



HOA Newsletter Fall 2021

Welcome

This newsletter is developed by WHM's Board of Directors. It provides helpful information for all residents.

Management

Whitehall Manor is managed by Associa/HRW. Their duties include, providing professional consultations to the board, hiring onsite contractors. maintaining records, etc.

Property Manager: Robbi Laney
HRW, Inc.

4700 Homewood Court, Ste 380
Raleigh, NC 27609

Office: 919-787-9000

Website: www.hrw.net

Stay Connected

There are 2 great ways to stay up to date with our neighborhood.

1. **TownSq** is an all in one free app that connects you to our neighborhood. You can request forms such as architectural approvals and pool fob replacements.

<https://app.townsq.io/associa/signup>

- Enter your account number located on your last HOA statement (send email to Rlaney@hrw.net if you need acct#)

2. **WHM Facebook Page**

<https://www.facebook.com/groups/36217088386344/>

You will be asked a couple questions by the administrator.

Architectural Review

Want to paint your house? Get a new fence? Cut down a tree?

All of these and more **MUST** be submitted to our Architectural Review Board. How to submit for approval:

- Login into your townsq app
- On left side, click "requests"
- Click "Open request"
- Select Architectural Application from the category dropdown

The WHM Architectural Standards have been updated on TownSq! They are located under "News and Events"

Meet Your 2023 WHM Board

President: Brad Killebrew

Vice President: Tricia McCord
Treasurer: Rebecca Clausson

Secretary: Megan Alexander

Social: Pam Everett

Member(s) at Large:
Kimberly Hunt Griffin &
Dan Hoel

Dear Neighbor,
Here are some good numbers to have for the town of Apex.

Dial 911 for EMERGENCY POLICE|FIRE|MEDICAL
Apex Police (Non-emergency) – 919-362-8661
Apex Fire (Non-emergency) – 919-362-4001

Recycling – 919-362-8676 (Download the App Apex Collects to find your trash collection days and get reminders.)

Town Clerk/Administrator – 919-249-3303
Municipal Court – 919-249-3400
Recreational Dept – 919-249-3402
Public Library – 919-387-2100
Public Works – 919-249-3427
Board of Health – 919-249-3420

Carolinas Poison Center – 800-222-1222
FastMed Urgent Care – 919-249-1259

Electrical Outages: 919-249-3427 (M-F 8-5) or 919-362-8661 (nights and weekends)
Colonial Pipeline: 919-965-3808

Nearby Parks:
Apex Jaycee Park – 415 W. Williams St
Apex Nature Park – 2600 Evans Rd
Apex Community Park – 2200 Laura Duncan Rd.
Hunter Street Park – 1250 Ambergate Station
Kelly Road Park – 1609 Kelly Rd.

To learn more about the development coming up off of Salem and Apex Barbecue see page 39 of the following document:

<https://mccmeetingspublic.blob.core.usgovcloudapi.net/apexnc-meet-f32d391464c240bba992a5ff411c80f8/ITEM-Attachment-001-39ff91953fdb42778041d05e11f2b5ff.pdf>.

We are glad to have you as our neighbor.

Sincerely,
White Hall Manor HOA

BK 8297PG 1017

PRESENTED
FOR
REGISTRATION

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Prepared By/
Hold For: Wallace, Creech & Sarda, LLP (Box 202)

LAURA M. RIDDICK
REGISTER OF DEEDS
WAKE COUNTY

NORTH CAROLINA

WAKE COUNTY

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR WHITEHALL MANOR**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WHITEHALL MANOR, made on the date hereinafter set forth by Canapex, LLC (the "Declarant");

WITNESSETH:

WHEREAS, the Declarant is the owner of certain property lying within the town of Apex, Wake County, North Carolina, which is more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Declarant desires to subject the Property to certain covenants, conditions and restrictions as hereinafter set forth;

NOW, THEREFORE, the Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, reservations and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property and the residences constructed or to be constructed thereon, which easements, restrictions, covenants, reservations and conditions shall run with the Property, and shall be binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof, and shall inure to the benefit of each Owner of the Property.

ARTICLE I

DEFINITIONS

Section 1. "Amenities" shall mean the facilities constructed, erected or installed on the Common Area for the use, benefit and enjoyment of all Members.

Section 2. "Association" shall mean and refer to Whitehall Manor Homeowners Association, a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Directors of the Association.

Section 4. "Common Area" shall mean all real property, including improvements thereon, and all personal property, owned by the Association for the common use and enjoyment of Members or designated classes of Members of the Association, including Amenities. The Common Area, as contemplated herein, shall include, but not be limited to, all of the Property designated as "open

42-

space" on any recorded plat of the Property, including all water lines and sewer lines located outside the Town of Apex ("Town") sanitary sewer easements or outside Town rights-of-way (but not within individual Lots).

Section 5. "Common Expenses" shall mean and include:

- (a) Expenses of administration, maintenance, repair, or replacement of the Common Area and landscaped islands within the rights-of-way of public streets;
- (b) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (c) Hazard, liability, or such other insurance premiums as this Declaration or the Bylaws may require the Association to purchase;
- (d) Ad valorem taxes and public assessment charges lawfully levied against Common Area;
- (e) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Property, cross Common Area of the Property and serve both the Property and lands adjacent thereto;
- (f) Expenses for maintenance and operation of Amenities;
- (g) Expenses agreed by the Members to be common expenses of the Association;
- (h) Unpaid assessments resulting from the purchase of a Dwelling at a foreclosure sale (such assessment shall be collectible from all Members of the Association, including the purchaser at the foreclosure sale, his successors and assigns); and
- (i) Landscaping of island(s) within the right(s)-of-way of public street(s) shall be the responsibility of the Association. Such area(s) shall remain neat, clean, attractive and safe. Damaged, unsafe or dead plants must be removed by the Association. Neither the Town nor the State will be liable for any accidents or damage caused by such encroachment within the right(s)-of-way, and the Association shall hold harmless the public and indemnify the Town and State from such liability. All costs of maintaining landscape island(s) are a common expense.

Section 6. "Declarant" shall mean and refer to Canapex, LLC, and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, subject to such terms and conditions as the Declarant may impose.

Section 7. "Dwelling" shall mean and refer to a detached single family dwelling constructed on a Lot. No Dwelling shall have a finished floor area, exclusive of steps, porches, and garages, of less than 1,300 square feet in the case of a multi-story Dwelling and 1,100 square feet in the case of a single-story Dwelling. The Declarant reserves the right to waive any violation hereof which does not exceed five percent (5%).

Section 8. "Lot" shall mean and refer to any improved or unimproved parcel of land shown upon any recorded subdivision map of the Property, intended for the construction of a Dwelling, and specifically excluding the Common Area and private or public streets and rights-of-way.

Section 9. "Member" shall mean and refer to every person who holds membership in the Association.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation and any lessee or tenant of an Owner.

Section 11. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 12. "Whitehall Manor" shall mean and refer to the Property and all improvements thereon.

Section 13. "Property" shall mean and refer to that certain real property described in Exhibit A attached hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by Declaration of Annexation or otherwise.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Except as provided in Section 2 of this Article, additional lands may be added and annexed to the Property only if two-thirds (2/3) of each class of all the votes entitled to be cast in such class by Members are cast in favor of annexation. A meeting shall be duly called for this purpose, written notice of which shall be sent to all Members not less than ten (10) days in advance of the meeting.

