the responsibility of the lot owner to acquaint his or her building team with the Architectural Review Committee and the Design Guidelines. The City of Laurel, Mississippi Planning Department has jurisdiction over Windermere Subdivision. They should be contacted at the beginning of the planning process to insure compliance with their requirements.

### **3. Preliminary Design Approval**

Prior to the complete design of improvements requiring approval of the Committee, a preliminary review of the owner’s plan must be conducted to provide further design guidelines and an indication of the architects or designer’s conformance with specific design requirements of the Committee. It is believed that the service will assist owners and architects to expedite their work and minimize costs of corrections.

A complete copy of the application for approval together with, two (2) complete sets of the following information will be required to be submitted to the Architectural Review Committee. One set is to be retained by the Committee and one set returned to the property owner after completion of the review.

- (a) Plot plan drawn to scale showing the following:
  - (1) All proposed structures, improvements, setbacks, existing trees (trees over 6" caliper measured four feet above natural grade) and natural amenities;
  - (2) North arrow and scale (10'=1");
  - (3) Owner's name, present address, and telephone number;
  - (4) Architect's/Designer's name, or Owner's representative, present address, and telephone number.
- (b) Grading plan if required showing:
  - (1) Topographic plan showing existing contours and finished floor elevation;
  - (2) Contour plan showing cut and fill requirements;
  - (3) Retaining wall locations and heights.
- (c) Preliminary floor plan showing overall dimensions and area of structure;
- (d) Sketches of all major elevations;
- (e) Description of all exterior materials, roof materials, and colors.

#### **4. Final Design Approval**

Two (2) complete sets of the following information in addition to that required for the preliminary design approval will be required to be submitted to the Committee. One (1) set is to be retained by the Committee and one (1) set with approval to be returned to the owner upon completion of review.

- (1) Final grading and improvements plans.
- (2) Final plot plan, all building elevations, floor plan(s), and all plans related to ancillary structures.
- (3) Final construction specifications.
- (4) Owner's proposed construction schedule.
- (5) Final landscape design and working drawings.

The Architectural Review Committee will retain the final drawings and approval for a maximum period of one hundred twenty (120) days subsequent to approval. If work has not started or a continuance received by the owner or owner's agent within the time period, the approval will then automatically expire.

#### **5. Procedural Flow Chart**

The following flow chart represents the necessary procedures in the process of building a residence in Windermere Subdivision. It is important to mention that any

deviation from the procedures could cause unnecessary delays or additional costs if approvals are not obtained prior to construction.

**PRELIMINARY APPROVAL**

Residential Structures

**CHANGES/ADDITIONS**

**FINAL APPROVAL**

Residential Structures

**AFTER APPROVALS**

Begin Construction

**PRELIMINARY APPROVAL**

Landscaping

**CHANGES/ADDITIONS**

**FINAL APPROVAL**

Residential Landscaping

**READY FOR OCCUPANCY**

**6. Fees: Architectural Review Committee Processing:**

The owner will be charged a processing fee for preliminary and final design submittal. This fee shall be as follows:

Lots 100-127	\$200.00	Lots 201-238	\$200.00
Lots 301-324	\$150.00	Lots 601-633	\$150.00
Lots 401-406	\$150.00	Lots 701-711	\$200.00
Lots 500-523	\$100.00	Lots 801-813	\$200.00

The Architectural Review Committee shall have the right to increase these amounts from time to time. These fees have been established to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained by the Committee. The Contractor Declarant will not be required to pay these fees unless a consulting architect is required.

**7. Damage and Landscape Deposit**

The owner or the contractor shall place a cash deposit with the Architectural Review Committee at the time of submittal for final design approval based on the following schedule:

Lots 100-127	\$500.00	Lots 201-238	\$500.00
Lots 300-324	\$400.00	Lots 601-633	\$400.00
Lots 401-406	\$400.00	Lots 701-711	\$500.00
Lots 500-523	\$300.00	Lots 801-813	\$500.00

This deposit will be fully refunded upon completion of all improvements, including landscaping, and acceptance by the Committee provided there is not damage by the owner and/or his contractors to the public and private improvements, common areas, or other lots within the community.

All re-submittals may require an additional processing fee.

All fees and deposits noted above are subject to change by the Architectural Review Committee or the Board of Directors of Windermere.

**SECTION II. SITE PLANNING & LANDSCAPE DESIGN**

**A. LANDSCAPE**

To insure that the overall beauty of the community is preserved and enhanced, the Architectural Review Committee has the authority to approve or disapprove landscape plans for individual residences.

Windermere Subdivision has been planned utilizing the natural elements as much as possible. The determining factor of good landscape design should always be the architecture and location of the residence. The Architectural Review Committee will take into account various relationships of house to site, house to house, views, prevailing breeze, and other amenities in making decisions regarding specific landscape plans.

**1. Natural Features**

Throughout Windermere, fine mature individual trees exist. Many are located in prominent view from our streets and roads, giving them special significance. The community has taken a positive step toward the recognition and protection of such trees by requiring approval by the Architectural Review Committee to remove any tree, on any building lot, with a trunk diameter over six (6) inches at four (4) feet above natural grade.

In addition to the already established vegetation many other plant types will be acceptable for use within the community. The Architectural Review Committee will

take into consideration all elements of the individual landscape plan and plant materials selected in the approval process.

In planning the front area of the home, the landscape designer is urged to minimize the appearance of the telephone and electrical boxes with plant material while still leaving them accessible as necessary.

Fundamental to the design critical is the design for gardens and lawns to harmonize with the native terrain and natural beauty of the community. Owners will be encouraged by the committee to landscape their lots with plant material which is indigenous to the existing areas, and to leave untouched as much as possible the existing vegetation and natural amenities of the terrain.

## **B. SITE PLANNING & ARCHITECTURE**

The siting of a house is a critical and important design decision. The site plan concept developed for each homeowner should reflect functional needs, but also be sensitive to the site's unique characteristics and inherent design opportunities.

The larger lots and open vistas of our community will mean that most residences will be seen from many different angles and views. It is therefore important that the three dimensional character of each home be carefully studied.

It is desirable for the homes of our community to exhibit the individuality of their owners as well as the guidelines of the selected architectural style. But it is also important that they observe basic design principles inherent in good architecture.

- Is the residence located on the site with a minimum, sensitive disruption to the natural topography and landscape?
- Will the various building materials allow for a pleasing and harmonious exterior appearance to the residence? Are the colors appropriate and used with restraint?
- Is there a consistent scale used throughout the design of the residence? Each element must be designed in proportion to others.
- Are the specific features of the architectural style selected well developed and carefully detailed? Have these features been researched to resemble a certain degree of authenticity?

## **C. SITING**

The Architectural Review Committee shall consider each site independently but shall give extensive consideration to each individual plan's impact upon adjacent homesites, views crossing the lakes, and view corridors. Care must be taken to locate each structure, whenever possible, so as not to infringe upon view corridors, adjacent structures and homesites, and natural amenities of the area. Consideration in this regard include:



- (1) Physical terrain of the site;
- (2) Views from the project site;
- (3) Views to the project site from adjacent lots or common areas if applicable;
- (4) Views crossing the lakes if applicable;
- (5) Natural amenities:
  - existing plant material
  - existing water and drainage channels
- (6) Driveway access;
- (7) Height of structures.

**D. DRAINAGE**

Drainage considerations for individual sites play an important part of the overall ecological balance of the site. Water runoff for each individual building site must be handled by adequately sloping all areas so that runoff can be directed to the natural drainage areas or to storm drainage facilities.

**E. BUILDING SETBACKS**

The following setbacks are minimum standards as set by the Architectural Review Committee and are measured from the property lines:

	Front Setback	Side Setback	Rear Setback
Lots 100-106	15'	5' or 0/10'	25'
Lots 107-127	25'	5'	25'
Lots 301-312	25'	5' or 0/10'	35'
Lots 313-324	25'	5' or 0/10'	25'
Lots 401-406	25'	5'	25'
Lots 500-505, 510-523	25'	5'	25'
<u>Lots 506-509, 524-527</u>	<u>25'</u>	<u>Zero line concept accepted</u>	<u>25' to rear of house</u>
Lots 201-239	25'	5'	25'
Lots 601-633	25'	5'	25'
Lots 701-711	25'	5'	25'
Lots 801-804	25'	5'	25'
Lots 805-813	25'	5'	0

For some building lots within the community it may be impossible or inadvisable to develop setback requirements according to the previous standards due to natural terrain, lot configurations, and/or proximity of adjacent structures. Therefore, the Committee may approve specific deviations to these setbacks, which it believes to be beneficial to a specific homesite or to adjacent home sites.

## F. BUILDING REQUIREMENTS

### 1. Minimum Dwelling Sizes

Lots 100-106	Minimum building size – 1,500 sq. ft.
Lots 107-127	Minimum building size – 2,200 sq. ft.
Lots 301-324	Minimum building size – 1,800 sq. ft.
Lots 401-406	Minimum building size – 1,750 sq. ft.
Lots 500- <u>527</u>	Minimum building size – 1,500 sq. ft.
Lots 201-213	Minimum building size – 2,500 sq. ft.
Lots 214-219	Minimum building size - 2,400 sq. ft.
Lots 220-239	Minimum building size – 2,200 sq. ft.
Lot 234	May be divided see Exhibit B Phase II
Lots 601-623	Minimum building size – 1,600 sq.ft.
Lots 624-633	Minimum building size – 1,500 sq.ft.
Lots 701-711	Minimum building size – 1,750 sq. ft.

### 2. Ceiling Height

All ceiling height will be a minimum of 9'. In certain rooms such as baths and storage this may be waived by the Architectural Review Committee.

## G. SIDEWALK REQUIREMENTS

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

Lots 111-116	Lots 202-209	Lots 801-813
Lots 118-122	Lots 211-213	
Lots 301-312, 314	Lots 220-222	
Lots 401-406	Lots 234-238	
Lots 500-509	Lots 618-629	
Lots 517-520	Lot 633 Eastside (Joshbury Circle)	
Lots 524-527	Lots 707-711	

## H. GARDEN OR ZERO LOT LINE LOTS

### 1. Zero Lot Line

The following lots may be built on as Zero Lot Line houses:

Lots 101-104	Lot 234
Lots 301-312	
Lots 313-324	

These Garden or Zero Lot Line houses if constructed as Zero Lot Line houses, should be constructed, erected, placed and maintained so that the face of its exterior side which constitutes its Zero Lot Line wall is located within one foot of the lots common boundary with the adjacent lot situated on the other side of the Zero Lot Line and no closer than ten (10) feet to the boundary of the Lot on the opposite side of subject Lot's Zero Lot Line. Any owner planning to build a zero lot line home, will have to obtain a maintenance easement from the adjoining property.

## **2. Exterior Wall Requirements**

The "Zero Lot Line" wall shall be a solid surface with no windows from its foundation to its roof. It is the intent of this requirement that a solid wall shall exist along the entire length of the dwelling.

# **I. DESIGN CRITERIA**

## **1. Grading and Excavating**

The design and development concepts of the community call for the maintenance of the environment in as much of the original conditions as possible.

The Committee is particularly conscious of site utilization and potential, and desires not to disrupt the natural terrain in most cases. The Architectural Review Committee is keenly aware that whenever possible structures should be designed to the specific lot. It is important to remember that the beauty of our development is the land and its natural features, and that the architecture should complement and enhance rather than compete with or destroy this beauty.

In order to help insure compliance with this philosophy as part of a preliminary design submittal, a grading plan may be required. A grading permit must be obtained from the Committee before earth is moved or removed from a specific homesite. Absolutely no grading whatsoever shall be permitted without first obtaining this permit.

All grading reviews shall be subject to the jurisdiction of the Committee and shall be considered individually for each lot. Recommendations or demands will be based upon individual lot locations, terrain, soil conditions, drainage, cuts and fills, and whatever other conditions the Committee feels impact upon the site grading designs.

## **2. Lawn Area**

Though owners are encouraged by the Committee to landscape their lots for individual beautification, any front yard area considered lawn area shall be sodded with the actual lawn species noted on the landscape plan to be submitted. Additionally, any area of lawn between the sidewalk and the street shall be

considered as the owners front lawn, and may be landscaped or kept in its natural state as shall be mutually agreed upon by the Owner and the Committee.

Homeowners and designers are urged to use plant material to minimize the appearance of telephone and electrical boxes in the front lawn area and the area between the sidewalk and the street.

### **3. Mailboxes**

One of the items the Architectural Review Committee will control is the selection and/or construction of all mailboxes for residences within Windermere. The Committee has pre-selected a style of mailbox and requires property owners to select this style for their residence.

### **4. Walls, Fences, and Piers**

Walls and fences should be considered as an extension of the architecture of the residence. They should serve to make a transition between the mass of the architecture and the natural forms of the site.

The area between dwellings may be improved to provide a private courtyard for the exclusive use of the Homeowner. Such areas may be private and screened from view.

All walls and fences should be designed to be compatible with the total surrounding environment and should not block natural views. Fences, walls and hedges should be considered as design elements to enclose and define courtyards, to extend and relate the building forms to the landscape, as well as to assure security and privacy elements. Privacy fences must not be placed within 60' of the water's edge on waterfront lots. Four foot fences are preferred in front and side yard. All walls and fences must be approved by the Architectural Review Committee prior to their installation.

Piers shall not extend into the lake more than 6 ft. from the existing natural waterline of the lot. No pier should cover more than 72 sq. ft. of water surface from the water edge. For example, a 12x12 deck may have 6 ft. on land and 6 ft. over the water.

### **5. Exterior Lighting**

Exterior pool and landscape lighting must not infringe upon adjacent neighbors. All accent lighting should utilize low voltage, direct task type fixtures, and they should be as close to grade as possible. All exterior lighting must be approved by the Architectural Review Committee prior to installation.

## **6. Remodeling and Additions**

Remodeling and additions to existing improvements are required to meet the same criteria as new construction. All criteria concerning aesthetics, color, site location, landscape, grading and excavations, roofs, satellite television disks, setbacks, lighting, etc., will be of significant concern to the Architectural Review Committee. An approval from the Committee is required for this work, as it is for new construction.

## **7. Pools; Therapy Pools; Spa**

Pool and equipment enclosures must be architecturally related to the house and other structures in its placement, mass and detail.

\_\_\_\_\_ changes made 6/23/03

## **8. Service Yard**

Unightly objects must be screened or stored in order to conceal their view from any street, common area or community.

## **9. Antennas**

The community has been wired for cable television. The Architectural Review Committee will restrict use of all antennas, satellite dishes, radio receivers or similar devices except dishes 18" or less in diameter that are shielded from view.

# **SECTION III. ARCHITECTURAL DESIGN**

## **A. INTRODUCTION**

The following elements are to be encouraged:

- Appropriate and intelligent selection of details.
- Well-designed floor plans.
- Sensitive interpretation of styles within constraints of budget and site.
- Attention to scale, staying within the traditional or classical range of proportions.

## B. DESIGN CRITERIA

### 1. Carlisle Villas (#101 & #104)

- Zero Lot Line or Common Wall homes may be approved
- 1500 square feet minimum heated area
- Masonry exteriors a minimum of 3 sides on main floor
- Elevated foundation with masonry veneer
- Masonry, vinyl, painted wood or cement board siding on secondary level (above main floor) and dormers
- Architectural style roof shingles – “weathered wood” color
- Major roof pitch of not less than 8 in 12
- Lake front houses to have architecturally attractive rear elevations and landscaping
- Two car side or rear entry garages or carport
- Driveway and walkways of exposed aggregate concrete or other materials approved by the Architectural Review Committee.

\*Guidelines may vary from this list in the sole judgement of the Architectural Review Committee (ARC) based upon site and other considerations.

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changes made 6/23/03

### 2. Regents Park Homes (#100, #107-110); Kensington Estate Homes (#111-127)

- 2200 square feet minimum heated area
- Masonry exteriors on first floor
- Elevated foundation with masonry veneer
- Masonry, painted wood or cement board siding on second level and dormers
- Slate, tile or architectural style “weathered wood” colored roof shingles
- Major roof pitch of not less than 9 in 12
- Lake-front houses to have architecturally attractive rear elevations and landscaping
- Minimum two car side entry garages
- Driveway and walkways of exposed aggregate concrete or other materials approved by the ARC
- Minimum 4-ft. sidewalks required on Lots 111-116 and Lots 118-122 of brushed concrete finish with edger, or other materials approved by ARC.

\*Guidelines may vary from this list in the sole judgement of the Architectural Review Committee (ARC) based upon site and other considerations. If shutters are to be used, they must be sized for their respective openings and hung on operable hinges. Chimneys may be developed in any style or proportion but must be constructed of brick, stone, or stucco. The use of wood clad or metal chimneys is not allowed.

### 3. Hyde Park Garden Homes (#300-324)

- 1800 square feet minimum heated area
- Masonry exteriors on first floor
- Elevated foundation with masonry veneer
- Masonry, vinyl, painted wood or cement board siding on second level and dormers
- Architectural style roof shingles – “weathered wood” color
- Major roof pitch of not less than 8 in 12
- Lake front houses to have architecturally attractive rear elevations and landscaping
- Two car side entry garages
- Driveway and walkways of exposed aggregate concrete or other materials approved by the Architectural Review Committee.
- Minimum 4 ft. sidewalks required on Lots 301-312 and North side Lot 314 of brushed concrete finish with edger

\*Guidelines may vary from this list in the sole judgement of the Architectural Review Committee (ARC) based upon site and other considerations.

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### 4. The Woodlands Single Family Homes (#401-406)

- 1750 square feet minimum heated area
- Masonry exteriors on three sides of first floor of 401-403
- Masonry front elevation of the first floor of 404-406
- Masonry, vinyl, painted wood or cement board siding on the sides and rear of the first floor, and the second floor and dormers.
- Architectural style roof shingles – “weathered wood” color
- Major roof pitch of not less than 7 in 12
- Two car garages
- Driveway and walkways of exposed aggregate concrete or other materials approved by the Architectural Review Committee.
- Minimum 4 ft. sidewalks required on all lots with brushed concrete finish with edger

\*Guidelines may vary from this list in the sole judgement of the Architectural Review Committee (ARC) based upon site and other considerations.

## **5. The Glen Single Family Homes (#500-523) (#524-527)**

- 1500 square feet minimum heated area
- Masonry front elevation of the first floor
- Masonry, vinyl, painted wood or cement board siding on the sides and rear of the first floor, and the second floor and dormers
- Architectural style roof shingles – “weathered wood” color
- Major roof pitch of not less than 7 in 12
- Two car garages Lots 506-509, 524-527 may have rear entry carports
- Driveway and walkways of approved material
- Minimum 4 ft. sidewalks required on Lots 500-509, 517-520 and 524-526 of brushed concrete finish with edger

\*Guidelines may vary from this list in the sole judgment of the Architectural Review Committee (ARC) based upon site and other considerations.

## **6. The Fells Phase II (#201-239)**

- Lots 201-213 2500 sq. ft. minimum heated area
- Lots 214-219 2400 sq. ft. minimum heated area
- Lots 220-239 2200 sq. ft. minimum heated area
- Lot 234 may be divided with zero lot line with 1800 sq. ft. minimum heated area
- Masonry exterior on first floor
- Elevated foundation with masonry veneer
- Masonry, painted wood or cement board on second level and dormers
- Slate or architectural style “weathered wood” colored roof shingle
- Major roof pitch of not less than 8 in 12
- Lake front houses to have architecturally attractive rear elevation and landscaping
- Minimum two car side entry garage
- Minimum 4 ft. side walk required on lots 202-209, 211-213, 220-222 and 234-238

\*Guidelines may vary from this list in the sole judgment of the Architectural Review Committee (ARC) based upon site and other considerations.

## **7. Phase III Lots (#601-633)**

- Lots 601-623 1600 sq. ft. minimum heated area
- Lots 624-633 1500 sq. ft. minimum heated area
- Masonry front elevation first floor
- Masonry, vinyl, painted wood or cement board on sides and rear of first floor and second floor and dormers
- Architectural style roof shingles – weathered wood color
- Major roof pitch of not less than 7 in 12
- Two car garage



- Driveway and walkway of approved material
  - Minimum 4 ft. side walk required on lots 613-629 and lot 633 east side
- \*Guidelines may vary from this list in the sole judgment of the Architectural Review Committee (ARC) based upon site and other considerations.

#### **8. Phase III Lots (#701-711)**

- Minimum 1750 sq. ft. minimum heated area
  - Masonry exteriors on first floor
  - Elevate foundation with masonry veneer
  - Masonry, vinyl, painted wood or cement board on second floor and dormers
  - Architectural style roof shingles – weathered wood color
  - Major roof pitch of not less than 8 in 12
  - Two car side entry garage
  - Driveway and walks of approved material
  - Minimum 4 ft. side walk required on lots 707-711
- \*Guidelines may vary from this list in the sole judgment of the Architectural Review Committee (ARC) based upon site and other considerations.

#### **9. Phase IV (#801-813, 905-913)**

- Lots 801-803 1600 sq. ft. minimum heated area
- Lots 804-813 1750 sq. ft. minimum heated area
- Masonry exteriors on first floor lots 804-813
- Elevate foundation with masonry veneer
- Masonry, vinyl, painted wood or cement board on second floor and dormers
- Architectural style roof shingles – weathered wood color
- Major roof pitch of not less than 8 in 12
- Two car side entry garage
- Driveway and walks of approved material
- Minimum 4 ft. side walk required on lots 804-813

\*Guidelines may vary from this list in the sole judgment of the Architectural Review Committee (ARC) based upon site and other considerations

\*\*See Phase IV Exhibit “B” for requirements on lots 801-804, lots 905-913 and lots 805-813.

## C. REMODELING & ADDITIONS

Remodeling and additions to existing homes are required to meet the same criteria as new construction, including Committee approvals.

\_\_\_\_\_ changes made 6/23/03

## SECTION IV. GENERAL RULES FOR ALL WINDERMERE CONTRACTORS AND SERVICE PERSONNEL

The following rules apply to all employees of Windermere, contractors and service personnel while on Windermere premises.

- 1. THE ENTRANCE TO WINDERMERE IS VERY CLOSE. TRUCKS MUST BE CAREFUL WHEN ENTERING WINDEREMERE FROM SERVICE ROAD AND WILL BE HELD RESPONSIBLE FOR ANY DAMAGE TO THE ENTRANCE, INCLUDING CURBS, GATES, AND PLANTINGS.**
- 2. CONCRETE TRUCKS ARE LIMITED TO NO MORE THAN 7 CUBIC YARDS. DUMP TRUCKS ARE LIMITED TO NO MORE THAN 6 CUBIC YARDS FOR SINGLE AXLE AND 12 CUBIC YARDS FOR DUAL AXLE. NO TRAILER TRUCKS OF GRAVEL OR DIRT ARE ALLOWED. SPEED LIMIT OF 25 MPH WILL BE ENFORCED.**
3. Contractors are required to keep adequate trash receptacles on each building site and to keep their job sites as neat and clean as possible. Trash and discarded materials, including packaging materials and discarded food and drink containers must be picked up on a daily basis. All sites must be cleaned for the weekend. Plastic materials must not be allowed to blow into the lakes or the neighboring cattle area. There will be no stockpiling or dumping on adjacent lots or on streets. Any contractor site not properly cleaned for three consecutive days or on a weekend will be charged \$50.00 to cover the cost to the Association to clean the site. This money will be billed to the Builder or taken from the damage deposit as referred to in C. Application Process, Section 7. Damage and Landscape Deposit (p. 5 of this document). Contractors are encouraged to have a dumpster on each construction site so trash can be contained and removed in an orderly manner.
4. Contractors will use only the utilities provided on the immediate site on which they are working.
5. Any damage to streets and curbs, common areas, drainage inlets, street markers, mailboxes, walls, etc., will be repaired by contractor or Windermere and such cost billed to the responsible lot owner, contractor or taken from the damage deposit.
6. The established speed limit within the community is 25 miles per hour for construction vehicles, including light trucks and autos. This must be obeyed.
7. There will be no washing of any truck on the streets, adjoining lots or common areas. Any concrete delivery truck washed out must be on the construction site or site provided.

8. Operators of vehicles are required to see that they do not spill any polluting or damaging materials while within the community; and, if spillage of a load occurs, operators are responsible for cleaning up. Cleanups done by Windermere personnel will be billed to the responsible party or deducted from the damage deposit. Please report any spills as soon as possible.
9. Be advised there is a 10' utility easement adjoining the property line adjacent to the street right of way. If any telephone, cable TV, electrical, water, etc. lines are cut, it is your responsibility to report such an accident to proper service company personnel and to Windermere personnel within 30 minutes.
10. All personnel working in the community are to insure that they will keep all areas in which they work or travel free of discarded materials such as lunch bags and all refuse materials. Objects should not be thrown out of cars and trucks. Stock piling of any materials on adjacent lots or common areas is not allowed.
11. Loud radios or noise will not be allowed within the subdivision. This is distracting and discomforting to property owners. Normal radio levels are acceptable. Do not mount speakers on vehicles or outside of homes under construction. Remember that sound travels a long way.
12. No construction vehicles (trucks, vans, cars, etc.) may be left in the subdivision overnight except on the construction site. All construction equipment and vehicles may be left on the site while needed, but must not be kept on the street.
13. Only bona fide workers are allowed on property. Spouses may drive workers to site and pick them up, but must not remain on the property unless they are actual employees of the contractor or subcontractor. No children will be permitted on the property unless they are bona fide workers.
14. No contractors or contractor's personnel will be permitted to hunt, fish, or bring pets or boats, inside Windermere.
15. Contractor will provide a portable toilet to each job site.
16. Prior to any construction, contractor must post certificate of insurance with the limits of \$500,000.00 liability and workers compensation.
17. No temporary storage trailers or buildings are allowed except, as may be a necessary adjunct to construction.
18. The owner is charged with giving the required notice to his or her contractor, laborer, or service personnel, and shall insure their compliance with the conditions set forth herein.
19. On lot that requires grading or haul in fill material care should be taken to keep on the lot for which the construction is on. This is very important on lake front lots. If much erosion is expected, silt fences should be installed and maintained.
20. Contractors and sub contractors should not park in front of mail boxes as the mail person cannot place mail in boxes.

**WINDERMERE INTENDS TO ENFORCE THESE REGULATIONS FOR THE PROTECTION OF ALL OWNERS. FAILURE TO ABIDE BY THESE RULES MAY RESULT IN THE LOSS OF YOUR PRIVILEGE TO ENTER THE PROPERTY AND FORFEITURE OF DEPOSIT.**

**THE DESIGN GUIDELINES HEREIN ARE NOT INTENDED TO AMEND, ALTER OR SUPERSEDE THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDERMERE, AS RECORDED IN THE OFFICE OF THE CHANCERY CLERK OF JONES COUNTY. IN THE EVENT THESE GUIDELINES CONFLICT WITH SAID DECLARATION, THE DECLARATION SHALL CONTROL.**

**NO APPROVAL OF PLANS AND SPECIFICATIONS, NOR THESE DESIGN GUIDELINES SHALL EVER BE CONSTRUED AS REPRESENTING OR IMPLYING THAT A STRUCTURE IS PROPERTY DESIGNED. SUCH APPROVALS AND STANDARDS SHALL IN NO EVENT BE CONSTRUED AS REPRESENTING OR GUARANTEEING THAT ANY STRUCTURE WILL BE BUILT IN A GOOD WORKMANLIKE MANNER. IT IS THE SOLE RESPONSIBILITY OF THE LOT OWNER TO MAKE SURE THAT CONSTRUCTION MEETS THE CRITERIA OF WINDERMERE COVENANTS AND DESIGN GUIDELINES.**

**THESE DESIGN GUIDELINES MAY BE AMENDED OR SUPPLEMENTED FROM TIME TO TIME. PLEASE HAVE YOUR COPY OF THE GUIDELINES DATED AND INITIALED WHEN YOU PICK THEM UP. ADVISE DEVELOPER IN WRITING THAT YOU ARE IN THE PROCESS OF DESIGN, LANDSCAPING, ETC., AND TO ADVISE YOU OF ANY CHANGE IN THESE GUIDELINES IN A TIMELY MANNER.**

EXECUTED THIS \_\_\_\_\_ DAY OF

WINDERMERE

BY: \_\_\_\_\_

**APPLICATION OF APPROVAL FOR WINDERMERE  
LAUREL, MISSISSIPPI**

Attention: Architectural Review Committee

Two sets of the following documents are enclosed:

**FOR PRELIMINARY DESIGN APPROVAL:**

\_\_\_\_\_ Plot Plan; 1" = 10'

\_\_\_\_\_ Grading and Drainage Plan; 1" = 10'

\_\_\_\_\_ Floor Plan; 1/4" scale

\_\_\_\_\_ All Major Elevations; 1/4" scale

\_\_\_\_\_ Descriptions/Samples of all exterior materials, roof materials, and colors;

\_\_\_\_\_ Landscape Plan; 1" = 10'

**FOR FINAL DESIGN APPROVAL:**

\_\_\_\_\_ Final plot/staking plan

\_\_\_\_\_ Final grading and drainage plans

\_\_\_\_\_ Final construction specifications

\_\_\_\_\_ Owner's proposed construction schedule

\_\_\_\_\_ Final landscape design and working drawings

\_\_\_\_\_ Contractor's Certificate of Insurance (\$500,000 general liability and worker's compensation)

Enclosed is my check for \_\_\_\_\_ **Architectural Review Fee**

Enclosed is my check for \_\_\_\_\_ **Damage deposit with final design approval**

\*Please make checks payable to: Windermere Architectural Review Committee  
P O Box 8327  
Laurel, MS 39441-8327

I understand that Final Design Approval shall be valid for six months, and commencement of construction thereafter will require re-approval.

My architect/designer is: \_\_\_\_\_; phone: \_\_\_\_\_

My landscape architect/designer is: \_\_\_\_\_; phone: \_\_\_\_\_

My builder contact person is: \_\_\_\_\_; phone: \_\_\_\_\_

Owner's Name and Address: \_\_\_\_\_; phone: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Owner's signature: \_\_\_\_\_ date: \_\_\_\_\_

\_\_\_\_\_ date: \_\_\_\_\_

**APPROVED FOR PRELIMINARY DESIGN:**

\_\_\_\_\_ **date:** \_\_\_\_\_

**FINAL DESIGN APPROVAL:**

\_\_\_\_\_ **date:** \_\_\_\_\_

# **BY-LAWS**

## **OF**

WINDERMERE OWNERS ASSOCIATION

*W*





**BY-LAWS  
OF  
WINDERMERE OWNERS ASSOCIATION  
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BY-LAWS  
OF  
WINDERMERE OWNERS ASSOCIATION

ARTICLE I

*NAME AND  
LOCATION*

**Section 1. Name and Location.** These are the By-Laws of and for Mississippi nonprofit and non-share corporation named;  
Windermere Owners Association

Said corporation is referred to herein at times as the “Association”. The principal office the Association is located at Bush Dairy and Amy Roads Laurel, MS 39441.

*ARTICLE II*

DEFINITIONS

**Section 1. Owner Declarant.** “Owner Declarant”, as used herein, means Bush Farms, Inc., a Mississippi corporation, its successors and assigns.

**Section 2. Project.** The word “project” and the word “community” as used herein, mean that certain community known generally as Windermere being developed by the Owner Declarant and others in Jones County, Second Judicial District, Mississippi.

**Section 3. Declaration.** “Declaration”, as used herein, means that certain instrument entitled “Declaration of Covenants, Conditions, and Restrictions” under date of January 16, 2002, filed for record in the office of Chancery Clerk of Second

Judicial District of Jones County at Laurel, Mississippi, in said Chancery Clerk's office in Book 1307 beginning on Page 550, as same may hereafter be supplemented or amended.

**Section 4. Board of Directors.** "Board of Directors", as used herein, means the Board of Directors of the Association.

**Section 5. Charter.** "Charter", as used herein, means the Charter of Incorporation of the Association.

**Section 6. President, Vice President, Secretary and Treasurer.** The words "President", "Vice President", "Secretary", and "Treasurer", as used herein, mean, respectively, the President, Vice President, Secretary, Treasurer of the Association.

**Section 7. Other Definitions.** Unless a different meaning is apparent from the context, all other expressions used herein shall have the same meaning as they are defined to have in the Declaration, except that the word "herein" as used in these By-Laws shall mean in the By-Laws.

# ARTICLE III

## MEMBERSHIP AND VOTING RIGHTS

**Section 1. Membership.** The Members of the Association shall be and consist of every person who is, or becomes an Owner of record of the fee title to a lot and is included in the definition of an Owner under Article I of the Declaration. When more than one person owns or holds an interest or interests in a lot, one person shall be a member.

**Section 2. Action by Members.** The Association shall have two classes of voting Members. Wherever any provision of the Declaration requires a vote of a specified percentage of the voting power of each class of Members, then such provision shall require a separate vote by the specified percentage of the voting power of Class A Members and by the specified percentage of the voting power of the Class B Members. Whenever any provision of the Declaration requires a vote of a specified percentage of the voting power of the Members, the such provision shall require a vote by the specified percentage of the combined voting power of all Members.

**Section 3. Members' Voting Rights.** The voting rights of the Members shall be as follows, to-wit:

- The Class A Members shall be all Members, except the Owner Declarant. Class A Members who own a Lot shall be entitled to one vote for each Lot owned.

- The Class B Member shall be the Owner Declarant who shall be entitled to four votes for each Lot owned.

**Section 4. Membership Appurtenant to Real Property.** The membership of both the Class A Members and the Class B Member shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed, or alienated in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance or alienation of the Lot to which the membership is appurtenant.

**Section 5. Voting Conflict Between Members.** If the fee title to a particular Lot is owned of record by more than one Member, then the one vote appurtenant to such Lot may be exercised by any one of such Members, unless the other Members who own an interest in such fee title to the Lot shall object prior to the completion of voting upon the particular matter under consideration. In the event of any such objection, the one vote appurtenant to such Lot shall not be counted.

**Section 6. Class B Member Termination.** When the voting power of the Class A Members equals the voting power of the Class B Member, then the Class B Member shall cease and be converted into a Class A Member. Notwithstanding the foregoing, on December 31, 2014, all Class B Membership shall cease and be converted in to Class A Membership.

**Section 7. Class B Member Reinstatement.** At any time or times after the Class B Member shall cease and be converted into a Class A Member under Section 6, if the Owner Declarant annexes Additional Property to the Property as permitted by Section 2 of Article XIII of the Declaration and as a result of such annexation the Owner Declarant owns more than one-fourth of the Lots on the Property, including the annexed Additional Property, the status of the Owner Declarant as a Class B Member shall be fully reinstated with respect to all Lots owned by the Class B Member and while the Class B Member shall continue to exist, the Owner Declarant shall have all rights and powers of the Class B Member, as provided by the Declaration. After each such reinstatement, the Owner Declarant shall continue to be a Class B Member until such time as the total voting power of the Class A Members equals the total voting power of the Class B Member. At such time, the Class B Member shall cease and be converted into a Class A Member as provided by Section 6.

**Section 8. No Pre-emptive Rights.** The Members of the Association simply by virtue of being such Members, shall have no pre-emptive rights to acquire any additional membership which the Association may issue from time to time.

# ARTICLE IV

## MEETINGS OF MEMBERS

**Section 1. Place of Meetings.** Meetings of the Members shall be held at the principal office or place of business of the Association, or at whatever other suitable place or places within the State of Mississippi as are reasonably convenient to the membership as may be designated by the Board of Directors from time to time.

**Section 2. Organization Meeting.** The Organizational Meeting of the Members shall be held at whatever time and place as may be designated by the initial Board of Directors elected by the incorporator.

**Section 3. Annual Meetings.** The first annual meeting of the Members shall be held at whatever time and place as may be designated by the initial Board of Directors; provided, however, that the first annual meeting of Members shall be held within no more than one (1) year after the date of issuance of the Charter. At such annual meetings, there shall be elected by ballot of the Members a Board of Directors in accordance with the provisions of Article V of these By-Laws, and officers of the Association in accordance with the provisions of Article VI of these By-Laws. The Members also may transact such other business as may properly come before them.

**Section 4. Special Meetings.** It shall be the duty of the President to call a special meeting of the Members whenever such is directed by resolution of the Board of Directors, or whenever such is requested by a petition presented to the Secretary after first having been signed by at least twenty percent (20%) of the Members of each then outstanding class of membership; provided, however, that no special meetings shall be called, except upon resolution of the Board of Directors, prior to the first annual meeting of the Members as hereinabove provided. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except such as is stated in the notice.

**Section 5. Notice of Meetings.**

D. It shall be the duty of the Secretary to mail a notice of each annual or special meeting, stating the purpose thereof, as well as the time and place where the meeting is to be held, to each Member of record, at his address as it appears on the membership roster of the Association at least fifteen (15) but not more than sixty (60) days prior to such meeting. Any notice so mailed shall be considered as a notice properly served. Attendance by a Member at any meeting of the Members shall be a waiver by him of notice of the time, place and purpose

thereof. Notice of any annual or special meeting of the Members also may be waived in any other manner by any Member either prior to, at or after any such meeting.

- E. Meetings at which any action is authorized pursuant to Sections 3 and 4 of Article IV of the Declaration must be held in not less than fifteen (15) days not more than sixty (60) days after notice to all Members as provided by Section 5 (a) hereof.

**Section 6. Roster of Membership.** The Secretary shall maintain a current roster of the names and addresses of the Members of the Association. Each Member, upon becoming a Member, shall furnish the Secretary with his current mailing address, and thereafter shall notify the Secretary immediately in writing of any change or changes in his current mailing address.