For the purpose of such meeting, the presence of Members or authorizing proxies entitled to cast sixty percent (60%) of the votes of the Members, in the aggregate, shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called within sixty (60) days thereafter, subject to the notice requirement set forth above, and the required quorum of such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting.

If a quorum is present and a majority of the votes are cast in favor of the annexation, but the majority is less than the two-thirds (2/3) majority of each class required for approval of the annexation, and it appears that the required two-thirds (2/3) of each class may be achieved if the Members not present or voting by proxy assent to the annexation, then and in that event, the Members not present or voting by proxy may assent to or dissent from the proposed annexation in writing within one hundred twenty (120) days following the date of the meeting at which they are entitled to vote either in favor of or against the annexation. If the number of votes cast at the meeting

in favor of the annexation, together with the votes deemed to have been cast by the Members assenting to the annexation, shall constitute the requisite two-thirds (2/3) majority of each class of all votes entitled to be cast, the annexation shall stand approved.

Section 2. Annexation by Declarant. The Declarant may annex additional lands to the Property in the following manner:

(a) If, on or before December 31, 2005, the Declarant should develop, from time to time, an additional tract or additional tracts of land consisting of any property contiguous to the property described in Exhibit A attached hereto, such additional lands may be annexed to the Properties without the assent of the Members; provided, however, that such annexation shall be approved by the Town of Apex.

(b) The Declarant may annex to the Property the additional land described in Subsection (a) by recording with the Wake County Registry a Declaration of Annexation, duly executed by Declarant, describing the lands annexed and incorporating the provisions of this Declaration. The additional land may be deemed annexed to the Property and no other action or consent shall be necessary, except for the consent of the Town of Apex, if required.

(c) Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any property that will be designated as Common Area within the lands annexed as such designated property is developed.

Section 3. Density Transfers. The Property is a part of a cluster unit development approved by the Apex Town Council in which residential density transfers are permitted. Therefore, even though some Lots may appear to contain sufficient land area to construct additional Dwellings, prior approved density transfers within the cluster unit development may in fact preclude Town of Apex approval of additional Dwellings.

Section 4. Reserved Declarant Rights. As long as Class B membership exists, the Declarant reserves the following development rights: (i) to add real estate to the Property in accordance with Article II, Section 2 of this Declaration; (ii) to create Dwellings; (iii) to add Common Areas; and (iv) to modify or change Dwelling types.

ARTICLE III

MEMBERSHIP

Declarant and every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of a Lot shall be the sole qualification for

membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot in the Subdivision.

ARTICLE IV

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners other than the Declarant. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. Fractional voting shall not be allowed, as to any one vote, by joint owners of a Lot.

Class B. The Class B Member shall be the Declarant. The Class B Member shall be entitled to five (5) votes for each Lot in which it holds the interest required for membership by Article III, provided that the Class B membership shall cease and be converted to Class A membership (with one vote for each Lot owned) on the happening of either of the following events, whichever occurs earlier:

(a) when seventy-five percent (75%) of the Lots have been conveyed to Owners, provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, such additional lands are annexed to the Properties without the assent of Class A Members on account of the development of such additional lands by the Declarant, all as provided for herein, or

(b) on December 31, 2005.

ARTICLE V

PROPERTY RIGHTS IN COMMON AREA

Section 1. Members' Easements of Enjoyment. Subject to the provisions of this Declaration and the rules and regulations of the Association, every Member shall have a right and easement of use and enjoyment in and to the Common Area, which includes the right of ingress and egress over the Common Area, and such easements shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area, and in aid thereof to mortgage said property unless prohibited by law; provided, no such loan or mortgage shall be effective unless authorized by two-thirds (2/3) of the vote of each class of membership at a meeting, notice of which is sent to every Member no less than 30 days nor more than 60 days in advance;

(b) The right of the Association to dedicate, lease, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members; provided, no such dedication or transfer shall be effective unless authorized, in writing, by two-thirds (2/3) of the vote of each class of membership at a meeting, notice of which is sent to every Member not less than 30 days nor more than 60 days in advance. A copy of such resolution shall be certified by the secretary of the Association and annexed to any instrument of transfer of the Common Area;

(c) The right of the Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure;

(d) The right of the Association to suspend the right to use any recreational facilities and the voting rights of any Member or any tenant of any Member for any period during which any assessment remains unpaid; and for any period, not to exceed thirty (30) days, for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment;

(e) The right of the Association to limit the number of guests, if any, that a Member may allow to use the Common Area and Amenities; and,

(f) The right of the Association to formulate, amend, publish and enforce the rules and regulations concerning the use and enjoyment of the Common Area and the front yard of each Lot. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Designation of Use. Any Member may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, or his guests, subject to the Bylaws, this Article, and any rules adopted by the Board of Directors.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, except utility and drainage easements and easements to governmental authorities.

If ingress or egress to any residence is through the Common Area, any conveyance or encumbrance of such Common Area shall be subject to the Lot Owner's easement of ingress and egress.

Section 4. Common Area Taxes. The Association shall be responsible for and shall cause to be paid, out of annual assessments, ad valorem taxes and public improvement assessments levied against the Common Area.

Section 5. Exchange of Open Space Common Areas. The exchanging of common areas for other properties shall be allowed when all of the following are met:

- a. Written notice of the exchange is given to each Member of the association, except in cases where the exchange is done to eliminate an encroachment;
- b. After the notice is given, if required, the Association approves the exchange by a majority vote of the membership at a meeting;
- c. The exchanged properties and other considerations are of like value and utility;
- d. The acreage and configuration of the remaining open space (including real property to be received by the Association in such exchange) equals or exceeds the requirements of the Code of the Town of Apex; and
- e. The exchange is approved by the Planning Director of the Town of Apex.

Section 6. Bodies of Water. All bodies of water, including, without limitation, lakes, ponds, storm water detention ponds, wetlands, and streams, if any, within the Property shall be accepted by the Association in their existing condition and shall serve the Association as aesthetic and recreational amenities. Neither the Association nor the Declarant shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of any such bodies of water. For this purpose, "wetlands" means any area labeled as wetlands on a recorded plat for the Property or otherwise designated as wetlands by the Declarant. No Owner, except Declarant, shall have any right to pump or otherwise remove water from, nor to place rocks, stones, trash, garbage, sewage, waste water, rubbish, debris, ashes or other refuse in, any wetlands, ponds, storm water retention ponds and streams within the Property. Applicable governmental agencies and the Declarant, so long as the Declarant owns any property subject to the Declaration or has the unexpired right to annex additional property to the Declaration, and thereafter the Association, shall have the sole right to control the water level of any body of water located within the Properties and to control the growth and eradication of plants, fowls, reptiles, animals, fish and fungi in and around any wetlands, ponds, storm water retention ponds and streams within the Property.