**Section 7. Quorum.**

1. The quorum required for any action referred to in Section 5 (b) of this Article shall be as follows:

At each meeting called, as hereinafter provided, the presence at the meeting of Members, or of proxies, entitled to cast not less than sixty percent (60%) of all votes of each class of membership at the meeting. The assessment may be approved by the assent of sixty percent (60%) of each class of members who are voting in person or by proxy at such meeting. Notwithstanding any provision of these By-Laws to the contrary, any action referred to in Section 5 (b) of this Article may be taken with the assent given in writing and signed by sixty percent (60%) of each class of membership.

2. Quorum and voting requirements for all meetings of members other than as described in paragraph (a) of this Section shall be as follows:

The presence, either in person or by proxy of Members having at least thirty percent (30%) of the votes held by all Members in each then outstanding class of membership shall constitute a quorum for the transaction of business at any such meeting of members.

**Section 8. Adjourned Meetings.** If at any particular meeting of Members, the number of members present should be less than or should fall below the number required for a quorum with respect to any one or more of the then outstanding classes of membership (considered separately), and if such deficiency is brought to the attention of the presiding officer by a proper call or request for a determination or quorum (which call and the results thereof shall be shown on the Minutes of the meeting), then no further business may be transacted at such meeting until the proper quorum is present. In such an event, one additional meeting may be called subject to the notice requirements hereinabove set forth, and the required quorum at the subsequent meeting shall not be necessary. Such subsequent meeting shall be held not more than twenty-one (21) days following the initial meeting at which the quorum requirements were not met.



**Section 9. Voting.** At every meeting of Members, the Members shall have the voting rights specified in Article III above. The affirmative vote of the Members having at least fifty-one (51) percent of the total number of votes represented at the meeting, in person or by proxy, shall be necessary to decide any question properly brought before the meeting, unless the question be one as to which, by provision of law, or the Charter, or the Declaration, or these By-Laws, a different vote is required, in which case such provision of law, or the Charter, or the Declaration, or these By-Laws shall govern and control. In the event any membership is owned by a corporation, the vote or votes for such membership may be cast by an individual designated in a certificate signed by the president or any vice president of the corporation and attested by the secretary or any assistant secretary of such corporation and filed with the Secretary of the Association prior to or during the meeting at which the vote is to be cast. The vote or votes for any membership which is owned by a trust or partnership may be cast by any trustee of the trust of any partner of the partnership, as the case may be, and, unless another trustee of the trust or another partner of the partnership, as the case may be, shall object prior to the completion of voting upon the particular matter under consideration, the presiding officer of the meeting shall have no duty to inquire as to the authority of the individual casting any such vote or votes. No Class A Member who is shown by the books of the Association to be more than sixty (60) days delinquent in any payment due the Association shall be eligible to vote, either in person or by proxy, and no such delinquent Member shall be eligible to be elected to the Board of Directors or as an officer of the Association.

**Section 10. Voting by Class.** Whenever by law, or the Charter, or the Declaration, or these By-laws any action is required to be taken by a specified percentage of “each class of the then Members” of the Association, then such action shall be required to be taken separately by the specified percentage of the votes of the outstanding Class A Members, and by the specified percentage of the votes of the then outstanding Class B Members. Whenever by law, or the Charter, or the Declaration, or these By-laws, any action is required to be taken by a specified percentage of the “then Members” of the Association, then such action shall be required to be taken by the specified percentage of the votes of the then outstanding total membership of the Association.

**Section 11. Proxies.** A Member may appoint only another Member or the Management Agent as his proxy; provided that in no case may any Member other than the Owner Declarant or the Management Agent cast more than one (1) vote on behalf of another Member by virtue of a proxy from such other Member. All proxies must be in writing and must be in such form as has been approved by the Board of Directors and must be filed with the Secretary prior to the appointed time of the meeting at which the proxy is to be exercised. Unless limited by its provisions to a shorter term, each proxy shall continue until revoked by a writing properly filed with the Secretary or by the death of the Member who gave the proxy, provided, however, that no proxy shall be effective for a period in excess of one hundred eighty (180) days. All proxies shall automatically cease upon conveyance by the Member of his Lot.

**Section 12. Rights of Mortgagees.** Any holder of a Recorded First Mortgage on any Lot who desires notice of the annual and special meetings of the Members shall notify the Secretary to that effect by Certified or Registered Mail, Return Receipt Requested. Any such notice shall contain the name and post office address of such holders of Recorded First Mortgages and the name of the individual at such address to whom notices of the annual and special meetings of the Members should be directed. The Secretary shall maintain a roster of all holders of Recorded First Mortgages from whom such notices have been received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each annual and special meeting of the Members to each such holder of a Recorded First Mortgage, in the same manner, and otherwise provided in this Article for notice to the Members. Any such holder of Recorded First Mortgage shall be entitled to designate a representative to attend any annual or special meeting of the Members and such representative may participate in the discussion at any such meeting and upon his request made to the presiding officer in advance of the meeting, may address the Members present at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Members upon request made in writing to the Secretary.

**Section 13. Order of Business.** The order of business at all regularly scheduled meetings of the Members shall be as follows:

- D. Roll Call and certification of proxies.
- E. Proof of notice of meeting or waiver of notice.
- F. Reading and approval of minutes of preceding meeting.
- G. Reports of officers, if any.
- H. Reports of committees, if any.
- I. Unfinished business.
- J. New Business.
- K. Election of directors.
- L. Election of officers.
- M. Adjournment.

In the case of special meetings, Item (a) through (d) above shall be applicable, and thereafter the agenda shall consist of the items specified in the notice of the meeting.

**Section 14. Rules of Order and Procedure.** The rules of order and all other matters of procedure at all annual and special meetings of the Members shall be determined by the presiding officer of such meeting.

## **ARTICLE V**

# DIRECTORS

**Section 1. Number and Qualifications.** The affairs of the Association shall be managed and controlled by the Board of Directors. Prior to the first annual meeting of Members, the Board of Directors shall be elected by the incorporator at the organizational meeting called by the incorporator to complete the organization of the corporation. Following the first annual meeting of Members, and continuing each year thereafter for as long as there are Class B Members, the Board of Directors shall consist of five individuals which will include the President, Vice President, Secretary, and Treasurer who shall be elected as prescribed by these By-laws. Directors need not be Members of the Association.

**Section 2. Term of Office.** Directors shall be elected for three years staggered terms at annual Members' meetings and shall serve until their successors shall be elected and qualified in accordance with the By-laws.

**Section 3. Change in Number.** The number of Directors may be changed from time to time by the Board of Directors or by appropriate amendment to these By-laws, provided, however, that the number of Directors shall never be less than three nor more than nine, and provided further that a decrease in the number of Directors shall not operate to shorten the term of any incumbent Director.

**Section 4. Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members of the Board of Directors.

**Section 5. Election of Directors.** Directors shall be elected by the Members and shall be elected at the annual Members' meetings, or in the event of a vacancy, either at the next ensuing annual Member's meeting or at a special Members' meeting called for that purpose. The election of Directors shall be by secret written ballot, unless such be dispensed with for any particular election by the unanimous consent of the Members present, in person or by proxy, at the meeting during which the election is

held. Each Director shall hold office until his successor has been elected at the next ensuing annual Members' meeting and has duly qualified.

**Section 6. Powers and Duties.** In the management and administration of the Association's affairs, the Board of Directors shall have power, authority and duty to do all acts and actions, except acts and actions which by law, the Declaration, the Charter or these By-laws may be exercised only by or are reserved only to the Members. Such power, authorities and duties of the Board of Directors to create, establish or approve policies or decisions relating to the management and administration of the Association's affairs include, but shall not be limited to, the following:

2. To provide for the maintenance, care, upkeep, surveillance, services, and efficient operation of the Common Area and Common Facilities.
3. To establish, determine, assess, collect, use and expend the Assessments from the Members, and to file and enforce liens for such Assessments.
4. To select, designate, train, hire, supervise and discharge personnel necessary or appropriate for the proper maintenance, care, upkeep, services, and efficient operation of the Common Area and Common Facilities, and to establish the compensation and other benefits of or for such personnel.
5. To adopt, promulgate and enforce such rules, regulations, restrictions, and requirements as may be recommended by the Architectural Control Committee pursuant to Article VIII of the Declaration or the Management Agent pursuant to Article IX of these By-laws, or as the Board of Directors may consider to be appropriate with respect to the Property, the Lots, and any improvements on the Lots, including Dwellings, or the use, occupancy and maintenance of the Common Area and Common Facilities, including, but not limited to, rules, regulations, restrictions and requirements designed to prevent unreasonable interference with the use, benefit and enjoyment of the Common Area and the Common Facilities by the Members and other authorized Persons, or to govern activities which may be environmentally dangerous or hazardous, including the use or application of fertilizers, pesticides and other chemicals in or on the Property.
6. To authorize the payment of patronage refunds to the Members if and when the Board of Directors determine that the funds derived from assessments are more than sufficient to satisfy all reasonably foreseeable financial needs or requirements of the Association during the current fiscal year, including funds for reserves.
7. To purchase insurance upon the Common Area and Common Facilities.
8. To maintain, repair, restore, reconstruct or demolish all or any portion of the Common Area and Common Facilities after any casualty loss, and to otherwise improve the Common Area and Common Facilities.
9. To lease and to grant licenses, easements, rights-of-way, and other rights of use in or option, sell, assign, exchange, trade, transfer, quitclaim, surrender, release, abandon, mortgage or encumber or otherwise convey all or any portion of the Common Area and Common Facilities upon such terms, conditions, and provisions as the Board of Directors considers to be advisable, appropriate, convenient or advantageous for or to the Association.

10. To lease as tenant, purchase or otherwise acquire Lots and to option, lease, sell, assign, exchange, trade, transfer, quitclaim, surrender, release, abandon, mortgage or encumber or otherwise convey any of such Lots upon such terms, conditions and provisions as the Board of Directors considers to be advisable, appropriate, convenient or advantageous for or to the Association.
11. To retain or employ a Management Agent for such compensation and for the performance of such duties and services as established or prescribed by the Board of Directors from time to time.
12. To negotiate, prepare, execute, acknowledge and deliver all contracts, agreements, commitments and other documents relating to the Association's affairs.
13. To prosecute, defend, appeal, settle, compromise or submit to arbitration any suit, action, claim or proceeding at law or in equity or with or before any governmental agency or authority which involves or affects the Association, including the Common Area and Common Facilities.
14. To retain or employ and pay the fees, expenses or other compensation of accountants, attorneys, architects, contractors, engineers, consultants or other Persons who may be helpful, necessary, appropriate or convenient in or to the Association's affairs, whether or not related to or affiliated with any director or officer of the Association or any Member.
15. Subject to Section 1 (d) of Article II of the Declaration, to borrow any funds required for the Association's affairs from any Person on such terms, conditions and provisions as may be acceptable to the Board of Directors, and to secure the repayment of any such loans by executing deeds of trust or by pledging or otherwise encumbering or subjecting to security interest all or any portion of the assets of the Association, including the Common Area and Common Facilities.
16. To establish rules, regulations, restrictions and requirements or fees and charges from time to time relating to the use of the recreational areas and amenities now or hereinafter located in or on the Common Area, including the Common Facilities.

**Section 7. Vacancies.** Should the office held by a Director become vacant, such vacancy shall be filled by an election at the next ensuing annual Members' meeting or at a special Members' meeting called for that purpose, and each individual so elected shall serve as Director until his successor has been elected at the next ensuing annual Members' meeting, and has been duly qualified.

**Section 8. Removal of Directors.** At any special Members' meeting duly called for such purpose, any Director may be removed from office, with or without cause, by the affirmative vote of a majority of the votes of the Members present and voting, in person or by proxy, at such meeting, and in the event of such removal, a successor to the Director thus removed may be elected then and there to fill the vacancy thus created. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting called for the purpose of considering such removal. If any Director who is a Member becomes more than sixty (60) days delinquent in payment of any assessment or carrying charge owed the Association,

he may be removed from his office as a Director by a resolution adopted by a majority of the remaining Directors, and in the event of such removal, said remaining Directors may appoint an individual to serve as his successor, in which event the individual so appointed shall serve as Director until the next ensuing annual Members' meeting.

**Section 9. Compensation.** Except upon resolution of at least sixty percent (60%) of each class of the then Members of the Association, no compensation shall be paid to Directors for their services as Directors. After the first annual Members' meeting, no remuneration shall be paid to any Director who is also a Member for services performed by him for the Association in any other capacity unless a resolution authorizing such remuneration shall have been adopted by the Board of Directors before such services are undertaken. Directors may be reimbursed for their actual out-of-pocket expenses necessarily incurred in connection with their services as Directors.

**Section 10. Organizational Meeting.** The first meeting of newly constituted Board of Directors shall be held within ten (10) days after the annual Members' meeting at which the elected Directors on such Board were elected, and such first meeting shall be held at the principal office of the Association or at such other place as may have been fixed by the Members at such annual Members' meeting, and no notice shall be necessary to the Directors of such first meeting.

**Section 11. Regular Meeting.** Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by mail, telephone or telegraph, at least six (6) days prior to the day fixed for such meeting.

**Section 12. Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each Director, given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and upon like notice if requested in writing by at least one-half (1/2) of the Directors.

**Section 13. Waiver of Notice.** Before, at or after any meeting of the Board of Directors, any Director may waive, in writing, notice of such meeting, and such waiver shall have the same effect to said Director. Attendance by a Director at any meeting of the Board of Directors shall be a waiver of notice by him of the time, place and purpose thereof. If all the Directors are present at any meeting of the Board of Directors, no notice shall be required and business of any type may be transacted at such meeting.

**Section 14. Quorum.** At all meetings of the Board of Directors a majority of the Directors shall constitute a quorum for the transaction of business, and the actions

of the majority of the Directors present at any meeting at which a quorum is present shall be the actions of the Board of Directors. If at any meeting of the Board of Directors, including any one or more adjourned meetings, there should be less than a quorum present, the majority of those present may adjourn the meeting to a later time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 15. Action Without Meeting.** Any action by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if all of the Board of Directors shall consent individually or collectively in writing to such action. Such written consent or consents shall be filed as part of the minutes of the Board of Directors.

**Section 16. Rights of Mortgagees.** Any holder of Recorded First Mortgages of any Lot who desires notice of the regular and special meetings of the Board of Directors shall notify the Secretary to that effect by Certified or Registered Mail, Return Receipt Requested. Any such notice shall contain the name and post office address of such holders of Recorded First Mortgages and the name of the individual at such address to whom notices of the regular and special meetings of the Board of Directors should be directed. The Secretary shall maintain a roster of all holders of Recorded First Mortgages from whom such notices have been received and it shall be the duty of the Secretary to mail or otherwise cause the delivery of a notice of each regular and special meeting of the Board of Directors to each such institutional mortgagee, in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notices to the Directors. Any such holders of Recorded First Mortgages shall be entitled to designate a representative to attend any regular or special meeting of the Board of Directors and such representative may participate in the discussion in advance of the meeting, may address the Board of Directors at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Board of Directors upon request made in writing to the Secretary.

**Section 17. Fidelity Bonds.** If the Board of Directors deems it necessary, they may require that all officers, directors and employees of the Association who regularly handle or otherwise are responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty in accordance with the requirements of Article X of these By-laws. The premiums on such bonds or insurance shall be paid by the Association.

**Section 18. Committees.**

- (d) The Board of Directors, by resolution adopted by a majority of the Directors, may appoint committees to perform such tasks and to serve for such periods as the Board may deem desirable. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each

- committee will be composed as required by law and shall operate in accordance with the terms of the resolution of the Board of Directors designing the committee or with rules adopted by the Board of Directors and such provisions as designated in the Declaration.
- (e) The Board of Directors shall appoint an Architectural Review Committee pursuant to the provisions of Section 8 of Article VIII of the Declaration.

## **ARTICLE VI**

### **OFFICERS**

**Section 1. Designation.** The principal officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be elected by the Board. Only those individuals who are members of the then current Board of Directors shall be eligible to serve as officers of the Association. However, a Director, merely by virtue of being a Director, shall not be considered an officer of the Association. In addition to the officers named above, the Directors may elect, from among the members of the Board of Directors, one or more Assistant Secretaries and one or more Assistant Treasurers and such other officers as in their judgment may be necessary or appropriate. The officers of Secretary and Treasurer may be filled by the same individual, and likewise, the officers of Assistant Secretary and Assistant Treasurer may be filled by the same individual.

**Section 2. Election of Officers.** The initial officers of the Association shall be elected at the organizational meeting of the Members. Thereafter, the officers of the Association shall be elected annually at each annual Members' meeting, or, in the event of a vacancy, at a special Members' meeting called for such purpose. Each officer so elected shall hold office until his successor has been elected at the next ensuing annual Member's meeting, and has duly qualified.

**Section 3. Vacancies.** Should the office held by an officer become vacant, such vacancy shall be filled by an election at the next Board meeting or at a special Members' meeting called for that purpose, and the individual so elected shall hold the office to which elected until his successor has been elected at the next ensuing annual Members' meeting, and has duly qualified.

**Section 4. Removal of Officers.** At any special Members' meeting duly called for such purpose, any officer may be removed from office, with or without cause, by the affirmative vote of a majority of the Members present and voting, in person or by proxy, at such meeting, and in the event of such removal, a successor to the officer thus removed may be elected then and there to fill the vacancy thus created. Any officer whose removal has been proposed shall be given an opportunity to be heard at the meeting called for the purpose of considering such removal.

**Section 5. President.** The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and all meetings of the Board of Directors. He shall have all of the general authorities, powers and duties



which are normally vested in the office of president of a corporation, provided, however, that such authorities, powers and duties, from time to time, and at any time, may be restricted or enlarged by the Board of Directors.

**Section 6. Vice President.** The Vice President shall take the place of the President, and shall have the authorities and powers and perform the duties of the President, whenever the President is unwilling or unable to act. If neither the President nor the Vice President is willing and able to act, then the Board of Directors shall appoint one of its members to act as the chief executive officer of the Association on an interim basis. The Vice President shall assist the President generally, and when acting as President, shall have the same authorities, powers and duties as the President. The authorities, powers and duties of the Vice President, from time to time and at any time, may be restricted or enlarged by the Board of Directors.

**Section 7. Secretary.** The Secretary shall keep the minutes of all Members' meetings and the minutes of all Board of Directors' meetings. The Secretary shall give notice of all annual and special Members' meetings and all regular and special Board of Directors' meetings. The Secretary shall have custody of the seal of the Association, if any. The Secretary shall have charge of the membership transfer books and of such other books and papers as the Board of Directors may specify. In addition, the Secretary shall have whatever other authorities, powers and duties, but only such authorities, powers and duties, as may be prescribed by the Board of Directors. If, at any one or more times, the Secretary is unwilling or unable to perform his or her duties, such duties may be performed by any one or more individuals designated by the Board of Directors.

**Section 8. Treasurer.** The Treasurer shall have responsibility for the funds and securities of the Association, and shall have responsibility for keeping, or causing to be kept, full and accurate accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall have responsibility for causing the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as from time to time may be designated by the Board of Directors. In addition, the Treasurer shall have whatever other authorities, powers and duties, but only such authorities, powers and duties, as may be prescribed by the Board of Directors. If, at any one or more times, the Treasurer shall be unwilling or unable to perform any part of his or her duties, such duties may be performed by one or more other individuals designated by the Board of Directors.

## **ARTICLE VII**

### **INDEMNIFICATION OF OFFICERS AND DIRECTORS**

**Section 1. Indemnification.** The Association shall indemnify every officer and director of the Association, and every person who may serve at the request of the Board of Directors as a director or officer of another association in which the Association owns an interest or shares of stock or of which the Association is a

creditor, against all costs actually and reasonably incurred by any such officer, director or person in connection with the defense of any action, suit or proceeding, civil or criminal, to which any such officer, director or person is a party by reason of his being or having been such officer, director or person, provided that such indemnification shall not extend to any matters concerning which such officer, director or person shall be adjudged in such action, suit or proceeding to be liable for willful misconduct or bad faith. Such indemnification shall include amounts payable as the result of the settlement of any such action, suit or proceeding; provided, however, that any such settlement shall be approved in writing by the then Board of Directors. The officers and directors of the Association shall not be liable to the Members or to the Association for any mistake of judgement, or otherwise, except as provided by law and except for their own individual willful misconduct or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association, and the Association shall indemnify and forever hold each such officer and Director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association, may be entitled, whether by law, by resolution adopted by the Members after notice, or otherwise.

**Section 2. Conflict and Identity of Interest.** The Directors and officers shall exercise their powers and duties in good faith and with a view to the interest of the Association. No contract or other transaction between the Association and one or more of its Directors or officers, or between the Association and any corporation, firm or association in which one or more of the Directors or officers of this Association are directors or officers or are pecuniarily or otherwise interested, shall be either void or voidable because such Director or Directors or officer or officers were present at the meeting of the Board of Directors or any committee thereof which authorized or approved the contract or transaction, or because his or their votes were counted for such purpose, if any of the conditions specified in any of the following paragraphs exist:

- The fact of the common directorate or interest is disclosed or known to the Board of Directors or a majority thereof or noted in the minutes of the Board, and the Board authorizes, approves, or ratifies such contract or transaction in good faith by a vote sufficient for such purpose; or
- The fact of the common directorate or interest is disclosed or known to the Members, or a majority thereof, and they approve or ratify the contract or transaction in good faith by a vote sufficient for such purpose; or
- The contract or transaction is commercially reasonable to the Association at the time it is authorized, ratified, approved, or executed.

A common or interested Director may be counted in determining the presence of a quorum at any meeting of the Board of Directors or any committee thereof which authorizes, approves or ratifies any contract or transaction, and may vote thereat to

authorize any contract or transaction with like force and effect as if he were not a common or interested Director.

## **ARTICLE VIII**

### **LIMITATION OF LIABILITY**

**Section 1. Limitation of Liability.** The Association, the Board of Directors and each director and each officer of the Association shall not be liable for any failure to provide any service to be furnished by the Association or to be paid with funds from charges or fees or from Assessments, or for injury, including death, or damage to any Person or property caused by the elements or caused by or resulting from electricity or water which may discharge or flow from any portion of the Common Area or Common Facilities, or from any wire, pipe, drain, conduit or similar property. The Association shall not be liable to any Member or any other Person for theft or other loss of or damage to any property which may be left or stored upon the Common Area or Common Facilities. No diminution or abatement of annual maintenance or special Assessments shall be claimed or allowed for inability to use, inconvenience or discomfort caused by or arising or resulting from the need for or the conduct of routine or other maintenance or repairs or the construction or reconstruction of improvements on the Common Area or Common Facilities, or from any action taken or omitted or from inaction by the Association to comply with any of the provisions of this Declaration, any law or ordinance or the order or directive of any governmental authority or any court.

## **ARTICLE IX**

### **MANAGEMENT AGENT**

**Section 1. Management Agent.** The Board of Directors may retain or employ a Management Agent at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors from time to time may authorize. The Management Agent shall perform such duties and services as the Board of Directors shall direct and authorize which may include, without being limited to, the following power and authority:

- (8) To establish and collect the annual maintenance and special Assessments, and enforce liens to secure the collection of such Assessments.
- (9) To provide for the maintenance, care, upkeep, services and efficient operation of the Common Areas and Common Facilities.
- (10) To select, designate, train, hire, supervise, and discharge personnel necessary or appropriate for the proper maintenance, care, upkeep, services and efficient operation of the Common Area and Common Facilities.
- (11) To enforce and to recommend the Board of Directors to approve and enforce such rules and regulations, restrictions and requirements relating

to maintenance, care, upkeep, services and operation of the Common Areas and Common Facilities.

- (12) To provide such other services for the Association as may be requested by the Board of Directors, including legal and accounting services.

Any management agreement entered into by the Association and any Management Agent shall permit termination with or without cause by the Association upon 30 days' written notice to the Management Agent. The term of any such management agreement shall not exceed one year, but may be renewable by mutual agreement for successive one-year terms.

## ARTICLE X

### INSURANCE AND CASUALTY LOSSES

**Section 1. Insurance.** Except as to builder's risk and other insurance furnished by the Owner Declarant, Developer or Contractor during construction and reconstruction, the Board of Directors shall obtain and maintain fire and extended coverage and comprehensive public liability insurance as set forth in subparagraphs (a) and (b) hereof, in such limits and form and with such companies as the Board of Directors deems advisable, and to obtain and maintain at the Board of Directors discretion, the coverage suggested under subparagraphs (c), (d), (e), and (f) of this Section 1.

21. A hazard insurance policy on all of the Common Areas and Common Facilities providing protection against loss or damage by fire and all other hazards that are normally covered by the standard extended coverage endorsement, and all other perils customarily covered for similar types of projects, including those covered by the standard "all risk" endorsement.
22. A comprehensive policy of public liability insurance in such amount and in such form as may be considered appropriate by the Board of Directors in its discretion (but in an amount of not less than One Million Dollars (\$1,000,000.00) coverage for all claims for bodily injuries and/or property damage arising out of a single occurrence), which policy may include a "Severability of Interest Endorsement" or its equivalent if the Board of Directors in its discretion deems such appropriate, and which policy shall afford coverage with respect to whatever additional and special liabilities the Board of Directors in its discretion may specify, including, but not limited to, hired automobile liability, non-owned automobile liability, liability for property of others, liability incident to the ownership and use with respect to projects similar in construction, location and use.

23. **Workman's compensation insurance to the extent necessary to comply with any applicable law.**
24. **A "Legal Expense Indemnity Endorsement," or its equivalent, affording protection for the officers and Directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or Director shall have been made a party by reason of his or her services as such.**
25. **Insurance affording fidelity coverage to protect the Association against dishonest acts on the part of officers and Directors of the Association, trustees of and for the Association, and employees and agents of the Association who handle or are responsible for the handling of funds belonging to the Association, which fidelity coverage shall meet at least the following requirements:
  - (6) **All such fidelity bonds and policies of insurance shall name the Association as obligee or named insured, as the circumstances may require; and**
  - (7) **All such fidelity bonds and policies of insurance shall be written in an amount equal to at least on hundred fifty percent (150%) of the estimated annual operating budget of the Association, including reserves; and**
  - (8) **All such fidelity bonds and insurance shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to any and all obligees and insured named thereon and to any mortgagee of any Lot who requests such notice in writing; and****
26. **Such other policies of insurance, including insurance for other risks of a similar or dissimilar nature, as shall be considered appropriate by the Board of Directors in its discretion.**

**Section 2. Insurance on Residences and Personal Property Insurance.**

- J. **Detached Residence. Each Owner of a detached residence shall obtain and maintain insurance coverage as specified in Section 2 of Article VI of the Declaration**
- K. **Attached Residence. Each Owner of an attached residence shall insure his Dwelling and other improvements on his Lot at all times for full replacement value against losses due to hazards which may be insured or covered under extended coverage provisions, including fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke, and other hazards, and such Owner shall furnish the Association proof of such coverage. In the event of a loss due to such hazards, each Owner shall promptly repair, rebuild or restore the damaged or destroyed Dwelling and other improvements from the insurance proceeds or other funds to substantially the same condition as existed prior to the damage or destruction, unless otherwise permitted by the Board of Directors. Such policy shall contain a waiver of subrogation clause, and such Owner shall furnish the Association with a copy of his insurance policy. By acceptance of a deed or other conveyance document each Owner of an attached residence does irrevocably constitute and appoint the Association as his true and lawful attorney in his name, place and stead to repair, reconstruct or restore the**

Dwelling or other improvements in the event the Owner fails or refuses to perform such obligations, and in such event, the Association may pay the costs and expenses of such repair, reconstruction or restoration. All such costs and expenses incurred or paid by the Association, including interest on any funds advanced by the Association or paid to lenders by the Association and all costs, expenses and charges described in Section 9 (a) of Article IV of the Declaration shall be (i) immediately due and payable to the Association by the Owner, (ii) a charge on the land and a continuing lien against the Lot, (iii) the continuing personal obligation of each Owner at the time of such damage or destruction and/or at any time during such repair, reconstruction or restoration, and (iv) considered to be a special assessment against such Lot.

Each Owner shall be responsible at his own expense and cost for his own personal insurance on the contents of his Dwelling and other improvements, including decorations, furnishings and personal property in or on such Dwelling or other improvements, and his personal property stored elsewhere on his Lot or the Property, and for his personal liability to Persons which is not covered by liability insurance for all Owners obtained by the Association and included in the annual maintenance Assessments.

**Section 3. Casualty Damage-Reconstruction or Repair of an Attached Residence.**

**10. Use of Insurance Proceeds.** In the event of damages or destruction to any attached residence by fire or other casualty, the same shall be promptly repaired, replaced or reconstructed in the same substantial conformity with the original plans and specifications for same, and such shall be done with the proceeds of insurance available for that purpose, if any, unless such reconstruction or repair has been waived in writing by eighty percent (80%) of the Members, and the holder of any security interest of record on any unit or townhouse which has been destroyed or damaged and is not to be repaired or rebuilt.

**11. Proceeds Insufficient.** In the event the proceeds of insurance are not sufficient to repair damage or destruction of any attached residence caused by fire or other casualty not insured against, then in either of those events, the repair, replacement or reconstruction of the damage shall be accomplished promptly by the Association and the cost thereof shall become a part of the Assessment to which said Lot is subject.

**ARTICLE XI**

**FISCAL MANAGEMENT**

**Section 1. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January of each year, except for the first fiscal year which shall begin on the date of the filing for record of the Declaration in the Land Records in the office of the Chancery Clerk of Jones County Second District at Laurel, Mississippi. The commencement date of the fiscal year as herein established shall be subject to

change from time to time by resolution of the Board of Directors should the Board of Directors deem any such change or changes appropriate.

**Section 2. Principal Office: Change of Same.** The principal office of the Association shall be at the location set forth in Article I of these By-laws. The Board of Directors, by resolution may change the location of the principal office of the Association from time to time.

**Section 3. Books and Accounts.** Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and expenditures and other transactions of and for the Association, and shall specify the maintenance and repair expenses for Common Areas and Common Facilities, the cost of services required or provided with respect to the same and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment required for payment of any capital expenditures as to any reserves of the Association shall be credited upon the books of the Association to a restricted capital or reserve account. The receipts and expenditures of the Association shall be credited and charged to other accounts under classifications consisting of no less than the following:

- (f) “Current Operations” which shall involve the control of actual expenses of the Association, including reasonable allowances for necessary contingencies and working capital funds in relation to the assessments and expenses herein elsewhere provided for; and
- (g) “Reserves for Replacement” which shall involve the control of such reserves for replacement as are provided for in these By-laws and as may be approved from time to time by the Board of Directors; and
- (h) “Other Reserves” which shall involve the control over funding of and charges against any other reserve funds which may be approved from time to time by the Board of Directors; and
- (i) “Investments” which shall involve the control over investment of reserve funds and such other funds as may be deemed suitable for investment on a temporary basis by the Board of Directors; and
- (j) “Betterments” which shall involve the control over funds to be used for the purpose of defraying the cost of any construction or reconstruction, unanticipated repair or replacement of the common areas and common facilities and for expenditures for additional capital improvements or personal property made or acquired by the Association with the approval of the Board of Directors.

**Section 4. Reporting.** At the close of each fiscal year, the Association shall furnish the Members and any mortgagee requesting same with an annual financial statement, which shall set forth a summary of all pertinent financial data, including the income and disbursements of the Association. Such annual financial statement

shall be furnished within ninety (90) days following the end of each fiscal year. Upon written request of fifty-one percent (51%) of the membership, the books and records of the Association shall be audited by an independent Certified Public Accountant whose report shall be prepared and certified in accordance with generally accepted auditing standards, consistently applied. Based upon such report, the Association shall furnish the Members and any mortgagee requesting same a copy of said audited financial report.

**Section 5. Inspection of Books.** The books and accounts of the Association, the vouchers accrediting the entries made thereupon and all other records maintained by the Association shall be available for examination by the Members and their duly authorized agents or attorneys, and by the holders of Recorded First Mortgages on the Lots and their duly authorized agents and attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice.

**Section 6. Execution of Corporate Documents.** With the prior authorization of the Board of Directors, all notes and contracts shall be executed on behalf of the Association by either the President or a Vice President, and all checks shall be executed on behalf of the Association by such officers, agents or other persons as may be authorized from time to time by the Board of Directors.

**Section 7. Seal.** The Board of Directors may provide a suitable corporate seal containing the name of the Association, which seal shall be in the charge of the Secretary. If so directed by the Board of Directors, a duplicate seal may be kept and used by the Treasurer or any assistant secretary or assistant treasurer.

## **ARTICLE XII**

### **AMENDMENT**

**Section 1. Amendments.** Subject to any other applicable limitations set forth in these By-laws, these By-laws may be amended by vote of the Members if, and only if, the number of votes cast in favor of any particular amendment shall be equal to at least sixty percent (60%) of the total number of votes held by all Members of record at the time of the vote. Amendment of these By-laws shall be considered only at a special or annual meeting of Members, and only if a description of the proposed amendment accompanied a proper notice of such meeting.

**Section 2. Proposal of Amendments.** Amendments to these By-laws may be proposed by the Board of Directors or by petition signed by Members having at least twenty-five percent (25%) of the total votes of all Members, which petition shall be delivered to the Secretary. A description of any proposed amendment shall accompany the notice of any annual or special meeting of the Members at which such proposed amendment is to be considered and voted upon.

**Section 3. Mortgage Approval.**



- Notwithstanding Section 1 of this Article XII, no amendments of a material nature shall be made without the consent of fifty-one percent (51%) of the holders of a Recorded First Mortgage who have requested, in writing, notice from the Association. An amendment to change any of the following would be considered as material: (i) Voting rights; (ii) Assessments, assessment liens or subordination or assessment liens; (iii) Reserves for maintenance, repair and replacement of Common Areas; (iv) Responsibility for maintenance and repairs; (v) Reallocation of interest in the Common Area or limited common areas or rights to their use; (vi) Convertibility of Lots into Common Areas or Common Area into Lots, except as reserved by the Owner Declarant under Article XV of the Declaration; (vii) Expansion or contraction of the project, or addition, annexation or withdrawal of property to or from the Project except as provided elsewhere in these By-laws or in the Declaration; (viii) Insurance or fidelity bond coverage as set forth elsewhere in these By-laws or in the Declaration; (ix) Leasing of Lots or Residences except as set forth in these By-laws or in the Declaration; (x) Imposition of any restrictions on an Owner's right to sell or transfer his or her Lot; (xi) Restoration or repair of the Property (after a hazard damage or a partial condemnation) in a manner other than specified in the Declaration; (xii) Any provisions that expressly benefit mortgage holders, insurers or guarantors.
- Any amendment to abandon or terminate the Declaration for reasons other than substantial destruction or condemnation of the Property, must be agreed to by the eligible holders of recorded First Mortgages representing sixty percent (60%) of the votes of the mortgaged lots.

All amendments, if any, shall be recorded in the Office of the Chancery Clerk of Jones County Second Judicial District at Laurel, Mississippi.

### ARTICLE XIII

#### MORTGAGES-NOTICES-OTHER RIGHTS OF MORTGAGES

##### Section 1. Additional Rights of Eligible Mortgage Holders-Notice.

3. The Association shall promptly notify any Eligible Mortgage Holder on any Lot, which such holder is the holder of a Recorded First Mortgage, of any assessment levied pursuant to the Declaration, or any installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify such holder on any Lot as to which there is default by the Owner with respect to performance of any other obligation under the Declaration which remains uncured for a period in excess sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Recorded First Mortgage on any Lot, and the protection extended in the Declaration to the

holder of any such mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to the Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article IV of the Declaration.

4. No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to the Declaration except after ten (10) days' written notice to the holder of the Recorded First Mortgage encumbering the Lot which is the subject matter of such suit or proceeding.
5. Any holder of a Recorded First Mortgage on any Lot upon the Property may pay any taxes, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First Mortgage who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Owners.
6. No mortgages and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.
7. No amendment to the Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof, except for Supplements annexing Additional Property added pursuant to Article XIII of the Declaration.
8. The holders, insurers or guarantors of any Recorded First Mortgage on a Lot who have requested the Association in writing will be entitled to: (i) inspect the books and records of the property during normal business hours; (ii) receive an annual financial statement of the project within ninety days following the end of any fiscal year of the project; (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (iv) current copies of the Declaration, the By-laws of the Association and all other rules concerning the project.

**Section 2. Record of Mortgage.** Any holder of a Recorded First Mortgage shall be entitled to notify the Association that such mortgagee holds a mortgage on a Lot. The Board of Directors shall maintain such information in a book entitled "Holders of Recorded First Mortgages".

**Section 3. Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight hours after a copy of the same has been deposited in the United States mail, post pre-paid, addressed to any person at the address given by such person to the Association for the purpose of services of such notice, or to the residence of such person if no address has been given to the Association, provided, however, that notice of meetings need not be mailed by Certified Mail, Return Receipt Requested. Such addresses may be changed from time to time by notice in writing to the Association.

## ARTICLE XIV

### INTERPRETATION-MISCELLANEOUS

**Section 1. Conflict.** These By-laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Charter. All the words and expressions in these By-laws shall have the same meanings, respectively, as are attributed to them by the Declaration, except where such is clearly repugnant to the context. In the event of any conflict between these By-laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these By-laws and the Charter, the provisions of the Charter shall control.