ARTICLE VI

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant and every other Owner of any Lot, whether or not it shall be so expressed in any deed or other conveyance, are deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges which are Common Expenses, and
- (b) Special assessments for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments, together with late fees, interest thereon and costs of collection thereof, as hereinafter provided, shall be a continuing lien upon the Lot and improvements against which such assessment is made. Each such assessment, together with such late fees, interest, costs and reasonable attorney's fees, shall also be the personal or corporate obligation of the Owner of the Lot at the time the assessment fell due. The personal or corporate obligation of an Owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Although unpaid assessments and charges are not the personal or corporate obligation of such Owner's successors in title unless expressly assumed by them, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and, in particular for (i) acquisition, improvement, and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area; (ii) repair and reconstruction of improvements on the Common Area, including storm water infiltration devices and other storm water drainage facilities constructed on or serving the Property, including but not limited to, the cost of repair, replacement and additions thereto and the cost of labor, equipment, materials, management and supervision thereof; (iii) payment of taxes and public assessments levied against the Common Area owned by the Association in fee; (iv) procurement and maintenance of insurance in accordance with the Bylaws of the Association; (v) employment of attorneys, accountants and other persons or firms to represent the Association when necessary; (vi) payment of principal and interest on funds borrowed for Association purposes; (vii) landscaped island maintenance; (viii) pond maintenance; and (ix) such other needs as may arise. The special assessments shall be used for the purpose set forth in Section 4 of this Article.

Section 3. Basic and Maximum Annual Assessments. For the calendar year 1999, the maximum annual assessment shall be One Hundred Forty-Four and 00/100 (\$144.00) for each Class A Lot (\$12.00 per month). There shall be no assessment for Class B Lots.

(a) From and after January 1, 2000, the maximum annual assessment effective January 1 of each year, without a vote of the membership, but subject to the limitation that the percentage of any such increase shall not exceed 10% of the maximum assessment for the previous year unless such increase is approved as set forth in Section 3(b) below.

(b) 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 without limitation if such increase is approved by not less than two-thirds of the votes appurtenant to each class of Lots, cast in person or by proxy, at a meeting duly called for this purpose.

(c) In the event that Class B Lots are converted to Class A Lots, or Class A Lots are reconverted to Class B Lots, the assessment with respect to such Lots shall be prorated and charged according to their class as of the date of each conversion and reversion.

A Lot containing a Dwelling used as a model or sales center and not as a residence, and any Lot not containing a Dwelling and owned by the Declarant subsequent to the cessation of Class B membership, shall be assessed at the Class B rate. A Class B Lot that is occupied as a residence shall be assessed at the Class A rate, but shall remain a Class B Lot for all other purposes.

(d) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by the Board.

Section 4. Special Assessments for Improvements and Additions. In addition to the annual assessments authorized by Section 3 of this Article, the Association may levy special assessments for the purposes of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon property owned by the Association, including fixtures and personal property related thereto, or for repayment of indebtedness and interest thereon, or for yard maintenance pursuant to Article V, Section 1(f) herein; provided, however, that any special assessment may be levied only with the approval of two-thirds (2/3) of each class of Members at a meeting duly called for this purpose at which a quorum is present.

Section 5. Action Authorized Under Sections 3 and 4. Written notice of a meeting provided for in Sections 3 and 4 hereof shall be sent not less than fifteen (15) days nor more than thirty (30) days in advance and shall set forth the purpose of the meeting. At the first meeting called, as provided in Sections 3 and 4, the presence at the meeting of Members, or of proxies, of each class of membership entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, subsequent meetings may be called, subject to the notice requirement set forth herein, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided herein for herein shall commence as to all Lots in any phase on the day of the closing of the purchase of the Lot. Unless a lower amount is set by the Board of Directors, the first annual assessment shall be the "maximum annual assessment" set forth in Section 3 of this Article and shall be prorated according to the number of months remaining in the calendar year.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessments against each Lot. At least fifteen (15) days before January 1 of each year, the Board of Directors shall send written notice of such assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors.

The annual and special assessment shall be fixed at a uniform rate for all Lots within each Class and may be collected on a yearly, quarterly or monthly basis, as determined by the Board of Directors.

The Association shall, upon demand, and for such reasonable charge as the Board of Directors may determine, furnish a certificate signed by an officer of the Association setting forth

whether the assessments on a specified lot have been paid. If such certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment.

Section 7. Effect of Nonpayment of Assessment. If any annual assessment or any special assessment is not paid on the date when due, then such assessment shall become delinquent and shall, together with a late fee of \$18.00 and interest at the rate of twelve percent (12%) per annum from the due date, and the cost of collection thereof as hereinafter provided, become a charge and continuing lien on the Lot and all improvements thereon. If an assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally or foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of collection, including reasonable attorneys' fees and expenses, and interest as provided above. No Owner may waive or escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Failure to pay assessments does not constitute a default under an insured mortgage.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon any Lot subject to assessment. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to such 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. Mortgagees are not required to collect assessments.

Section 9. Exempt Property. Notwithstanding anything herein to the contrary, any portion of the Property dedicated to, and accepted by, a local public authority and all Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina, and the Common Area shall be exempt from the assessments created herein, except no land or improvements devoted to Dwelling use shall be exempt from said assessments.

Section 10. Working Capital Fund. At the time of closing of the initial sale of each dwelling constructed on each Lot, a sum equal to one-half (1/2) of the annual assessment for Class A Lots in effect at the time of such sale shall be collected from the purchaser of such dwelling and transferred to the Association as part of its working capital. The Board of Directors may adjust this assessment in its sole discretion. The purpose of the working capital fund is to ensure that the Association will have adequate cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed by the Board of Directors to be necessary or desirable. Amounts paid pursuant to this Section shall not be considered as an advance payment of any regular assessment.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, wall, fence, swimming pool, antenna/tower or other improvement shall be commenced, erected, or maintained upon any Lot or Common Area, nor shall any substantial

landscaping be done, nor shall any exterior addition to any Dwelling or structure, or change or alteration therein, be made until the plans and specifications therefor showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to the harmony and compatibility of its external design and location, with the surrounding structures and topography, by the Board of Directors or by a committee ("Architectural Committee") composed of three (3) or more representatives appointed by the Board. The decision of the Board or the Architectural Committee shall be conclusive. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said completed 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; and provided further that all decisions under this Article shall be the sole responsibility of Declarant until such time as Declarant shall no longer vote as a Class B Member of the Association.

This Article shall not apply to the activities of the Declarant, nor to the improvements to the Common Area by or on behalf of the Association. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

ARTICLE VIII

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance. The Association, by and through its Board of Directors or its otherwise duly authorized agents, shall have the authority to obtain and shall obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage of vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost or repair or reconstruction in the event of damage or destruction from any such hazard. The Association shall also obtain a public liability policy, with minimum coverage of \$1,000,000.00, covering the Common Area, the Association, and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents. The association shall also obtain a standard directors and officers liability insurance policy insuring such parties against claims for their actions on behalf of the Association. Premiums for all such insurance contemplated hereunder shall be Common Expenses of the Association.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

(a) If the damage or destruction for which the proceeds are paid is repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment for such repairs or reconstruction. Any proceeds remaining after such costs of repair or reconstruction to the Common Area shall be retained by and for the benefit of the Association.