**Section 2. Notices.** Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in these By-laws shall be given in writing.

**Section 3. Severability.** In the event any provision or provisions of these By-laws shall be determined to be invalid, void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

**Section 4. Waiver.** No restriction, condition, obligation or provision of these By-laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

**Section 5. Captions.** The captions contained in these By-laws are for convenience only and are not a part of these By-laws and are not intended in any way to limit or enlarge the terms and provisions of these By-laws or to aid in the construction thereof.

**Section 6. Gender, etc.** Whenever in these By-laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

**WINDERMERE OWNERS  
ASSOCIATION  
ANNUAL DUES  
2014**

<b>100-127</b>	<b>462.00</b>
<b>201-238</b>	<b>462.00</b>
<b>300-324</b>	<b>415.00</b>
<b>401-406</b>	<b>415.00</b>
<b>500-527</b>	<b>346.00</b>
<b>601-633</b>	<b>346.00</b>
<b>701-711</b>	<b>415.00</b>
<b>801-803</b>	<b>346.00</b>
<b>804-813</b>	<b>415.00</b>

**DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
FOR  
*WINDERMERE***



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**STATE OF MISSISSIPPI**

CITY OF LAUREL

SECOND JUDICIAL DISTRICT,  
JONES COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

*WINDERME  
RE*

THIS DECLARATION is made this \_\_\_\_\_ day of \_\_\_\_\_, 2000, by Bush Farms, Inc., a Mississippi corporation (hereinafter referred to as “Owner Declarant”) and Neill Homes, LLC, a Mississippi limited liability company (hereafter referred to as “Contractor Declarant”) and both may be referred to as “Declarants”.

WITNESSETH:

WHEREAS, Declarants are the owners of certain real property situated in the City Laurel, Second Judicial District, Jones County, Mississippi, more particularly described on Exhibit A attached hereto, and desire to create and develop thereon a residential community with designated common areas and with common facilities, for the benefit of the community; hereinafter referred to as the “Property”; and

WHEREAS, Declarants desire to provide for the preservation of the values in said community and for the maintenance of certain areas as may be designated by the Owner Declarant and, to this end, desire to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said Property and each owner thereof; and

**WHEREAS, the primary purposes of these covenants and the foremost consideration in the origin of same has been the creation of a residential community which is aesthetically pleasing and functionally convenient. Declarants have deemed it desirable for the efficient preservation of the**

**values in said community, to provide for an agency to which would be delegated and assigned the powers of administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created.**

NOW, THEREFORE, Declarants declare that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens (sometimes referred to as the “Covenants and Restrictions”) hereinafter set forth.

## ARTICLE I.

### DEFINITIONS

**The following words when used in this Declaration or any Supplemental Declaration (unless the context shall otherwise prohibit) shall have the following meanings:**

- “Additional Property” shall mean the real property described in Exhibit as modified from time to time as permitted by Section 5 of Article XIII.
- “Assessment” shall mean an Owner’s share of the common expenses from time to time assessed such Property Owner by the Association. Assessment or Assessments refer to annual, replacement or special assessment or any combination thereof.
- “Association” shall mean and refer to Windermere Owners Association, a non-profit corporation, incorporated under the laws of the State of Mississippi for the purpose of effecting the intents and objectives herein set forth, its successors and assigns.
- “Board of Directors” or the “Board” shall mean and refer to the Board of Directors of the Association.
- “Bylaws” shall mean the bylaws of the Association as they exist from time to time.
- “Common Area” shall mean all real property (including the improvements thereon) owned by the Association for the common use of the Owners.
- “Common Facilities” shall mean all buildings and improvements constructed on any portion of the Common Area for the common use, benefit and enjoyment of the Members.
- “Contractor Declarant” shall mean and refer to Neill Homes, LLC, its successors and assigns.
- “Declarants” shall mean and refer to Bush Farms, Inc., its successors and assigns and Neill Homes, LLC, its successors and assigns.
- “Declaration” shall mean this instrument as it is from time to time amended.
- “Developers” shall mean each person who is successor in title to any portion of the Property or a Lot from the Owner Declarant and is engaged in the business of the

development, improvement and sale of any Lot including the construction and sale of a Dwelling and related improvements on any Lot.

- “Dwelling” shall mean a single family residential detached house or a town or a garden or a zero lot line house.
- “Eligible Mortgage Holder” shall mean those holders of a first mortgage on a Lot who have requested, in writing, the association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders or of any assessment or installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days.
- “Green Space” shall mean certain portions of Common Area which are designed to be maintained in its natural condition so that the natural, scenic and recreational resources, soils, wetland, wildlife, game and migratory birds currently in evidence at Windermere be maintained and enhanced. Such areas are designated as such on the recorded plat.
- “Invitees” shall mean an owner’s tenants, guests, employees, guests or invitees.
- “Limited Common Area” shall mean and include the exclusive use of that portion or portions of the Common Area, if any, reserved for and granted to a specific lot and its respective owner, as provided in Article II, Section 4 hereof to the exclusion of the other lots and the respective owners thereof.
- “Lot” shall mean and refer to any plot or tract of land shown upon the recorded subdivision map or plat of the Property, exclusive of the Common Area, which is designated as a lot therein and which is or may be improved with a residential dwelling.
- “Member” shall mean and refer to each Owner as provided herein Article III.
- “Mortgagee” shall mean a bank, savings and loan association, insurance company, mortgage company, real estate investment trust, pension fund, corporation, recognized institutional type lender or its loan correspondent, agency of the United States government or individuals, which owns or which is the holder of a Recorded First Mortgage.
- “Owner” or “Property Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee or undivided fee interest in any Lot which is part of the Properties, including contract sellers, but excluding the Owner Declarant and excluding those persons or entities who hold an interest merely as security for the performances of an obligation.
- “Owner Declarant” shall mean and refer to Bush Farms, Inc., its successors and assigns.
- “Person” shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity or any combination thereof, including Declarants.
- “Property” or “Properties” shall mean and refer to that certain real property above described which is subject to this Declaration and all real property hereafter annexed.
- “Recorded First Mortgage” shall be deemed to mean a mortgage or deed of trust, properly recorded in the office of the Chancery Clerk of the second Judicial district of the Jones County, Mississippi or other public office designated by the statutes and laws of the State of Mississippi for the recording of mortgages in the second Judicial district of Jones County, Mississippi, the lien of which is prior, paramount, and superior to the lien of all other mortgages and deeds of trust.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and Common Facilities which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

3. The right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any Common Facilities (excluding streets, roads, and parking areas which have been accepted by a governing authority for maintenance) situated upon the Property by the Members and their families, tenants and guests; provided, however, that any such fees shall be charged on a uniform basis for each Member; and
4. the right of the Association, acting by and through its Board of Directors, to suspend any Member's voting rights and any Member's rights to use the Common Areas and Common Facilities (except rights to use streets, roadways, and parking areas, which latter rights shall not be subject to suspension for any reason) for any period during which any assessment remains unpaid and for any of the published rules and regulations of the Association; and
5. the right of the Association to dedicate or transfer all or any part of the Common Area except for streets which may be dedicated pursuant to Section I of this Article II to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless sixty percent (60%) of each class of the then Members of the Association consent to such dedication, transfer, purpose and conditions, at a special meeting of the Members duly called for such purpose or an instrument agreeing to such dedication or transfer signed by sixty percent (60%) of each class of Members has been recorded.
6. the right of the Association, in accordance with its Charter of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Common Facilities in a manner designed to promote the enjoyment and welfare of the Members, and in aid thereof to mortgage any of the Common Areas and Common Facilities, provided, however, that no such borrowing shall be done and no such mortgage shall be executed unless and until same has been approved by the vote of at least sixty percent (60%) of each Class; and
7. the right of the Association, acting by and through its Board of Directors, to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure; provided, however, that any such steps are in conformity with the other provisions of this Declaration; and
8. the right of the Association, acting by and through its Board of Directors, to adopt reasonable rules respecting use of the Common Areas and Common Facilities and to reasonably limit the number of guests of Members who may use any facilities on the Property; and

9. the right of the Association, acting by and through its Board of Directors, to grant licenses, rights-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Developers or any other person, provided, however, that no such licenses, rights-of-way or easements shall be unreasonably and permanently inconsistent with the rights of the Members to the use and enjoyment of the Common Areas and Common Facilities; and
10. the right of the Association, acting by and through its Board of Directors, to open the Common Areas and Common Facilities, or any portions thereof, to a wider group of persons, all for such purposes and on such basis as the Board of Directors may from time to time consider appropriate; and
11. the rights of the Owners of Lots to perpetual easements over and upon any of the Common Areas and Common Facilities for such portions of their dwellings that may overhang or otherwise encroach upon any of the Common Areas or Common Facilities, for support, for the purpose of necessary repairs and maintenance, for maintenance of reasonable appurtenances to the dwellings, and for reasonable ingress and egress to and from any dwelling through and over the Common Areas and Common Facilities; and
12. the right of each Member to use the streets, roadways, and vehicular parking areas situated upon the Common Areas and Common Facilities; provided, however, that each Member shall comply in all respects with the laws and regulations of the City of Laurel, Second Judicial District of Jones County, Mississippi and also comply with all supplementary rules and regulations which are not inconsistent with the provisions of this Declaration and which the Board of Directors of the Association may from time to time adopt and promulgate with respect to parking and traffic control upon the Common Areas and Common Facilities.

Section 2. Rights Not Subject to Suspension. Notwithstanding anything in this Declaration to the contrary, the Association shall have no authority to suspend, either temporarily or permanently, any of the rights specified in subparagraphs (i) and (j) of Section 1 of this Article II for any reason whatsoever.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family who reside permanently with him, his tenants, or contract purchasers who reside on the Property and guests, all subject to such reasonable rules and regulations as the Board of Directors of the Association may adopt and uniformly apply and enforce. Owners or family must accompany invited guests when using the facilities of Windermere.

Section 4. Limited Common Area. Ownership of certain lots shall entitle the Owners or Owner thereof permanent exclusive use of certain portions of the Common Area designated on the subdivision plat as Limited Common Area. The assignment of the Limited Common Area to a Lot shall be included in the supplement annexing said subdivision to the Declaration. Owners may not claim a

right to use the Limited Common Area assigned to other owners by virtue of the general easements or property rights granted in Article II hereof.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Members of the Association shall be and consist of each and all of the following, to-wit:

- (4) Every person who is, or who hereafter becomes, an owner of record of the fee title to a Lot. The expression "owner of record of the fee title to a Lot" shall include a contract seller of any such Lot, but shall not include any person who owns such title solely as security for the performance of an obligation or payment of a debt.
- (5) The Association shall have two classes of voting membership:  
Class A. Class A Members shall be all Members with the exception of the Owner Declarant and its nominee or nominees, if any. Class A Members shall be entitled to one vote for each Lot owned. When more than one person or entity holds an interest or interests in any Lot, all such persons or entities shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.  
Class B. The Class B Members shall be the Owner Declarant and its nominee or nominees, if any. The Class B Members shall be entitled to four (4) votes for each Lot owned. When the total votes outstanding in the Class A membership equal the votes outstanding the Class B membership, then the Class B membership shall cease and be converted into Class A membership. Notwithstanding the foregoing, on December 31, 2014, all Class B memberships shall cease and be converted into Class A membership.

Section 2. Voting Rights. The voting rights of the Members shall be as follows, to-wit:

- R. Class A Members. Each person, other than the Owner Declarant, who is or who hereafter becomes the Owner of a Lot shall be a Class A Member of the Association. Class A Members shall be entitled to one vote for each Lot owned. Any owner building on two lots will have one vote and one assessment upon occupying the residence.
- S. Class B Member. The Owner Declarant and its nominee or nominees, if any, shall be Class B Members of the Association. Class B Members shall be entitled to four votes for each Lot owned.

Wherever any provision of the Declaration or the By-Laws requires a vote of a specified percentage of the voting power of each class of Members, then such provisions shall require a separate vote by the specified percentage of the voting



power of the Class A Members and by the specified percentage of the voting power of the Class B Members. Whenever any provisions of the Declaration requires a vote of a specified percentage of the voting power of the Members, then such provision shall require a vote by the specified percentage of the combined voting power of all Members.

Section 3. Memberships Appurtenant to Real Property. In every case, the membership of both Class A and Class B Members shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with and as an appurtenance to the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance, or alienation of the Lot to which the membership is appurtenant.

Section 4. Termination and Reinstatement of Class B Members. If on any one or more occasions all Class B membership should terminate, and if after any such termination the Owner Declarant, by annexation to the Property in accordance with the Declaration, should add additional property to the Property theretofore subject to the Declaration, then on each such occasion the status of the Owner Declarant as Class B Members shall be fully reinstated, and following each such occasion the Owner Declarant, or the nominee or nominees, if any, of the Owner Declarant, shall continue to be Class B Members until such time as the total votes outstanding of Class A and Class B Members resulting from the newly added property has been equalized. At such time, the Class B membership resulting from such addition shall cease and be converted to Class A memberships, and for so long thereafter as the Class B memberships shall continue to exist, the Owner Declarant, shall have all rights and powers of Class B membership, as herein prescribed.

Section 5. Other Voting Provisions. If the fee title to a particular Lot is owned of record by more than one person or entity, then the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the other owner or owners of such fee title shall object prior to the completion of voting upon the particular matter under consideration. In the case of any such objection, the vote appurtenant to said Lot shall not be counted.

#### ARTICLE IV

#### COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarants, for each Lot owned by them within the Properties, hereby covenant and agree, and each purchaser of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) annual maintenance assessments or charges for purposes set forth in Article IV, Section 2 and (2) special assessments as set forth in Article IV, Section 4 such assessments to be fixed, established and collected from time to

time as hereinafter provided. The annual maintenance and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Properties, and in particular for the supervision, maintenance and improvement of the Common Area and Common Facilities; and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for the management and supervision of the Common Area and Common Facilities, including but in no way limited to the following:

- the amount of all operating expenses for operating the Common Area and Common Facilities and furnishing the services furnished to or in connection with the Common Areas and Common Facilities, including charges by the Association for any services furnished by it; and
- the cost of necessary management and administration of the Common Area and Common Facilities, including fees paid to any managing agents; and
- the amount of all taxes and assessments levied against the Common Areas and Common Facilities; and
- the cost of fire and extended coverage and liability insurance on the Common Areas and Common Facilities and the cost of such other insurance as the Association may place in force with respect to the Common Areas and Common Facilities; and
- the cost of maintaining, replacing, repairing and landscaping the Common Areas and Common Facilities including, without limitation, the cost of maintaining, replacing, and repairing the sidewalks, streets, other than those accepted by the City of Laurel, Second Judicial District of Jones County, Mississippi or other governmental authority having jurisdiction for maintenance, and open areas in the Property, and the cost of such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and
- the cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacement.

Section 3. Maximum Annual Assessment. Immediately following the conveyance of the first Lot to an Owner, there will be three levels of assessment:  
Lots 100 through 127 will have an assessment of \$300.00 per year. (these lots are considered estate lots)  
Lots 301 through 324 and Lots 401 through 406 will have a maximum assessment of \$270.00 per year. (these are considered garden lots or wooded single family)  
Lots 500 through 523 will have a maximum assessment of \$225.00 per year. (these lots are considered the single family lots)

This is intended for the garden lots to pay 90% of estate lots and single family lots pay 75% of estate lots.

Annual assessments shall be due in each January. Lots purchased during any year shall be pro-rated until the following January. The Board of Directors may accept quarterly or semi annual payments if they so desire.

- (l) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (m) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above ten percent (10%) by a vote of sixty percent (60%) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (n) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum assessment permitted under the provisions of Section 3 (a) of Article IV.

#### Section 4. Special Assessments.

- S. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvement upon the Common Area and Common Facilities, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of sixty percent (60%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.
- T. Special Assessments for Willful or Negligent Acts. Upon an affirmative vote of sixty percent (60%) of each class of Membership, the Association may levy special assessments against individual Lot Owners, for reimbursement for repairs of Common Areas and Common Facilities occasioned by the willful or negligent acts of the Lot Owners and not ordinary wear and tear.
- U. Special Assessments for Work Performed by Owner Declarant or the Association. The Association is hereby authorized to assess any Lot for the cost of all work or activity performed on any such Lot pursuant to Article IV, Article IX, Section 4 or Article XI, Section 15.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than 30 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be

one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Annual and Special Assessments. Both annual and special capital assessments must be fixed at a uniform rate for all Lots. Uniform rate is to be at same percent of the annual assessment as set out in Section 3 of this Article. Unless sixty percent (60%) of each class of Members and fifty-one percent (51%) of the Eligible Mortgage Holders have given prior written approval, the Board of Directors of the Association shall not change the pro rata interest or obligations of any Lot (or owner thereof) for the purposes of levying annual and special capital assessments and charges.

Section 7. Date of Commencement of Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots, excepting all lots owned by Owner Declarant and except Lots owned by Developers, on the first day of the month following the conveyance of the Common Area. Assessments on Lots owned by Developers shall commence as provided in Section 16 hereof. The first annual assessment shall be prorated according to the number of months remaining in the calendar year. The due dates shall be established by the Board of Directors.

Section 8. Duties of the Board of Directors with Respect to Assessments.

- (5) The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association.
- (6) Written notice of the assessment shall thereupon be delivered or mailed to every owner subject thereto.
- (7) The Board of Directors shall, upon demand at any time, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association.

- (29) If any assessment or any part thereof is not paid on the date when due, then the unpaid amount of such assessment shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the Lot of the non-paying Owner, which lien shall be binding upon such Lot and the Owner thereof, his heirs, executors, devisees, personal representatives and assigns. The Association shall have the right to reject partial payments of an assessment and demand the full payment thereof.

The obligation of the then existing Owner to pay such assessment, however, shall remain his personal obligation and shall not be extinguished by transfer of title. The lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the assessment provided herein by abandonment of his Lot.

- (30) The Association shall give written notification to the holder (s) of the mortgage on the Lot of the non-paying Owner of such Owner's default in paying any assessment when such default has not been cured within sixty (60) days, if such mortgagee has requested same pursuant to Article XIV, Section 7 of this Declaration.
- (31) If any assessment or part thereof is not paid within thirty (30) days after the due date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the maximum interest rate per annum which can be charged to individuals and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the Property subject thereof after giving Notice to the holder of any Recorded First Mortgage as set out in Article XIV. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and attorney's fee to be fixed by the court, together with the costs of the action and/or all costs of foreclosure, including a reasonable attorney's fee.