(b) If it is determined that the damage or destruction of Common Area, for which the proceeds are paid, shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association.

ARTICLE IX

CONDEMNATION

In the event that all or any part of the Common Area shall be taken (or conveyed in lieu of or under threat of condemnation) the award made for such taking shall be payable to the Association as trustee for the Owners, to be disbursed as follows:

(a) If the taking involves the portion of the Common Area on which improvements have been constructed, the Association may restore or replace such improvements so taken on the remaining Common Area to the extent possible in accordance with plans approved by the Board of Directors.

(b) If the taking does not involve any improvements on the Common Area or in the event that a decision is made not to repair or restore such improvements, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors may determine.

ARTICLE X

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Area. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration. The Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner determined by judicial action to have violated said rules and regulations shall be liable to the Association and/or the Declarant for all damages and costs, including attorney's fees. No rule or action by the Association or Board shall unreasonably impede the Declarant's right to develop the Properties.

Section 2. Lot Use and Building Type. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than: (1) one detached single-family Dwelling not to exceed two and one-half stories in height, (2) a private garage for not more than three cars, and (3) any permitted accessory building, each of which must be approved by the Architectural Committee.

Section 3. Dwelling Location. Each Dwelling, garage and permitted accessory building on a Lot shall be constructed at least five feet from the rear property line and side property line as shown on the recorded plat depicting such Lot; provided, in the event of any conflict between said setback and the minimum setbacks required by the Code of the Town of Apex, said Code shall prevail.

Section 4. Lot Owner's Responsibility. It shall be the responsibility of each Lot Owner to prevent the development of any unclean, unsightly or unkept conditions of Dwellings or grounds on

his Lot which shall tend to substantially decrease the beauty of the subdivision as a whole or the specific area of such Lot. Non-operating or unlicensed vehicles, unused objects or apparatus, or any portion thereof, shall not be permitted to remain on any Lot. All Lots shall be kept clean and free of garbage, junk, trash, debris, or any substance that might contribute to a health hazard or the breeding and habitation of snakes, rats, insects, etc. Each Lot Owner shall cause his lawn to be regularly mowed as needed, cause the maintenance and protection of landscaping insuring proper drainage of the Lot so as to prevent soil erosion, and cause the proper maintenance of the Dwelling and any other structures and improvements located on his Lot.

If, in the opinion of the Association, the owner of a Lot shall fail to maintain his Lot owned by him in a manner which is reasonably neat and orderly, or shall fail to keep the improvements constructed thereon in a state of repair so as not to be unsightly, the Association in its discretion, by the affirmative vote of two-thirds (2/3) of the members of the Board of Directors, and following ten (10) days written notice to the Owner, may enter upon and make, or cause to be made, repairs to such improvements and perform such maintenance on such Lot as the removal of trash, cutting of grass, pruning of shrubbery, and seeding and correction of items of erosion control. The Association shall have an easement for the purpose of accomplishing the foregoing. All costs incurred by the Association in rendering all such services, plus a service charge of fifteen percent (15%) of such costs, shall be added to and become a part of the assessment to which such Lot is subject.

Section 5. Additional Restrictions. Unless the Board of Directors or Architectural Committee shall give its prior written consent:

(a) No outside clothes line or window air conditioning unit shall be installed on any Lot or Dwelling.

(b) No part of any Lot or Dwelling shall be used for business, manufacturing, trade, commercial or professional purposes of any kind. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No signs or billboards shall be erected or maintained on a Lot, provided that signs advertising the sale of a home are permitted. No trade materials, inventories or inoperable vehicles may be stored or regularly parked on a Lot or adjacent street.

(c) No mobile home, tent or outbuilding, except a private garage for not more than two cars, shall be erected or placed on any Lot. Outbuildings do not include sheds and dog houses.

(d) No owner shall permit any animal or poultry of any kind, other than house pets, to be kept or maintained on any Lot or within any residence thereon.

(e) No boats, inoperable vehicles, trailers, campers, motor homes or commercial trucks/vans shall be parked by a Member, his family, his tenants or his guests within the right-of-way of any street in the Property; nor shall any of these be regularly parked on the Member's Lot or on the Property at any place, except in an area designated by the Association. The Association shall, from time to time, adopt appropriate rules for the temporary parking of these items on the Property. No automobiles (including any private passenger motor vehicle) shall be parked along or within the right-

of-way of any street in the Property, except that guests of Members may park temporarily along or within the right-of-way of a street, provided such parking does not prohibit or hinder the normal flow of traffic on the street.

(f) Antennas, Satellite Dishes or Discs. No radio or television transmission or reception towers or antennas shall be erected on a Lot unless approved by the Architectural Control Committee. However, a satellite antenna receiver or disc will be permitted on a Lot if: (i) the receiver or disc is not larger than forty inches (40") in diameter; (ii) the receiver or disc is located on the side of the house away from the street and within the building set back lines applicable to that Lot; and (iii) the receiver or disc is located or screened in such a way that it cannot be seen from any street within the subdivision. Any such screening must be approved as provided in Article VII of these Covenants. In no event shall any free-standing transmission or receiving tower be permitted on any Lot.

ARTICLE XI

EASEMENTS

Section 1. Utilities, Etc. All of the Property, including Lots and Common Area, shall be subject to such easements for roadways, driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant, and the Association shall have the power and authority to grant and establish in, over, upon, and across the Common Area such further easements as are requisite for the convenient use and enjoyment of the Property.

Section 2. Encroachments. All Lots and the Common Area shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms, and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same.

Section 3. Emergencies. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers such Lot, and adjacent Lot, Common Area or improvements thereon.

Section 4. Easement for Governmental Agencies. An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 5. Easement and Right of Entry for Repair, Maintenance and Reconstruction. If any Dwelling is located closer than five (5) feet from its Lot line, the Owner thereof shall have a perpetual access easement over the adjoining Lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his Dwelling; provided, such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Lot at his expense, to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable.

Section 6. Easement for Ponds and Related Maintenance. The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon the ponds located upon the Property, if any, in order to remove trash and other debris therefrom and fulfill maintenance responsibilities as elsewhere provided for in this Declaration. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant may elect, in its sole discretion, to transfer such rights by a written instrument.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Duration/Amendment. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless the Association approves a change therein. This Declaration may be amended by two-thirds (2/3) of each class of Members at a duly called meeting at which a quorum is present. Written notice of such meeting shall be given to each Member at least twenty (20) days in advance of such meeting. All amendments shall be certified as an official act of the Association and shall forthwith be recorded in the Wake County Registry. All amendments shall become effective upon recordation. The covenants, conditions and restrictions of this Declaration shall be binding upon any subsequent recombinations which affect the Property.

Section 4. Certification of Amendment. If any amendment to these Covenants, Conditions and Restrictions is executed, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors, shall, within thirty (30) days, do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

**CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS
CONDITIONS AND RESTRICTIONS OF WHITEHALL MANOR**

By authority of its Board of Directors, Whitehall Manor Homeowners Association hereby certifies that the foregoing instrument has been duly approved by the required percentage of Owners of the Lots of Whitehall Manor and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Whitehall Manor.

WHITEHALL MANOR HOMEOWNERS ASSOCIATION

ATTEST:

By: _____

Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry.