Section 10. Reserves for Replacements. The Association shall establish and maintain a reserve fund for replacements of the Common Areas and Common Facilities, and shall allocate and pay to such reserve fund whatever amount may be designated from time to time by the Board of Directors. Amounts paid into such fund shall be conclusively deemed to be a common expense of the Association, and all such amounts may be deposited in any banking institution, the accounts of which are guaranteed by the FDIC, or, in the discretion of the Board of Directors, may be invested in obligations of , or obligations fully guaranteed as to principal by, the United States of America. The reserve for replacements is for the purpose of providing funds for replacement of the Common Areas and Common Facilities, for major repairs to any sidewalks, parking areas, streets, boat ramps, clubhouse, roadways, and dams on the Common Area, for equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Areas and Common Facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of each Member in any such reserves shall be considered as appurtenance to his Lot, and shall not be withdrawn, assigned or transferred separately from or otherwise than as an appurtenance to the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any Recorded First Mortgage. Sale or

transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments, charge and lien created herein:

10. All properties dedicated and accepted by the local public authority and devoted to public use.
11. All areas unplatted or reserved by the Owner Declarant on the recorded plat of the Property.
12. The Common Area and Common Facilities.

Section 13. Dwelling and Lawn Maintenance. Generally, this Declaration does not contemplate that the Association shall have any responsibility for the maintenance or repair of any Dwelling or its appurtenances or for the maintenance and care of lawn, garden and landscaped areas on any Lot, and the Association shall have the responsibility and duty only for the maintenance, repair and care of the Common Area and Community Facilities. However, the Association may provide the exterior maintenance and repair of Dwellings and their appurtenances and/or the maintenance and care of lawn, garden and landscaped areas of certain Lots pursuant to (i) a determination by the Board of Directors either on its own recommendation or initiative or the recommendation or request of Owners of certain Lots, or (ii) the provisions of a Supplement which annexes all or a portion of the Additional Property to the Property and provides that the Association shall perform such maintenance, repair and care in or on a specified portion of the annexed Additional Property. The cost of such maintenance, repair and care shall be included in the annual maintenance Assessments of such Lots and a charge and a lien upon each such Lot and the Owners of such Lots. In no event shall the Association maintain and care for lawn, garden and landscaped areas in or on any enclosed portion of any Lot which is intended for use only by the occupants of the Dwelling of such Lot.

Section 14. Equitable Adjustments. If a Supplement is filed for record which annexes any portion of the Additional Property to the Property and specifies that a greater or lesser level of use, benefit or enjoyment of the Common Area or Common Facilities or of services shall be available or provided by the Association with respect to any portion of the annexed Additional Property, then the Supplement may provide a different method or basis for the establishment, determination and calculation of the annual maintenance or special Assessments under Section 3, Section 4, or Section 13 with respect to such annexed Additional Property. In such event, the Association shall have the authority and the duty to make equitable adjustments in and to the procedures described in this Article IV for the establishment, determination and calculation of the maintenance and special Assessments to reflect any such different level of use, benefit and enjoyment of the Common Area or Common Facilities or services available or provided by the Association.

Section 15. Assessments Are Not Dues. No portion of the annual maintenance and special Assessments provided in or permitted by this Article IV are intended to be, or shall be construed to be, dues for membership in the Association.

Section 16. Assessment of Developers. Any Lot owned by a Developer shall not be subject to Assessment by the Association until the earlier of three hundred sixty five (365) days after the date a deed for such Lot is delivered to the Developer or upon closing of house and lot with home owner. The Owner Declarant shall not be subject to Assessment by the Association.

## ARTICLE V.

### GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS OF THE ASSOCIATION

Section 1. Powers and Duties. The Board of Directors shall have all the powers, authorities and duties necessary or appropriate for the management and administration of the affairs of the Association, and in managing and administering such affairs, the Board of Directors shall have power and authority to do all acts and things except those which by law or by the Declaration or by the Charter or by the By-Laws, as same may be amended from time to time, may be exercised and done only by the Members. The powers, authorities and duties of the Board of Directors shall include, but shall not be limited to, the following:

17. To provide for the care and upkeep of the Common Areas and Common Facilities and services in a manner consistent with law and the provisions of the By-Laws and the Declaration; and
18. To provide for the establishment, assessment, collection, use and expenditure of assessments and carrying charges from the Members, and for the filing and enforcement of liens therefor in a manner consistent with law and the provisions of the By-Laws and the Declaration; and
19. To provide for the designation, hiring and dismissal of the personnel necessary and appropriate for the proper care and maintenance of the Common Areas and Common Facilities and to provide services on the project in a manner consistent with law and the provisions of the By-Laws and the Declaration; and
20. To provide for the promulgation and enforcement of such rules, regulations, restrictions and requirements as may be deemed proper respecting the use, occupancy and maintenance of the Common Areas and Common Facilities, including but by no means limited to rules, regulations, restrictions and requirements designed to prevent unreasonable interference with the use of the Common Areas and Common Facilities by the Members and others, all of which rules, regulations, restrictions, and requirements shall be consistent with law and with the provisions of the By-Laws and the Declaration; and
21. To authorize, in their discretion, the payment of patronage refunds if and when the funds derived from assessments shall prove to be more than sufficient to meet all reasonably foreseeable needs of the Association during the then current fiscal year; and

22. To purchase insurance upon the Common Areas and Common Facilities in the manner provided for in the By-Laws; and
23. To repair, restore or reconstruct all or any part of the Common Area and Common Facilities after any casualty loss in a manner consistent with law and the provisions of the By-Laws; and
24. To lease and to grant licenses, easements, rights-of way, and other rights of use in all or any part of the Common Areas and Common Facilities; and
25. To purchase Lots and to lease, mortgage or convey the same, subject to the provisions of the By-Laws and the Declaration.
26. To employ for the Association, at their sole discretion, a management agent or manager (herein at times referred to as the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors from time to time shall prescribe. Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days written notice to the other party. The term of any such management agreement shall not exceed one year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

## ARTICLE VI

### INSURANCE

#### Section 1. Association Insurance.

- L. The Association shall obtain fire and extended coverage and comprehensive public liability insurance in such limits, form and companies, as the Board shall deem advisable to adequately insure the Common Areas and Common Facilities and protect the Owners from and against liability in connection with the Common Area and Common Facilities.
- M. All costs, charges and premiums for all insurance authorized by the Board as provided herein shall be a common expense of all Owners and a part of the assessment.

#### Section 2. Owners Insurance.

- (a) Each Owner shall keep his residence insured at all times for its replacement value against losses due to fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke, and any other hazards that may be covered under standard extended coverage provisions, and shall furnish the Association proof of such coverage. In every case of a loss due to any of these hazards in which the improvements have not been totally destroyed, each Owner shall promptly repair the improvements, if the improvements have been totally or completely destroyed, Owner shall promptly clean the Lot to a condition acceptable to the Architectural Review Committee. Thereafter, Owner may rebuild by following the procedures established by Article VIII hereof. In the event Owner fails to repair the damage or clean the Lot, the



Board of Directors, after thirty (30) days written notice may clear the Lot and levy a special assessment against the Lot for all costs incurred in cleaning said Lot. Repair or reconstruction of the improvements as used here shall mean restoring the improvements to substantially the same condition which existed prior to the damage.

- (b) Each Owner shall be responsible at his own expense and cost for his own personal insurance on the contents of his own residence, garage, carport or parking space, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.
- (c) Each Owner of any attached residence shall provide said insurance as may be required by the Association.

## ARTICLE VII

### AD VALOREM PROPERTY TAXES

Each Owner shall be responsible for and promptly pay ad valorem taxes on his Lot. The Association shall pay the ad valorem taxes on the Common Area and Common Facilities.

## ARTICLE VIII

### ARCHITECTURAL CONTROL

#### Section 1. Architectural Review.

- 8. No building, fence, wall or other structure shall be commenced, erected, placed, altered or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the proposed plans and specifications showing the nature, kind, shape, height, materials, exterior color or finish, (plot plan showing the proposed location of such building or structure, drives and parking areas), landscape plan, and construction schedule shall have been submitted to and approved in writing by the Architectural Review Committee designated by the Board. No alteration in the exterior appearance of any building or structure shall be made without like approval from the Architectural Review Committee.
- 9. Two (2) copies of all plans and related data shall be furnished the Architectural Review Committee. One copy shall be retained by the committee and the other copy shall be retained by the Property Owner or Builder marked "Approved" or "Disapproved". Approval shall be dated and shall not be effective for construction commenced more than six (6) months after such approval. Disapproval plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within forty-five (45) days after said plans

and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

10. No approval of plans and specifications, and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence will be built in a good, workmanlike manner. The Board or Committee may require payment of a cash fee, as established from time to time by the Board, to partially compensate for the expense of reviewing plans or related data, at the time they are submitted for review. No fee will be charged to an exclusive builder as approved by the Owner Declarant. This paragraph shall not apply to any Property utilized by a governmental agency or institution.
11. Refusal of approval of plans, specifications, or location may be based by the Architectural Review Committee upon any ground, including purely aesthetic considerations, so long as they are not arbitrary and capricious. Neither the Board nor the Architectural Review Committee shall be liable to a Property Owner or to any other person on account of any claim, liability or expense suffered or incurred by or threatened against a Property Owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Architectural Review Committee or public authorities whether given, granted or withheld.

## Section 2. Building Sizes and Locations.

- The minimum square feet of living area to be contained within the main house or residential structure constructed on any lot, except as herein provided, shall be set forth on Exhibit C for the Property described in Exhibit A and shall be contained in each supplement for each additional phase annexed to the Declaration.
- No residential building shall be erected on any Lot nearer than twenty-five feet (25') from the front lot line, or five (5) feet on side lot lines, except for buildings constructed on waterfront lots or zero lot line lots. On corner lots, the setback on the side yard (facing the street) must be fifteen (15) feet.
- Building locations on waterfront lots are set forth in Section 3 of Article IX. The Architectural Review Committee shall establish the location of and the size of all buildings to be constructed on all zero lot line lots.
- For some Lots in Windermere it may be impossible or inadvisable to enforce the above stated set-back requirements or those set forth in Section 3 of Article IX due to the natural terrain, lot configurations and/or proximity of adjacent structures. Therefore, notwithstanding anything else herein to the contrary, the Architectural Review Committee may approve specific deviations to said setback requirements which it believes to be beneficial to a specific homesite or to adjacent homesites.

Section 3. Topography. The topography of the Property shall not be altered by removal, reduction, excavation, filling or any other means without the prior written approval of the Architectural Review Committee. Written approval will be granted for the minimum amount of earth movement required in plans and specifications approved pursuant to the provisions of the Declaration.

Section 4. Tree Removal. No trees or shrubs of any kind may be removed without the written approval of the Architectural Review Committee. Approval for the removal of trees located within the proposed site for the main dwelling, accessory building or within ten (10) feet of the approved site for such building(s) will be granted unless such removal will substantially decrease the beauty of the Property.

Section 5. Rules and Regulations, etc.. The Architectural Review Committee may from time to time adopt and promulgate such rules and regulations regarding the form and content of plans and specifications to be submitted to it for approval, and may publish and record such statements of policy, standards, guidelines, and may establish such criteria relative to architectural styles or details, colors, setbacks, materials or other matters or changes relative to architectural review and the protection of the environment, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provision or requirement of this Declaration. The decisions of the Architectural Review Committee shall be final except that any member who is aggrieved by any action or forbearance from action by the Committee (or any policy, standard or guideline established by the Committee) may appeal the decision of the Architectural Review Committee to the Board of Directors within 30 days by written notice to the Board of Directors and such members shall be entitled to a hearing before the Board of Directors.

Section 6. Environmental Hazards. To secure the natural beauty of the Property, the Architectural Review Committee may promulgate and amend from time to time rules and regulations which will govern activities which may, in its judgement, be environmental hazards such as the application of fertilizers and pesticides or other chemicals. Failure of any Property Owner or tenant of Property in Windermere to comply with the requirements of such rules and regulations shall constitute a breach of this Declaration.

Section 7. Further Siting Authority. To prevent excessive “run” or drainage from any Lots, the Owner Declarant and the Architectural Review Committee reserve the right to establish a maximum percentage of Property which may be covered by a building, patio, driveway or other structures. In the establishment of such maximum percentage, the Owner Declarant and the Architectural Review Committee shall consider topography, percolation rate of the soil, soil types and conditions, vegetation cover and other relevant environmental factors. Neither this nor any other right reserved herein by the Owner Declarant or the Architectural Review Committee shall be construed however, to be an obligation of either the Owner Declarant or the Association to take any action.

Section 8. Committee Appointment and Operation. The Board of Directors shall appoint an Architectural Review Committee which shall be composed of three (3) or more individuals who shall serve at the pleasure of the Board of Directors. The affirmative vote of a majority of the members of the Architectural Review Committee shall be required in order to adopt or promulgate any rule or regulation or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article. The Committee shall have the authority to obtain advice or counsel from consultants as needed.

## ARTICLE IX

### GREEN SPACE AND WATERFRONT AREAS

Section 1. Intent. It is the intention of the Declarant that the natural, scenic and recreational resources, soils, wetlands, wildlife, game and migratory birds currently in evidence at Windermere be maintained and enhanced by designation of certain areas of the Common Area as “green space” by this Declaration or Supplement thereto or as designated on the plats of the Property filed by the Declarants for record with the Chancery Clerk of Jones County.

Section 2. Wildlife. Pursuant to the aforesaid overall objectives of wildlife conservation, no hunting or trapping shall be permitted on any portion of the property at any time except for undesirable wildlife as authorized and approved by rules and regulations promulgated by the Association from time to time. The Owner Declarant, its successors in title and assigns and/or the Association expressly reserves the right to erect wildlife feeding stations, to plant small patches of cover and food crops for wildlife, to make access trails or paths or boardwalks through green space and Common Area for the purpose of permitted observation and study of wildlife, hiking and non-motorized bike riding, to erect small signs throughout the green space designating points of interest and attraction, and to take such other steps as reasonably necessary and proper to further the community use and enjoyment of the green spaces. The Owner Declarant, its successors in title and assigns, and/or the Association, shall have the right, but shall not be obligated, to protect from erosion all green space and shoreline on all Lots abutting the lake by planting trees, plants, and shrubs where and to the extent necessary, or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Owner Declarant and/or the Association, respectively. The right is likewise reserved to the Owner Declarant and to the Association to take steps necessary to provide and insure adequate drainage ways in the green space and Common Area, to cut fire breaks, remove diseased, dead or dangerous trees and carry out other similar activities, the cost of which services to be paid by assessment of Association in accordance with Article IV of this Declaration.

Section 3. Waterfront Areas. To preserve the natural character of Windermere, there is hereby established construction and clearing restrictions on all properties which front on the lake and that portion of the Property comprising the lake, swamp and flooded area (hereinafter collectively referred to as “lake”) shall be preserved substantially in its present natural state except for moderate clearing for view and breeze as approved by the

Architectural Review Committee. Notwithstanding the foregoing, the Owner Declarant hereby reserves to itself, its successors in title and assigns, the right to exempt properties from said construction and clearing restrictions in those cases where the Architectural Review Committee in its discretion, determines, in manner neither arbitrary nor capricious, that such exemption will not materially lessen the natural appearances and scenic beauty of the lake or determines that such exemption is necessary to protect the shoreline from erosion or from pollution. The following horizontal construction set-back restriction from the lake is hereby established; (I) except for buildings constructed on zero lot line lots, or lots as described in Article VIII, Section 2, no house sites, no building or other structure shall be constructed or maintained on any Property within thirty (30) feet of the lake and no parking areas designated to accommodate more than two automobiles shall be constructed or maintained on any Property within seventy-five feet of the lake. (II) In Common Area and Green Space, no building or other structures shall be constructed or maintained within twenty (20) feet of the lake and no parking areas designated to accommodate more than two automobiles shall be constructed or maintained within forty (40) feet of the lake except for gazebos and recreational facilities constructed by the Owner Declarant and/or approved by the Architectural Review Committee. All piers shall be constructed in accordance with the design and building criteria adopted by the Architectural Review Committee and the location and extension of same into the lake shall be approved by the Architectural Review Committee prior to commencement of construction, provided however, all piers and docks shall be constructed within the extended boundaries of the side lot lines and in no event shall any structure extend into the lake more than six (6) feet from the existing natural water line of the Lot. (12 x 12 deck with 6 feet on land and 6 feet over the water). No pier should cover more than 72 square feet of water surface from the water edge.

Section 4. Shoreline Stabilization. Within two years from the date an Owner receives a deed to a waterfront lot, said Owner shall establish the shoreline of said Lot according to the shoreline stabilization criteria adopted by the Architectural Review Committee or such other plan as may be submitted by the Owner and approved by the Architectural Review Committee. Preferred stabilization plans will consist of grassing and natural plantings. Retainer walls will not be acceptable except in unusual circumstances. In the event such Property Owner has not complied with the requirements of this Section 4 within said three year period of time, the Association or the Owner Declarant shall have the option, but not the obligation, to stabilize said shoreline in accordance with the shoreline stabilization criteria adopted by the Architectural Review Committee and charge the cost of said work to the Property Owner as a special assessment against said Lot. The Association and/or the Owner Declarant, severally, their heirs, successors and assigns and agents shall have the right to enter upon Lot for the purpose of performing said work, provided however that prior to exercising such rights to enter upon such Lot for the purpose of performing said work, the Owner Declarant or the Association, as the case may be, shall give the property owner the opportunity to stabilize the shoreline by giving such Property Owner notice that the work must be completed within a reasonable time or that such work shall be performed by the Association or the Owner Declarant, as the case may be. Such notice shall specify the work to be done and the time by which such work must be completed.

Section 5. Other Regulations. The use of the Common Areas, Common Facilities, green areas and lakes by the property owners, their guests and invitees shall be governed by the applicable rules, regulations and polices as from time to time promulgated by the Association. Only non-motorized boats will be permitted on the lakes. The Owner Declarant and the Association shall have the right and authority to lower the level of the lake at such times as they or either of them believe it to be in the best interest of the lake and property, for construction or maintenance of sewer or water lines, for the maintenance, preservation and development of the shore lines and the maintenance and preservation of fish and other wildlife. The Owner Declarant and/or the Association shall not be liable for any matter or claim of any nature whatsoever arising directly or indirectly from the exercise of the right and authority thereby reserved.

## ARTICLE X

### EASEMENTS

Section 1. Utility Easements. The Owner Declarant, the Association, and each utility providing service to the Property shall have and is granted or reserved non-exclusive easements and rights-of-way in, through, across, on, over, and under the portions of the Property which are not improved with Dwellings, buildings or other structures, including full rights of ingress and egress, for the installation, operation, use, maintenance, repair and removal of utilities and drainage facilities and floodway easements located in utility or drainage easements as listed on the Schedule of Easements attached hereto as Exhibit D, which are hereby granted and reserved by Owner Declarant pursuant to this Section 1 or as shown and designated on the Plat, and the right to remove any obstruction in any utility or drainage easement which may interfere either with the use of any utility or drainage easement or with the installation, operation, use, maintenance, repair and removal of such utility or drainage facility.

The Owner Declarant shall have non-exclusive easements and rights-of-way in, through, across, on, over, and under the portion of the Common Area which is not improved with buildings or structures to store building supplies and materials, install, construct, maintain, reconstruct and repair sewers, water pipes, irrigation pipes, electrical wires or cables, telephone wires or cables, gas lines, storm drains, television cables, underground conduits, and any related improvements or appurtenances and for all other purposes reasonably related to the completion of construction and the provision of public or private utility services to any portion of the Property. Any and all conveyance documents from the Owner Declarant to the Association with respect to the Common Area and Common Facilities shall be conclusively deemed to incorporate the provisions of this Section 1, whether or not specifically contained in such conveyance documents. At the Owner Declarant's request, the Association shall from time to time execute, acknowledge, and deliver to the Owner Declarant such documents, as the Owner Declarant considers necessary to implement the provisions of this Section 1.

The reservations and rights in this Section 1 expressly include the right to (i) cut any trees, bushes, or shrubbery, (ii) make any gradings of the soil, and (iii) take any other similar action reasonably necessary to provide economical and safe utility and drainage

facility installment, repair and maintenance and to maintain reasonable standards of health, safety and appearance.

Section 2. Damage and Ingress and Egress. Any entry by the Owner Declarant, the Association or any utility upon any Lot for the purposes permitted or contemplated by this Article X shall be made with as little inconvenience to the Owner as reasonably practical, and all physical damage to any Lot or improvement shall be promptly repaired and restored.

Section 3. Maintenance and Support Easements. Where Dwellings are permitted on or in close proximity to the boundaries of a Lot, the Common Area and Common Facilities and each Lot and Dwelling on such Lot shall be subject to irrevocable easements for the benefit of the Association and the Owners of the adjoining Lots and abutting Dwellings for (i) drainage, (ii) the maintenance and unobstructed and uninterrupted use of any and all pipes, ducts, flutes, chutes, conduits, cables and wire outlets and utility lines, (iii) maintenance and lateral support of adjoining and abutting buildings and improvements, (iv) such portions of any building or improvement that may overhang a Lot or any portion of the Common Area and Common Facilities, and (v) the walks and sidewalks serving such adjoining and abutting areas.

Section 4. Common Drive or Driveway and Walkway Easements. Declarants hereby create for the Owners of all Lots, a perpetual non-exclusive easement for ingress and egress over and across the drive common to or used by Owners of Lots as shown on any subdivision plat of the Property, and Declarants further create for the Owners a perpetual, non-exclusive easement for pedestrian traffic over and across the walkway, bike and jogging trails or ways, as shown on any subdivision plat of the Property.

## ARTICLE XI

### USE RESTRICTIONS

The Property shall be subject to the following use restrictions:

Section 1. Use of Lots and Dwellings. Except as permitted by Section 9 hereof, or except for lots that may in the future be conveyed by the Owner Declarant to the Owners Association for additional Common Area, each Lot and dwelling shall be used for single family residential purposes only, and no trade and business of any kind may be carried on therein, except as authorized or permitted pursuant to the applicable zoning ordinances and subject to approval by the Association. Lease or rental of a dwelling for residential purposes shall not be considered to be a violation of this covenant so long as the lease (i) is for not less than the entire dwelling and all the improvements thereon, (ii) is for a term for at least six (6) months, and (iii) is otherwise in compliance with the rules and regulations as may be promulgated and published from time to time by the Board of Directors. All leases shall be required to be in writing, and prior to commencement of any such lease, the Property Owner shall provide the Association and the managing agent of the Association, if any, with copies of such lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and

regulations adopted hereunder. Notwithstanding any provisions in this Section 1 to the contrary, Owner Declarant, its successors or assigns, if the right is so transferred by the Owner Declarant, shall have the perpetual right to designate in writing to the Association from time to time dwellings in the development which may be leased for such period of time as the Owner Declarant shall determine for these dwellings, Owner Declarant shall not be required to supply copies of the leases therefore to the Association.

Section 2. Exterior Appearances.

16. Except for maintenance areas within the Common Area and those fences erected by Owner Declarant or the Association, no chainlink fences shall be permitted within the development unless approved by the Architect Review Committee. Unenclosed garages shall not be allowed. Further, no foil, sunscreens, or other reflective materials shall be permitted. When not in use, all garage doors shall be kept closed. No projections of any type shall be placed or permitted above the roof of any improvement except improved chimneys or vents or other objects as may be approved by the Architectural Review Committee.
17. Each Property Owner shall provide a screened area to serve as a service yard and an area in which garbage receptacles or similar storage receptacles, electric and gas meters, air conditioning equipment and other unsightly objects must be placed or stored in order to conceal them from view from the road and adjacent properties. Plans for such screened area delineating the size, design, texture, appearance and location must be approved by the Architectural Review Committee prior to construction. Planting of plants is acceptable for screening.

Section 3. Signs. Except for uniform mail boxes and house numbers approved by the Architectural Review Committee and such signs as may be required by legal proceedings, no signs, advertising or ornaments of any kind shall be maintained or permitted within any windows, on the exterior of any windows located within the development or elsewhere on any portion of the Property. The Property Owner, a realtor, or Developer may place "For Sale" signs on the designated property. Such signs are restricted to 4 square feet, must be kept in good repair and must be approved by the Architectural Review Committee. Inappropriate signs or signs not in good repair will be removed. Notwithstanding the foregoing, the restrictions of this Section 3 shall not apply to Owner Declarant, his agents or assigns, so long as Declarant shall own any of the Lots. 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 Area and within those easement areas established under the Declaration.

Section 4. Other Building and Vehicles. No tent, trailer, manufactured home, barn or other similar outbuilding or structure, shall be placed on any Lot or on any other area at any time, either temporarily or permanently without prior approval of the Architectural Review Committee. Each Owner shall provide for parking for at least two automobiles in addition to a garage for owner vehicles for each Lot owned. The Board of Directors shall have authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot, Dwelling or within any portion of the Common Areas, (other than areas provided therefore within the Common Areas, if any) of motor homes, tractors, trucks, (other than pickup trucks) commercial vehicles of any type, campers,



motorized campers or trailers, boats or other water craft, boat trailers, ATV's, motorcycles, motorized bicycles, motorized go-carts, or any other related forms of transportation devices. Furthermore, although not expressly prohibited hereby, the Board of Directors may at any time prohibit motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles, or any of them from being kept, placed, stored, maintained, or operated upon any portion of the Property. All Terrain Vehicles, four wheelers, motorized go-carts and other similar vehicles may not be ridden on the Common Areas, streets or home sites of Windermere. Motorcycles, used for transportation, may be ridden from the entrance to their destination and parked and must be equipped with a muffler. No Owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot, Dwelling, or within any portion of the Common Areas, except (i) within enclosed garages or workshops or (ii) for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility. Owner Declarant hereby reserves the right (without any obligation to do so) to designate within the additional Property a parking area for boat trailers, motor homes or similar vehicles. The Owner Declarant or Board of Directors may charge a fee for parking in such areas

Section 5. Unsightly Conditions and Nuisances. It shall be the responsibility of each Property Owner and tenants thereof to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on the Property which shall tend to substantially decrease the beauty of the community as a whole or as a specific area. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property. Nor shall any nuisance or odors be permitted to operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot, Dwelling or any part of the Common Areas and Common Facilities, and each Owner, his family, tenants, invitees, guests, servants and agents shall refrain from any act or use of a Lot, dwelling or the Common Areas and Common Facilities which would cause disorderly, unsightly, noisy or unkept conditions or which would cause embarrassment, discomfort, annoyance, or nuisance to the occupants of other portions of the Property or which would result in a cancellation of any insurance from any portion of the Property or which would be in violation of any law, governmental code or regulation. Without limiting the generality of the foregoing conditions, 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 Property. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Property shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and any sum shall be added to and become a part of that portion of the assessment next becoming due to which the Owner and his Lot are subject.

Section 6. Antennas. No television antenna, satellite dish, radio receiver or similar device shall be attached to or installed on any portion of the Property, unless contained entirely within the interior of a building or other structure, or screened from view from street nor shall radio or television signals nor any other form of

electromagnetic radiation be permitted to originate from any Lot which may unreasonably interfere with reception or other signals within the Property; provided however, that Owner Declarant and the Association shall not be prohibited from installing equipment necessary for master antenna, security cable television, mobile radio, or other similar systems within the Property and should cable television services be unavailable and adequate television reception not be otherwise available, then an owner may make written application to the Architectural Review Committee for permission to install a television antenna.

Section 7. Lights. The design and location of landscape 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 Christmas ornaments, shall be located anywhere on the structure or grounds of any Lot in such a manner as to adversely illuminate or affect the nighttime environment of any adjoining Property.

Section 8. Pets. No animals, livestock or poultry of any kind, shall be raised, bred, kept, staked or pastured on any Lot, or in the Common Area, except dogs, cats, birds, or other household pets which shall be kept and maintained in accordance with the rules and regulations adopted from time to time by the Board of Directors; provided however, if the supplement annexing such Lots to the Declaration so provides.

Section 9. Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Owner Declarant and his agents, employees, heirs 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 Lots and/or dwellings or the development of Lots, Dwellings, Common Areas and the additional Property, including, without limitation, the installation and operation of a sales office in the Clubhouse, construction trailers, offices, and dwellings as may be approved by the Owner Declarant from time to time, provided that the location of any construction trailers of any assignees of Owner Declarant's rights under this Section 9 shall be subject to Owner Declarant's approval. The right to maintain and carry on such facilities shall contain specifically the right to use dwellings as model residences, and to use any dwellings as office for the sale of Lots and/or dwellings, and for related activities.

Section 10. Time sharing. No Lots or dwellings shall be sold under any time sharing, time interval, or assumption of right-to-use programs.

Section 11. Trespass. Whenever the Association and/or the Owner Declarant is permitted by the Declaration to repair, clean, preserve, clear out or do any action on any part of the Property, entering any Lot or any portion of the Property and taking such action shall not be deemed a trespass.

Section 12. Subdivided. No Lot shall be subdivided or its boundary lines changed, except with the written consent of the Board of Directors and the Owner Declarant so long as Owner Declarant owns any Lots subject to the Declaration. However, the Owner Declarant hereby expressly reserves unto itself, its successors in title, or assigns the right to replat any Lot or such Lots owned by it, shown on the plat of

any subdivision within Windermere and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of ways and other amenities to conform to the new boundaries of said replatted Lots. The provisions of this Section 12 shall not prohibit the combining of two or more contiguous Lots into one larger Lot or making two Lots out of three or more contiguous Lots, provided that each of the resulting Lots are larger and contain a minimum Lot frontage equal to or greater than their original frontage on the Lot having the least frontage before combining said Lots or portions thereof. Only the exterior boundary lines of the resulting larger lot(s) shall be considered in the interpretation of these covenants.

Section 13. Certain Construction Rights. The Owner Declarant expressly reserves to itself, its successors in title, and assigns and any other provisions of this Declaration notwithstanding, the right to build bridges, walkways, or expanse across any natural or man made canals, creeks, riding trails, paths, or lagoons in the Property. Nothing in this section shall be construed as placing an affirmative obligation to the Owner Declarant to provide or construct any such improvement.

Section 14. Certain Controls.

27. To implement effective and adequate erosion controls and protect the beauty of the lakes, title and assigns and agents shall have the right to enter upon any lakefront property before and after a building has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices. Provided, however, that prior to exercising its rights to enter upon the properties for the purpose of performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Owner Declarant or Association as the case may be, shall give the Property Owner the opportunity to take any corrective actions required by giving the property owner notice indicating what type of corrective action is required and that it must be performed within a reasonable period of time. The notice shall specify the immediate corrective action that must be taken by such Property Owner and the time by which such action must be completed. If Property Owner fails to take the corrective action specified, or be late, Owner Declarant or the Association, as the case may be, may then exercise his right to enter in upon the Property in order to take the necessary action. The costs of such erosion prevention measures when performed by the Owner Declarant or the Association, as the case may be shall be paid by the Property Owner thereof.

28. To implement effective insect, reptile, and fire ant control, and vegetation and trash control, the Owner Declarant or the Association, and their heirs, successors, assigns and agents, have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, removing trash or dispensing pesticides on all such property which in the opinion of the Owner Declarant or the Architectural Review Committee distracts from the overall beauty, setting and safety of the Property. The cost of this vegetation and trash control shall be kept as low as reasonably possible and shall be paid by the respective Property Owner. Such entry

shall not be made until thirty (30) days after such Property Owner has been notified in writing for the need of such work and unless such Property Owner fails to perform the work within said thirty (30) day period.

29. The provisions of this section shall not be construed as an obligation on the part of the Owner Declarant or the Association to mow, clear, cut or prune any property, to provide garbage or trash removal services, to perform any grading or landscaping work, construct maintain erosion prevention devices, or to provide water pollution control on any privately owned property.

30. Entrance upon Property pursuant to the provisions of this Section 4 shall not be deemed trespass. The rights reserved unto the Owner Declarant and the Association in this section shall not be unreasonably employed and shall be used only where necessary to effect the stated intents and purpose of this Declaration.

Section 15. Water Wells and Sewer Treatment Systems. Except as herein provided, no water wells, septic tanks or sewage disposal systems shall be permitted on any Lot and no plans and specifications shall be approved by the Architectural Review Committee unless such plans and specifications provide that the Lot will be served by the water and sewer system serving the Property. This restriction does not prevent the Owner Declarant or Board from drilling a water well for the purpose of keeping the level or quality of the lakes.

## ARTICLE XII

### RULE MAKING

#### Section 1. Rules and Regulations.

11. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, Common Areas and Common Facilities. Particularly and without limitation, the Board of Directors may promulgate from time to time rules and regulations which will govern activities which may, in the judgement of the Board of Directors, be environmentally hazardous, such as the application of fertilizers and pesticides and other chemicals.
12. Subject to the terms and provisions of this Declaration the Board of Directors may establish rules and regulations, fees and charges from time to time pertaining to use of the recreational area and amenities as are now and hereinafter located in the Common Areas.

## ARTICLE XIII

### PROPERTY SUBJECT TO THIS DECLARATION

Section 1. The Property. The Property is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration.

Section 2. Phase Development. The Owner Declarant expressly reserves the option, right and privilege (i) to annex all or any portion of the real property described in Exhibit B which is the Additional Property, to the Property, and (ii) by or as a result of such annexation to the annexed Additional Property to the provisions of this Declaration and the jurisdiction of the Association. The provisions of this Declaration shall not affect or apply to any portion of the Additional Property unless and until such portion of the Additional Property is annexed to the Property pursuant to the provisions of Section 3 of this Article XIII.

The Owner Declarant shall not have the obligation, but only the option, right and privilege, to develop or annex any portion of the Additional Property. The Owner Declarant expressly does not represent, warrant or guarantee to any Person that any portion of the Additional Property will be developed or will be annexed to the Property. By acceptance of a deed conveying any interest in a Lot, each Owner agrees and represents and warrants to the Owner Declarant and the Association that, in purchasing or otherwise acquiring such interest in the Lot, the Owner has not relied on any proposed, current or future development of any portion of the Additional Property or annexation of any portion of the Additional Property to the Property.

Section 3. Annexation Procedures. To annex Additional Property to the Property as permitted by Section 2 of this Article XIII, the Owner Declarant shall execute and file for record a Supplement which describes the portion of the Additional Property being annexed to the Property and the new, amended or revised description of the Property. The option, right and privilege of the Owner Declarant to annex any portion of the Additional Property to the Property is subject to the following provisions:

- The Owner Declarant's option, right and privilege to annex Additional Property shall terminate and expire on January 1, 2014.
- The Owner Declarant may annex any portion of the Additional Property at different times and in any sequence desired by the Owner Declarant without regard to whether or not the portion of the Additional Property being annexed is contiguous or noncontiguous to the Property.
- The Supplement shall extend the provisions and scheme of this Declaration to the Additional Property being annexed, but the Supplement may contain such complementary additions to and modifications of the provisions of this Declaration as the Owner Declarant determine to be appropriate or necessary for the different character or use, if any, of the, Additional Property being annexed. Such complementary additions and modifications shall not be generally or substantially inconsistent with the provisions of this Declaration, except as permitted by Section 14 of Article IV to equitable adjustments, and otherwise shall not amend or modify the provisions of this Declaration.

Section 4. Effect of Annexation. Upon the Supplement referred to in Section 3 of this Article XIII being filed for record, the Additional Property described in the Supplement shall be annexed to the Property. Any and all Lots, the Common Area and the Common Facilities, including any Green Space, of or in the annexed Additional

Property shall be subject to the provisions and scheme of this Declaration and the jurisdiction, functions, duties, obligations and membership of the Association, including the Charter, the Bylaws and the rules and regulations promulgated or adopted by the Board of Directors. All Owners of Lots shall be granted the rights contained in Article II to the Property as described after such annexation.

Section 5. Additional Property Modifications. At any time or times prior, the Owner Declarant shall have the option, right and privilege, but not the obligation, to amend the description of the Additional Property, as contained in Exhibit B, to include other real property the Owner Declarant now or in the future may own or acquire, within the vicinity of, but expressly without the necessity or requirements of being contiguous to, the real property described in Exhibit B, if at such time or times the Owner Declarant intends to develop such other real property in a manner consistent, compatible or in conformance with the Owner Declarant's development of the Property. To amend the description of the Additional Property, the Owner Declarant shall execute and file for record a Supplement which described the other real property being included in the description of the Additional Property and the resulting new, amended or revised description of the Additional Property.

Section 6. Annexation Restrictions. Except for the Property and the Additional Property as amended or revised pursuant to Section 5 of this Article XIII, other real property may be annexed to the Property or become subject to the provisions of this Declaration and the jurisdiction of the Association only by a vote of sixty percent (60%) of the voting power of each class of the Members and such other consent as may be required under this Declaration.

Section 7. No Consent Required. The Owner Declarant shall not be required to obtain any consent or approval of any Owner or other Person, including any Mortgagee, to annex any Additional Property to the Property as permitted by Section 2 of this Article XIII or to amend the description of the Additional Property to include other real property as permitted by Section 5 of this Article XIII, or to convey any lot to the Owners Association as additional common area. Each Owner, each Mortgagee and each other Person, including, but not limited to, each grantee, heir or devisee, personal representative, successor and assign of an Owner, Mortgagee or other Person, by acceptance of any deed or other interest in or with respect to any Lot, including a deed of trust, mortgage or similar encumbrance, shall be deemed to have expressly agreed and consented to (i) each of the provisions of this Article XIII, and (ii) the execution, filing for record and provisions of any Supplement contemplated by this by this Article XIII.