All amendments shall be effective from the date of recordation in the Wake County Registry. When any instrument purporting to amend the Declaration has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in the Subdivision.

Notwithstanding the foregoing, no amendment shall be effective unless approved by the Town of Apex (so long as this is required by the Town Code); provided, however, that if any amendment is submitted to the Town and is neither approved nor disapproved within twenty (20) days from the date of submission, it shall be conclusively presumed that the Town has approved it.

Section 5. Notices. Any notice required to be sent to any Member or Owner under the provision of this Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, postpaid, to the last known address of the person who appears as Member upon the Association's membership roll or Owner on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Lot shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any changes of address and it shall be the responsibility of any new Member to immediately notify the Association of the fact of the transfer of ownership.

of any changes of address and it shall be the responsibility of any new Member to immediately notify the Association of the fact of the transfer of ownership.

Section 6. HUD/VA Approval. Notwithstanding any provision in this Declaration to the contrary, as long as there is a Class B Membership, HUD/VA prior approval shall be required for the following:

- (a) Annexation of additional properties.
- (b) Dedication of Common Area.
- (c) Mortgaging of Common Area.
- (d) Amendment of this Declaration, the Articles of Incorporation, or the Bylaws.
- (e) Mergers and/or consolidations involving the Homeowners Association.
- (f) Dissolution of the Homeowners Association.

IN WITNESS WHEREOF the Declarant has executed this instrument on the 22nd day of April, 1998.

Canapex, LLC

By: B. Bergeron

Manager

NORTH CAROLINA
WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that B. Bergeron, Manager of Canapex, LLC, personally came before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 22nd day of April, 1998.

M. BRADLEY HARROLD
NOTARY PUBLIC
WAKE COUNTY, N.C.

My Commission Expires:

8/16/2003

M. Bradley Harrold
Notary Public

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate ___ of ___

M. Bradley Harrold Notary Public
is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.
LAURA M. RIDDICK, Register of Deeds
By Frederick C. Baym
Asst. Deputy Register of Deeds

EXHIBIT A

LEGAL DESCRIPTION

WHITEHALL MANOR SUBDIVISION

TRACT 1:

BEGINNING at an existing iron pin containing North Carolina grid coordinates N=719,308.606 and E=2,038,370.461; runs thence from said Beginning point South 87 degrees 46 minutes 34 seconds East 1,427.28 feet to a new iron pin located in the western margin of the right of way of Cardinal Boulevard; runs thence along said right of way South 04 degrees 38 minutes 38 seconds East 1,775.59 feet to a point where the right of way of Cardinal Boulevard intersects with the right of way of old U.S. Highway 1; runs thence South 85 degrees 26 minutes 30 seconds West 224.74 feet to a new iron pin; runs thence along a curve having a radius of 3,092.42 feet, an arc length of 320.55 feet and a chord bearing and distance of South 83 degrees 02 minutes 19 seconds West 320.40 feet to a point in the eastern line of that property now or formerly owned by John and Pamela Cleland as conveyed in Deed Book 2960, Page 599, Wake County Registry; runs thence along the Cleland property line North 13 degrees 37 minutes 07 seconds West 149.24 feet to a new iron pin; runs thence South 76 degrees 22 minutes 53 seconds West 250 feet to an existing iron pin; runs thence South 01 degree 14 minutes 14 seconds West 70 feet to a new iron pin; thence leaving the Cleland property line and running South 83 degrees 29 minutes 49 seconds West 593.31 feet to an existing iron pin; runs thence North 01 degree 31 minutes 24 seconds East 552.70 feet to an existing iron pin; runs thence North 88 degrees 19 minutes 25 seconds West 216.28 feet to an existing iron pin; runs thence North 01 degree 46 minutes 51 seconds East 1,374.66 feet to the point and place of Beginning and being that tract of land containing 61.68 acres as shown on that survey prepared for Whitehall Manor, LLC by S.D. Puckett & Assoc., Inc. on March 12, 1995.

TRACT 2:

BEGINNING at a control corner at an existing iron stake with pointers having North Carolina grid coordinates of N=717,493.32 and E=2,039,020.64, runs thence North 83° 24' 49" East 196.67 feet to an existing iron pipe; thence South 01° 08' 24" West 110.38 feet to a point in the centerline of NCSR 1011 (South Salem Street); runs thence along said centerline the following courses and distances: South 74° 13' 34" West 56.29 feet, South 72° 54' 14" West 58.11 feet, South 71° 49' 26" West 63.51 feet and South 70° 43' 36" West 24.31 feet to a point; thence leaving said centerline and running North 0° 03' 57" West 148.02 to an existing iron stake, the point and place of BEGINNING and being that tract containing 24,814 total square feet as shown on that map as prepared by Smith & Smith Surveyors on July 10, 1995.

BYLAWS
OF
WHITEHALL MANOR HOMEOWNERS ASSOCIATION

ARTICLE I

PLAN OF COMMON PROPERTY CONTROL

Section 1. Lands affected. Canapex, LLC a North Carolina limited liability company hereafter known as the "DECLARANT", is the owner of certain lands lying in the Town of Apex, Wake County, North Carolina, more particularly described in a Declaration of Covenants Conditions and Restrictions for Whitehall Manor (herein "Declaration"), and has submitted a portion of said lands to membership control pursuant to the Declaration recorded in Book 8297, page 1017, Wake County Registry.

Section 2. Name. The lands on which said Declaration is imposed shall be known as Whitehall Subdivision.

Section 3. Applicability of Bylaws. All present and future owners, mortgagees, lessees, and occupants within the Property, and their agents, servants, and employees, and any other persons who may make use of the facilities of the Property in any manner, are subject to these Bylaws and to the Rules and Regulations adopted pursuant hereto, and to any amendments to these Bylaws and Rules and Regulations upon the same being duly adopted.

The acceptance of a deed or conveyance to, or the entering into a lease to, or the act of occupancy of, any Lot (as defined herein) within the Property by any person shall conclusively establish the acceptance and ratification by such person of these Bylaws (and any Rules and Regulations adopted pursuant hereto), the Articles of Incorporation, and the Declaration as they may be amended from time to time, and shall constitute and evidence an agreement by such persons to comply with those governing documents.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to the Whitehall Manor Homeowners Association, its successors and assigns, the association of Lot Owners of the Whitehall Manor.

Section 2. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.

Section 3. "Common Properties" shall be all that area within the Property other than the described Lots, as defined in the Declaration and from time to time hereafter designated by written recorded instrument as Common Properties and owned by the Association for the common use and enjoyment of the Owners, including Limited Common Properties.

Section 4. "Declarant" shall mean Canapex, LLC a North Carolina limited liability company and its successors and assigns to whom it shall make specific written assignment of its rights under the Declaration and these Bylaws, or the owner resulting from a sale of the Property at foreclosure or a transfer in lieu of foreclosure.

Section 5. "Declaration" shall mean that instrument recorded in Book 8297, page 1017, Wake County Registry, as from time to time amended.

Section 6. "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of the Property and designated for separate ownership or occupancy.

Section 7. "Lot Owner" or "Owner" shall mean any person, corporation, partnership, association, trust or other legal entity, or any combination thereof who, or which, owns a Lot, whether one or more and including the Declarant, of a fee simple title to any Lot including contract sellers but excluding those having such interest merely as security for performance of an obligation.

Section 8. "Member" shall refer to and mean every person who is a member of the Association as defined in the Declaration.

Section 9. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 10. The "Property" shall mean all of the lands and appurtenances, subjected to the Declaration, which lands are more fully described in said Declaration and all additional property thereto, as may be hereafter brought within the jurisdiction of the Association.

Section 11. "Rules and Regulations" shall mean those written actions of the Board, duly adopted, and amendments thereto, interpreting and applying the provisions of the Declaration and these Bylaws and establishing and prescribing the administration, management, use, operation, and maintenance of the Common Properties, and Buildings if any, including, but not limited to, the establishment and imposition of fines, fees and penalties for violation of the Declaration, Articles of Incorporation, Bylaws or Rules and Regulations.

ARTICLE III

OFFICES

Section 1. The principal office of the Association shall be located at 1091 Pemberton Hill Drive, Suite 203, Apex, North Carolina 27502.

Section 2. The registered office of the Association may, but need not be, identical with the principal office, but shall be located in North Carolina.

Section 3. The Association may have such other offices, either within or without the State of North Carolina, as the Board may from time to time determine or as the affairs of the Association may require.

ARTICLE IV

ASSOCIATION OF LOT OWNERS

Section 1. Members. The qualification of members, the manner of their admission to membership and termination of such membership shall be as set forth in the Articles of Incorporation of the Association and the Declaration.

Section 2. Annual Meetings. An annual meeting of the Association shall be held for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting. The annual meetings shall be held at a time and place selected by the Board of Directors to be held in the month of incorporation each year. So

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long as Declarant maintains Class B membership, there shall be no annual meeting for the election of members of the Board of Directors.

Section 3. Substitute annual meetings. If an annual meeting is not held on the day designated in the Bylaws, a substitute annual meeting may be called in the same manner as a special meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4. Special meetings. Special meetings of the Association may be called at any time by the President, a majority of the members of the Board of Directors or by the President upon the written request of the Lot Owners of not less than twenty percent (20%) of the voting interests of Class A Members as established by the Declaration.

Section 5. Place of meetings. All meetings of the Association shall be held at such place in the County where the Property is located as shall be designated in the notice of the meeting.

Section 6. Notice of meetings. Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed by first class mail, postage prepaid, not less than ten (10) nor more than fifty (50) days prior to the date of the meeting by the Secretary to each person entitled to vote at such meeting, unless a different time period is required by the Declaration.

In the case of an annual meeting, substitute annual meeting, or special meeting, the notice of meeting shall state the time and place of the meeting as well as the items on the agenda to be considered, including, but not limited to, the general nature of any proposed amendment to the Declaration or Bylaws, any budget matters, or any proposal to remove an officer or director.

When a meeting is adjourned for thirty (30) day or more, notice of the reconvening of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it shall not be necessary to give notice of the reconvening of the adjourned meeting other than by an announcement at the meeting at which the adjournment is effective.

Notice requirements set forth herein shall apply unless a different number is required by the Declaration for any specific action.

Section 7. Quorum. Unless a different percentage is required in the Articles of Incorporation, Declaration or a specific provision in these Bylaws, the presence in person or by proxy at the beginning of any meeting of members constituting ten (10%) percent of the total votes entitled to be cast shall constitute a quorum. Unless otherwise expressly provided herein, any action, consistent with the notice of such meeting, may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the members having a majority of the total votes present at such meeting.

If a quorum is not present at the opening of any meeting, the meeting may be adjourned from time to time by vote of a majority of the voting interests present, either in person or by proxy, and shall be reconvened at the date and time determined at the adjourned meeting, subject to the notice requirements set forth in Section 6 of this Article. Upon the reconvening of any meeting adjourned for lack of a quorum, the quorum required at such subsequent meeting shall be one-half (1/2) that required at the preceding meeting.

Quorum requirements set forth herein shall apply unless a different number is required by the Declaration for any specific action.

Section 8. Voting members; proxies. There shall be one person with respect to each Lot who shall be entitled to vote the voting interest of that Lot at any meeting of the Association,

herein referred to as the "voting member". The voting member may be the Owner of a Lot, or an Owner designated by a majority of the several Owners of a Lot, or may be some other person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Designation of the voting member or of a proxy shall be made in writing to the Secretary and shall be revocable at any time prior to the meeting by actual notice to the Secretary by the Owner or a majority of the Owners. Once a meeting has been commenced a Lot Owner may not revoke a proxy given except by written notice of revocation delivered to the person presiding over the meeting. A proxy is void if not dated and signed by the Owner or a majority of the owners of a Lot, and a proxy shall terminate at the time specified in the proxy or one year from date, whichever is earlier.

Section 9. Voting rights; multiple Owners. If only one of the multiple Owners of a Lot is present at a meeting of the Association, he is entitled to cast all the votes allocated to the Lot. If more than one of the multiple Owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. Majority agreement is conclusively presumed if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Lot. Fractional voting is prohibited.

If a Lot is owned by more than one person, each Owner of the Lot may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy.

Section 10. Voting rights; cumulative voting. The vote cast by, or on behalf of, the Owner or Owners of a Lot shall be that voting interest specified in the Articles of Incorporation. In all elections for members of the Board of Directors, no voting member shall be entitled to vote on a cumulative voting basis for the director or directors to be elected, and the candidate or candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed elected.

Section 11. Waiver of notice. Any Lot Owner, at any time, may waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Lot Owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a Lot Owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the voting members are present at any meeting of the Association, no notice shall be required, and any business may be transacted at any meeting.

Section 12. Informal action by Lot Owners. Any action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such an action at a meeting and filed with the Secretary of the Association to be kept in the Association minute book.

ARTICLE V

BOARD OF DIRECTORS

Section 1. General powers. The business shall be managed and directed by the Board of Directors of the Association or by such executive committees as the Board may establish pursuant to these Bylaws. If any of the authority of the Board of Directors is vested in any committee, one member of each such committee shall be a Board member.

Section 2. Initial Board. There shall be an initial Board of three directors, appointed by the Declarant, who shall serve until their successors are appointed or elected and qualified as herein provided.

Section 3. Subsequent number and qualification. Until such time as the Class B Membership shall terminate, Declarant shall be the only member to select, or elect the Board of Directors.

Notwithstanding the foregoing the Declarant may, at any time, voluntarily surrender its right as a Class B Member and to appoint members of the Board of Directors before the occurrence of those events of termination set forth in the Articles of Incorporation.

At such time as Declarant's Class B Membership rights to appoint the members of the Board of Directors expires or is surrendered, the terms of the directors appointed by Declarant shall thereupon immediately terminate and the vacancies thereby created shall be filled by the members of the Association upon a meeting called for that purpose to serve until the next annual meeting of members. At the end of such period where Declarant's Class B Membership rights have terminated or upon surrender of those rights and if all Lots have not been transferred by Declarant, the Declarant for all purposes shall be deemed a Lot Owner and shall be entitled to vote in such elections as any other Lot Owner. During the times when it has the right to designate Directors, the Declarant shall have the right in its sole discretion to replace any Director or Directors it appointed and to designate their successors.