## ARTICLE XIV

### GENERAL PROVISIONS

Section 1. Duration. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Owners of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty-five (35) years from the date this Declaration is recorded in the Office of the Chancery

Clerk the second Judicial District of Jones County, Laurel, Mississippi, after which time said covenants shall be automatically extended for the successive periods of ten (10) years unless an instrument signed by a majority of the Owners has been recorded in the Deed Records, in said Chancery Clerk's Office agreeing to abolish the said Covenants, Conditions and Restrictions in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 2. Amendments. Notwithstanding Section 1 of this Article, the Covenants, Conditions and Restrictions of this Declaration may be amended by the Owner Declarant prior to January 2003 and subject to the provisions of Section 8 of this Article, may be amended and/or changed in part with the consent of at least seventy-five percent (75%) of the Lot Owners; thereafter said covenants and this Declaration may be amended or terminated with the consent of fifty-one percent (51%) of the Lot Owners, and in each case such amendment shall be evidenced by a document in writing bearing the signatures of such Owners. All amendments, if any, shall be recorded in the Office of the Chancery Clerk of the second Judicial District of Jones County, Mississippi.

Section 3. Enforcement of Declaration.

- (g) Compliance. If any provision of this Declaration is breached or violated or threatened to be breached or violated by any Owner or other Person, then each of the other Owners, the Owner Declarant and/or the Association, jointly or severally, shall have the right, but not the obligation, to proceed at law or in equity to compel a compliance with, or to prevent the threatened violation or breach of, the provisions of this Declaration. If any structure or other improvement located on any portion of the Property, including any Lot, violates any provision of this Declaration, then the Owner Declarant and/or the Association, jointly or severally, shall have the right, but not the obligation, to enter upon any portion of the Property, including any Lot, to abate or remove such structure or other improvement at the cost and expense of the Owners of the Lot where such structure or improvement is located or who otherwise causes such violation, if the violation is not corrected by such Owners within thirty (30) days after written notice of such violation. Any Person entitled to file or maintain a legal action or proceeding for the actual or threatened violation or breach of this Declaration shall be entitled to recover attorney's fees and other costs and expenses attributable to such action or proceeding, and the Association shall be entitled to recover and receive any other amounts specified in Section 9 of Article IV. Any such entry and abatement or removal shall not be or be deemed to be a trespass. The failure by any Person for any period of time to enforce any provision of this Declaration shall not be or be deemed a waiver of the right to enforce or otherwise bar or affect the enforcement of any and all provisions of this Declaration at any time, including any future time.
- (h) Enforcement. This Declaration shall be enforced by any appropriate proceeding at law or in equity (i) against any Person who breaches or violates or threatens to breach or violate any provision of this Declaration, (ii) to recover damages for any such breach or violation, (iii) to collect any amounts payable by any Owner to the

Association under this Declaration, including Assessments, attorneys' fees, costs of collection, late charges, overhead charges or other amounts incurred by the Association to perform or discharge any obligation or duty of any Owner under this Declaration or otherwise specified in this Declaration, including Section 9 of Article IV, and (iv) to enforce any lien created by this Declaration. There is hereby created and declared to be a conclusive presumption that any actual or threatened violation or breach of this Declaration cannot be adequately remedied by an action at law exclusively for recovery of monetary damages. The Declarants, the Association and each Owner by acceptance of a deed or other conveyance document to a Lot waives and agrees not to assert any claim or defense that injunctive relief or other equitable relief is not any appropriate remedy.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no wise affect any other provision, which shall remain in full force and effect.

Section 5. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 6. Notices to Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered 48 hours after a copy of same has been deposited in the United States mails, postage prepaid, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 7. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot or address, any mortgage holder, insurer, or guarantor will be entitled to timely written notice of:

- Any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage.
- Any sixty- (60) days delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage.
- A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- Any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 8. Consent of Eligible Mortgage Holders. The Owners, or the Board of Directors, or the Association, by any act or omission, shall not do any of the following things without the prior written consent and approval of the holders of fifty-one percent (51%) of outstanding Recorded First Mortgages who have requested notice from the Association of any proposed action that requires the consent of a specified percentage of Eligible Mortgage Holders:



- Abandon, partition, subdivide, encumber, sell or transfer any of the Common Area provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by the Owners shall not be considered an encumbrance, sale or transfer within the meaning of this Subsection.
- Abandon or terminate this Declaration; or
- Modify or amend any material or substantive provision of this Declaration. A change to any of the following would be considered as material:
  1. Voting rights
  2. Assessments, assessment liens, or subordination of assessment liens
  3. Reserves for maintenance, repair, and replacement of Common Areas
  4. Responsibility for maintenance and repairs
  5. Reallocation of interests in the Common Areas or Limited Common Areas, or rights to their use
  6. Convertibility of Lots into Common Areas or Common Areas in to Lots, except as reserved by the Declarant under Article XV
  7. Expansion or contraction of the project, or the addition, annexation, or withdrawal of property to or from the project, except as provided by Article XIII
  8. Insurance or fidelity bonds
  9. Leasing of Lots
  10. Imposition of any restriction on an Owner's right to sell or transfer his or her Lots
  11. Any provisions that expressly benefit Mortgages, insurers, or guarantors.
- Annex additional properties not included in Exhibit B or added thereto as provided by Section 5 of Article XIII; or merge or consolidates the Association.

Section 9. Additional Rights of Eligible Mortgage Holders – Notice.

1. The Association shall promptly notify any Eligible Mortgage Holder on any Lot, which such holder is the holder of a Recorded First Mortgage as to any assessment levied pursuant to the Declaration, or any installment thereof, which shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify such holder on any Lot as to which there is default by the Owner with respect to performance of any other obligation under this Declaration which remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Recorded First Mortgage on any Lot, and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article IV hereof.
2. No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the Recorded Mortgage encumbering the Lot which is the subject matter of such suit proceeding.

3. Any holder of a Recorded First Mortgage on any Lot upon the Property may pay any taxes, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First Mortgage who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Owners.
4. No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.
5. No amendment to this Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such amendment who does not join in the execution thereof, except for Supplements annexing Additional Property added pursuant to Article XIII.
6. The holders, insurers or guarantors of any Recorded First Mortgage on a Lot who have requested the Association in writing will be entitled to: (i) inspect the books and records of the property during normal business hours; (ii) receive an annual financial statement of the project within ninety days following the end of any fiscal year of the project; (iii) written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings; and (iv) current copies of this Declaration, the Bylaws of the Association and all other rules concerning the project.

Section 10. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

Section 11. Record of Mortgage. Any holder of a Recorded First Mortgage shall be entitled to notify the Association that such mortgagee holds a mortgage on a Lot. The Board of Directors shall maintain such information in a book entitled "Holders of Recorded First Mortgages".

Section 12. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight hours after a copy of the same has been deposited in the United States mail, post pre-paid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association; provided, however, that notice of meetings need not be mailed by Certified Mail, Return Receipt Requested. Such addresses may be changed from time to time by notice in writing to the Association.

## ARTICLE XV

### OWNER DECLARANT'S RIGHTS AND RESERVATIONS

Section 1. Owner Declarant's Rights and Reservations. No provisions in the Charter, Bylaws or this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Owner Declarant to subdivide or resubdivide any portions of the Property, or to complete improvements or refurbishments (if any) to and on the Common Area, Green Space or any portion of the Property owned by Owner Declarant or to alter the foregoing or the construction plans and designs, or to construct such additional improvements or add future phases in the course of development of Windermere, pursuant to Article XIII, Section 2 of this Declaration as Owner Declarant deems advisable in the course of development of the Property. Such right shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be reasonably necessary for the conduct of his business for completing the work and disposing of the lots by sale, lease or otherwise. Each Owner by accepting a deed to a Lot hereby acknowledges that the activities of Owner Declarant may temporarily or permanently constitute an inconvenience or nuisance to the Owners, and each Owner hereby consents to such inconvenience or nuisance. This Declaration shall not limit the right of Owner Declarant at any time prior to acquisition of title to a lot by a purchaser from Owner Declarant to establish on that lot, Common Areas, additional licenses, easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the property. The Owner Declarant need not seek or obtain Board approval of any improvement constructed or placed by Owner Declarant on any portion of the Property. The rights of Owner Declarant under this Declaration may be assigned by Owner Declarant to any successor and any interest or portion of Owner Declarant's interest in any portion of the Property by a recorded, written assignment. Notwithstanding any other provision of this Declaration, the prior written approval of Owner Declarant, as one of the Declarants of Windermere, will be required before any amendment to this Article shall be effective while Owner Declarant owns a Lot. Owner Declarant shall be entitled to the non-exclusive use of the Common Area, Green Area, without further cost or access, ingress, egress, use or enjoyment, in order to show the Property to his prospective purchasers or lessees and dispose of the Property as provided herein. Owner Declarant, his assigns and tenants shall also be entitled to the non-exclusive use of any portion of the Common Area, Green Area, which comprises drives or walkways for the purpose of ingress and egress and accompanying vehicle and pedestrian traffic to and from the Property. Each Owner hereby grants, by acceptance of the deed to this lot, an irrevocable, special power of attorney to Owner Declarant to execute and record all documents and maps necessary to allow Owner Declarant to exercise his rights under this Article. This Article shall be applicable for so long as the Owner Declarant owns any portion of the Property.

OWNER DECLARANT

BUSH FARMS, INC.

BY: \_\_\_\_\_  
Harry H. Bush, President

CONTRACTOR DECLARANT

NEILL HOMES, LLC

BY: \_\_\_\_\_  
Robert M. Neill, Jr., Member

MORTGAGEE CONCURRENCE

Trustmark National Bank does hereby consent to and concur in the adoption by  
Declarants of the foregoing Declaration of Covenants, Conditions and Restrictions.  
Dated this the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

TRUSTMARK NATIONAL BANK

BY: \_\_\_\_\_  
James C. McNesse, President

STATE OF MISSISSIPPI  
COUNTY OF JONES

PERSONALLY appeared before me, the undersigned authority in and for the said County and State, within my jurisdiction, the within named Harry H. Bush, who acknowledged that he is President of BUSH FARMS, INC., a Mississippi corporation, and that for, and on behalf of the said corporation, and as its act and deed, he signed and delivered the above and foregoing instrument of writing for the purposes mentioned on the day and year therein mentioned, after first having been duly authorized by said corporation so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the \_\_\_\_\_ day of \_\_\_\_\_, 2001.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

STATE OF MISSISSIPPI  
COUNTY OF JONES

Personally appeared before, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2001, within my jurisdiction, the within named Robert M. Neill, Jr., individually, and Robert M. Neill, Jr., who acknowledged that he is a Member of NEILL HOMES, LLC, a Mississippi limited liability company, and that for and on behalf of the said limited liability company, and as its act and deed he executed the above and foregoing instrument having first been duly authorized by said limited liability company so to do.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

STATE OF MISSISSIPPI  
COUNTY OF JONES

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2001, within my jurisdiction, the within named James C. McNeese, who, being duly sworn, says on oath that he is President of the within named Trustmark National Bank, a national banking association, and is authorized by said national banking association to execute the above and foregoing instrument for and on its behalf; and who acknowledged that he signed, sealed, and delivered the above and foregoing instrument for and on behalf of and as the act and deed of said national banking association on the day and year therein mentioned.

My Commission Expires:

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Notary Public

Exhibit A: Windermere Phase One

**LEGAL DESCRIPTION OF WINDERMERE PHASE I:**

See Legal Description of Windermere Phase I on file.

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Exhibit B: Windermere Phase I

**LEGAL DESCRIPTION OF ADDITIONAL PROPERTY FOR RIGHT  
OF ANNEXATION TO WNDERMERE AS DESCRIBED IN  
ARTICLE XIII SECTION 2**

See Legal Description of Additional Property Reserved for Annexation to  
Windermere on file.

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***EXHIBIT C***

**MINIMUM BUILDING SIZE & VARIANCE FOR SET BACK  
REQUIREMENTS**

Lots	100, 107 – 127	Minimum building size – 2,200 sq. ft.
Lots	101, 104	Minimum building size – 1,500 sq. ft. Front set back – 15 ft. Waterfront set back – 20 ft. Conveyance of these lots may be in parcels comprising less than the entire lot. Construction on these lots may utilize either zero lot line or common wall concept.
Lots	301 – 324	Minimum building size – 1,800 sq. ft. Construction on these lots may utilize zero line concepts.
Lots	401 – 406	Minimum building size – 1,750 sq. ft.
Lots	500 – 527	Minimum building size – 1,500 sq. ft.
Lots	506 – 509, 524 – 527	Construction on the lots may utilize zero lot line concept.

**SIDEWALK REQUIREMENTS**

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

Lots	111 – 116
Lots	118 – 122
Lots	301 – 312, 314
Lots	401 – 406
Lots	500 – 509
Lots	517 – 520
Lots	524 - 526



***EXHIBIT D***

**SCHEDULE OF EASEMENTS**

The following easements are hereby reserved on, over and across all lots.

32. Ten foot (10') easement along the property line of each lot that is adjacent to street right-of-way for utility, walking paths and/or sidewalks.

33. All easements as shown on the recorded subdivision plat.

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*EXHIBIT D*

SCHEDULE OF EASEMENTS

The following easements are hereby reserved on, over and across all lots.

1. Ten foot (10') easement along the property line of each lot that is adjacent to street right-of-way for utility, walking paths and/or sidewalks.
2. All easements as shown on the recorded subdivision plat.

**Exhibit "B" (Phase II)**

**SUPPLEMENT TO DELCARATION OF CONVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDERMERE PHASE II – THE FELLS**

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Lots 201 through 239

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**MINIMUM BUILDING SIZE AND VARIANCE FOR SET BACK REQUIREMENTS**

Lots 201 - 213	Minimum building size: 2500 sq. ft.
Lots 214 - 219	Minimum building size 2400 sq.ft.
Lots 220 - 239	Minimum building size 2200 sq. ft.

**SIDEWALK REQUIREMENTS**

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

Lots 202 – 209
Lots 211 – 213
Lots 220 – 222
Lots 234 – 238

**MINIMUM ANNUAL ASSESSMENT**

Immediately following the conveyance of the first lot to an owner there will be an assessment of \$300.00 per year plus any increases made (the same as Estate Lots).

**DIVISION OF LOT**

Lots 234 may be divided into two parcels to accommodate the construction of two zero lot lines or common wall concept houses. If two such structures are constructed on this lot the minimum building or unit size will be 1800 square feet.

**Exhibit "B" (Phase III Supplement #2)**

**SUPPLEMENT NUMBER 2 TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR WINDERMERE PHASE III**

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Lots 601 through 633  
Lots 701 through 711

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**MINIMUM BUILDING SIZE AND VARIANCE FOR SET BACK  
REQUIREMENTS**

Lots 601 - 623	Minimum building size: 1600 sq. ft.
Lots 624 - 633	Minimum building size 1500 sq. ft.
Lots 071 - 711	Minimum building size 1750 sq. ft.

**SIDEWALK REQUIREMENTS**

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

Lots 618 - 629

Lots 633 East Side (Joshbury Circle)

Lots 707 - 711

**MINIMUM ANNUAL ASSESSMENT**

Immediately following the conveyance of the first lot to an owner there will be an assessment every year plus any increases made as follows:

Lots 601 – 633      \$247.00 per year for single family lots plus any increase

Lots 701 – 711      \$297.00 per year for garden lots plus any increase

### **MASONRY SIDING**

Lots 701 – 711 will have masonry on all sides of any house constructed thereon. Side entry garage is required unless a variance is given by the Architect Review Committee.

Lots 601 – 633 Masonry front elevation of first floor.

Lots 607, 6087, 609 Lots 701, 702, 703, 706, 707 were declared not in Flood Hazard area by FEMA by Letter of Map Amendment dated 10-26-06 as per attachment.

**Exhibit “B” (Phase IV)**

**SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WINDERMERE PHASE III**

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Lots 801 through 813  
Lots 905 through 913

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**MINIMUM BUILDING SIZE AND VARIANCE FOR SET BACK REQUIREMENTS**

Lots 801 - 803	Minimum building size: 1600 sq. ft.
Lots 804 - 813	Minimum building size 1750 sq. ft.

**SIDEWALK REQUIREMENTS**

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

Lots 801 - 813

**MINIMUM ANNUAL ASSESSMENT**

Immediately following the conveyance of the first lot to an owner there will be an assessment every year plus any increases made as follows:

Lots 801 – 813            \$247.00 per year for single family lots plus any increase

Lots 804 – 813            \$297.00 per year for garden lots plus any increase

### **MASONRY SIDING**

Lots 804 – 813 will have masonry on all sides of any house constructed thereon a side entry garage is required unless variance is given by Architect Review Committee.

### **BUILDING RESTRICTIONS**

No permanent structure may be built on lots 801-804 or lots 905-913. Lots 801-804 and 905-913 are located within flood zone “AE” as per FEMA NFIP Community Map Panel No. 2802220045B. FEMA has issued conditional letters of map revision based on fill (CLOMR-F) dated October 26, 2006, for these lots. Structures to be built on these lots should be elevated such that the lowest adjacent grade (as defined by FEMA is a minimum of six inches above the base flood elevation of 232.00. Lots 805-813 have been removed from flood zone “AE”. FEMA has issued letters of map amendment (LOMA), dated October 26, 2006 for these lots. See FEMA letter attached hereto.

### **CONVEYANCE AND ENCUMBERING RESTRICTIONS**

The owners of lots 805-813 may not sell, lease, encumber or otherwise hypothecate said lots without selling, leasing mortgage encumbering on hypothecating the corresponding lot 905 through 913 located behind each said lot from lot 805 through 813. That is, by example, lots 805 and 905 must be sold, leased, mortgages, encumbered or hypothecated together.

**REVISED EXHIBIT “C” (Phase I Revised)**  
**TO**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR**  
**WINDERMERE PHASE ONE AND WINDERMERE PHASE ONE REVISED**

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Windermere Phase One

Lots 100, 110-120, 126-127, 301-323, 401-406, 500-505, 512-518, 521-523

Windermere Phase One Revised

Lots 101, 104, 107-109, 121-125, 324, 506-509, 510-511, 519-520, 524-527

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**MINIMUM BUILDING SIZE & VARIANCE FOR SET BACK**  
**REQUIREMENTS**

Lots	100, 107 – 127	Minimum building size – 2,200 sq. ft.
Lots	101, 104	Minimum building size – 1,500 sq. ft. Front set back – 15 ft. Waterfront set back – 20 ft. Conveyance of these lots may be in parcels comprising less than the entire lot. Construction on these lots may utilize either zero lot line



or common wall concept.

- Lots 301 – 324 Minimum building size – 1,800 sq. ft.  
Construction on these lots may utilize zero line concepts.
- Lots 401 – 406 Minimum building size – 1,750 sq. ft.
- Lots 500 – 527 Minimum building size – 1,500 sq. ft.
- Lots 506 – 509, 524 – 527 Construction on the lots may utilize zero lot line concept.

**SIDEWALK REQUIREMENTS**

The purchaser will be required to construct a sidewalk or walking path as approved by the Architectural Review Committee on the following lots:

- Lots 111 – 116
- Lots 118 – 122
- Lots 301 – 312, 314
- Lots 401 – 406
- Lots 500 – 509
- Lots 517 – 520
- Lots 524 - 526

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