Section 4. Election of directors. Except for the appointed directors provided for in Section 3 of this Article while Declarant is a Class B Member, and as otherwise provided in Section 5 of this Article, the directors shall be elected at the annual meeting of the Association; and those candidates who receive the highest number of votes shall be elected.

Section 5. Number, Term and Qualification. The initial number of directors of the Association shall be three (3). At the first annual meeting of the Association after which transition to homeowner control has taken place, the number of Directors may be increased to seven (7). At this first annual meeting after transition, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and three directors to serve for a term of three years, should they elect to increase the number of directors to seven (7). If the members elect to continue to maintain a board of three (3) members, they shall elect a one, two and three year director. At subsequent annual meetings thereafter, the members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) expire to serve for a term of three (3) years. Directors need not be members of the Association.

Section 6. Nomination. Nomination for election to the Board of Directors may 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. The Nominating Committee may 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.

Section 7. Removal. Any elected director may be removed from office, with or without cause, by the affirmative vote of sixty-seven percent (67%) of the voting interests of Lot Owners present and entitled to vote at a special meeting called for that purpose; provided that Class A members shall have no vote in, or right to remove a director appointed by Declarant so long as the

Class B membership exists. If any directors are so removed, new directors may be elected at the same meeting.

Section 8. Vacancies. An elective vacancy occurring in the Board of Directors, including directorships not filled by the voting members, may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director.

Section 9. Compensation. The Board of Directors shall receive reimbursement for expenses, but shall receive no compensation for their services unless expressly allowed by the Association upon the affirmative vote of its members.

Section 10. Executive committees. The Board of Directors may, by resolution adopted by a majority of the number of directors fixed by these Bylaws, designate two or more directors to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Property.

Section 11. Powers. The Board of Directors shall have the powers necessary for the administration of the affairs of the Association as specified by law, the Declaration or these Bylaws, and may do all such acts and things, except such acts as by law, by the Declaration, or by these Bylaws may not be delegated to the Board of Directors.

Section 12. Duties. It shall be the duty of the Board of Directors to:

- (a) Administer, operate, maintain and repair the Common Properties.
- (b) Enter upon any Lot and perform any repairs, maintenance or construction for which the Association is responsible at reasonable times and hours and with as little inconvenience to the Lot Owner as practicable. The Association shall repair any damages to the Lot caused by such repair, maintenance or construction, and all costs incurred in performing these duties shall be a Common Expense of the Property, unless the Board shall determine that the repairs, maintenance or construction was necessitated by the negligence, misuse, unlawful act, or act in violation of the Declaration, these Bylaws or the Rules and Regulations of the Association by the Lot Owner, its family members, guests, invitees, tenants or contract purchasers, in which event such costs may be assessed against the Lot Owner, as by the Declaration prescribed.
- (c) Determine the Common Expenses arising from the costs of administration, operation, care, upkeep, maintenance, repair and construction of the Common Properties, including, without limitation, reserves for repair, reconstruction or replacement.
- (d) Fix and assess in the manner provided by law and in the Declaration, the proportionate part of the Common Expenses of each Lot Owner within the Property.
- (e) Collect and enforce the collection of Common Expenses in the manner provided by law and in the Declaration, including, but not limited to legal proceedings for the enforcement of liens and provide written evidence of payment upon request therefor.
- (f) Employ, supervise and dismiss personnel, managers or independent contractors necessary to the maintenance and operation of the Common Properties.
- (g) Adopt, amend, publish and enforce reasonable Rules and Regulations that it deems advisable and necessary for the proper administration, operation, maintenance, conservation, and beautification of the Property and for the health, comfort, safety, and general welfare of the Owners and occupants of the Lots. Copies of the published Rules and Regulations and amendments thereto

shall be given to all the Owners and occupants and the Association and Property shall be administered, operated and maintained in conformity with such rules and regulations.

(h) Designate depositories for Association funds and the officers, agents and/or employees having the authority to deposit and withdraw such funds; and, in its discretion, to require such officers, agents or employees to be bonded in such amounts as it deems necessary.

(i) Sign all mortgages, deeds of trust, agreements, contracts, vouchers for payment of expenditures, deeds and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and the Secretary.

(j) Procure and maintain adequate insurance of such nature and in such amounts as is provided in the Declaration, and such other insurance as the Board may deem necessary or appropriate, including, without limitation hazard insurance, liability insurance and officers and directors liability coverage.

(k) Appoint such committees as are provided for in these Bylaws and the Declaration or as otherwise deemed appropriate by the Board, including, but not limited to a Nominating Committee and an Architectural Committee.

(l) Exercise their powers in good faith and do and perform such other matters and things not expressly prohibited by law, the Declaration, or these Bylaws as are necessary and appropriate to the proper administration, operation and maintenance of the Association.

(m) Prepare an annual budget in which there shall be established the assessments of each Lot Owner for the Common Expenses.

(n) Pay all taxes, charges and assessments which are or may become liens against any part of the Common Properties, and assess the same against the members and their respective Lots.

(o) To enforce by legal means or proceedings the provisions of the Articles of Incorporation, the Bylaws, the Declaration and the Rules and Regulations promulgated hereunder.

(p) To review and to approve architectural changes, alterations or modifications of Lots and the improvements thereon.

(q) To establish fines and penalties for late payment of assessments and for violations of the Declaration, Bylaws and the Rules and Regulations and to provide for the suspension of voting rights of any member, or its Lot occupants as well as the right to use any amenities or recreational facilities during any period in which such member shall be in default in the payment of any assessment levied by the Association and to suspend such voting rights and other privileges for a period not to exceed 60 days after notice and hearing for other infractions.

(r) To impose reasonable charges for services especially provided to one or more Lot Owners which charges or costs should not otherwise be a Common Expense.

(s) To institute, defend or intervene on behalf of the Association in litigation or administrative procedures affecting the Property.

(t) To cause additional improvements to be made to the Common Properties.

(u) To grant easements, leases, licenses, and concessions through or over the Common Properties.

(v) To exercise all other duties to which similar organizations have the power to perform and as by law provided.

Section 13. Persons who may serve. Every elected member of the Board shall be a Lot Owner unless the Owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, in which event any officer, director, agent or employee of such corporation, partner of such partnership, beneficiary or trustee of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board, but members of the Board appointed by the Declarant need not be Owners.

Section 14. Liability of the Board. The members of the Board of Directors shall not be liable to the Lot Owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contracts shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent of their liability as Lot Owners. It is also intended that the liability of any Lot Owner arising out of any contracts made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportions of the total liability thereunder as his voting interest in the Common Properties bears to the interest of all of the Lot Owners. Every agreement made by the Board or by the manager on behalf of the Association shall provide that the members of the Board of Directors, or the manager, as the case may be, are acting only as agents for the Association, and shall have no personal liability thereunder (except as Lot Owners), and that each Lot Owner's liability thereunder shall be limited to such proportion to the total liability thereunder as its voting interest in the Association bears to the voting interest of all Lot Owners.

ARTICLE VI

MEETINGS OF DIRECTORS

Section 1. Organizational meeting. The initial Board of Directors shall meet prior to conveyance of the first Lot by the Declarant. No notice to the Directors shall be necessary in order to legally constitute such meeting, provided that a quorum shall be present.

Section 2. Regular meetings. A regular meeting of the Board shall be held immediately after and at the same place as the annual meeting or substitute annual meeting of the Association. The Board may provide by adoption of an appropriate resolution for the time and place within the County in which the Property is located, for other regular meetings of the Board.

Section 3. Special meetings. Special meetings of the Board may be called by or at the request of the President or by any two Directors. Such meetings may be held at any place within the County in which the Property is located.

Section 4. Notice of meetings. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board shall give actual notice, oral or written, to all Directors of the time, place and purpose of such meeting at least two days prior thereto.

Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

Section 5. Waiver of notice. Any member of the Board of Directors may give written waiver of notice at any time of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. If all of the members of the Board are present at any meeting thereof, no notice shall be required and any business may be transacted at such meeting.

Section 6. Quorum. A majority of the number of Directors fixed by these Bylaws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. Manner of acting. Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

A vote of a majority of the number of Directors fixed by the Bylaws shall be required to adopt a resolution constituting an executive committee.

Section 8. Organization. Each meeting of the Board of Directors shall be presided over by the President and in the absence of the President, by the Vice President, and in the absence of the Vice President, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and the Assistant Secretary, any person designated by the presiding officer of the meeting shall act as Secretary of the meeting.

Section 9. Informal action of Directors. Any action taken by a majority of the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is taken.

Section 10. Minutes. The Board, and all committees to which the Board shall have delegated any of its authority, shall keep minutes of all the proceedings of the Board and the committees.

Section 11. Fidelity bonds. The Board of Directors shall require any officer or employee of the Association handling or responsible for Association funds to be covered by an adequate fidelity bond. The premiums on such bond shall constitute a Common Expense.

ARTICLE VII

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a President, a Secretary, a Treasurer and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person, except that the office of President and Secretary may not be held by the same person.

Section 2. Election and term. A director designated by the Declarant shall serve as President so long as the Declarant designates the Board members. All other officers of the Association shall be elected by the Board of Directors, and such elections may be held at the regular annual meetings of the Board; provided, however, that prior to the first annual meeting, the Declarant shall appoint the officers from among the initial Board.

Each officer shall hold office for a period of one (1) year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause, and any officer or agent appointed or designated by the Declarant may be removed by the Declarant with or without cause. Such removal, however, shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Compensation. No officer shall receive any compensation, from the Association for acting as such, but the Board may reimburse any officer for any direct expenses incurred by him in the performance of his duties as such officer and such reimbursement shall be a Common Expense.

Section 5. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall supervise and control the management of the Property. The President shall, when present, preside at all meetings of the Board and of the Association, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed from time to time by the Board. The President shall prepare, execute (with the Secretary), certify, and record amendments to the Declaration on behalf of the Association.

Section 6. Vice President. The Vice President, and if there be more than one, the Vice Presidents shall, in the absence or disability of the President, have the powers and perform the duties of said office. In addition, each Vice President shall perform such other duties and have such other powers as shall be prescribed by the President.

Section 7. Secretary. The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Association and of the Board. The Secretary shall give, or cause to be given, all notices required by law and these Bylaws, and the Secretary shall have general charge of the minute books and records of both the Association and of the Board. The Secretary shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned to him from time to time by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall have custody of all Association funds and securities and shall receive, deposit, or disburse the same under the direction of the Board of Directors. He shall keep full and accurate records of the finances of the Association in books specially provided for that purpose. He shall cause a true statement to be prepared as of the close of each fiscal year setting forth, in reasonable detail, the assets and liabilities of the Association, the changes in surplus for such fiscal year, and the result of the operations of the Association. The statement shall be filed and kept available for inspection by any Lot Owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest statement to each Lot Owner and member of the Board of Directors annually on or before 30 days prior to the annual meeting of the Association covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local laws, and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Directors.

Section 9. Assistant Secretaries and Treasurers. The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary or the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the President or Board of Directors.

ARTICLE VIII
OPERATION OF THE PROPERTY

Section 1. Determination of common expenses and fixing of common expense. The Board of Directors, from time to time, and at least annually, shall prepare a budget for the Common Properties, determine the amount of the "Common Expenses" (as defined in the Declaration) payable by the Lot Owners to meet the expenses of the Common Properties, and shall allocate and assess the Common Expenses among the Lot Owners thereof as set forth in the Declaration. A part of the Common Expenses of the Common Properties shall include, among other things, and without limitation, the administrative expenses of the Association, and maintenance, repair and replacement costs of the Common Properties, utilities costs, Lot acquisition costs and the costs of all premiums for insurance obtained pursuant to the provisions of the Declaration. The budget of the Association in the discretion of the Board, and as necessary, may include, without limitation, amounts for: funding deficits for any prior year; a reserve for working capital; a reserve for maintenance and replacement; and a general operating reserve.

Section 2. Payment of Common Expenses. All Lot Owners shall be obligated to pay the Common Expenses assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article at such time or times as the Board shall determine.

No Lot Owner shall be liable for the payment of any part of the Common Expenses assessed against his Lot subsequent to a consummated sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such Lot. A purchaser of a Lot shall be jointly and severally liable with the seller for the payment of the Common Expenses assessed against such Lot prior to the acquisition by the purchaser of such Lot, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Provided, that a first-lien mortgagee or other purchaser of a Lot at a foreclosure sale of such Lot shall not be liable for, and such Lot shall not be subject to, a lien for the payment of Common Expenses assessed prior to such foreclosure sale, and such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the Lot Owners, including such purchaser, his successors and assigns.

Section 3. Collection of assessments. The Board of Directors shall assess Common Expenses against the Lot Owners from time to time as set forth in the Declaration and at least annually, and shall take prompt action to collect any Common Expenses due from any Lot Owner which remains unpaid for more than thirty (30) days from the due date of the payment thereof. In the event of an increase in such Common Expenses, the Board of Directors shall advise each Lot Owner, in writing, of such increased assessment at least one month prior to the date of which the first increased payment is due.

Section 4. Default in payment of Common Expenses. In the event of default by any Lot Owner in paying to the Board of Directors the Common Expenses as determined by the Board, such Lot Owner shall be obligated to pay interest at the rate as set forth in the Declaration on such Common Expenses from the due date thereof, together with a penalty established by the Board for nonpayment and with all expenses, including reasonable attorneys' fees incurred by the Board in any proceeding brought to collect such unpaid Common Expenses. The Board shall have the right and duty to attempt to recover such Common Expenses, together with penalties and the interest thereon and the expenses of the proceeding, including reasonable attorneys' fees in any action to recover the same brought against such Lot Owner, or by foreclosure of the lien on such Lot.

Default in payment of the Common Expenses assessed against any Lot shall occur thirty (30) days after the due date thereof, if not then paid.

Section 5. Foreclosure of liens for unpaid Common Expenses. In any action brought by the Board to foreclose on a Lot because of unpaid Common Expenses, the Lot Owner shall be required to pay a reasonable rental for the use of his Lot, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, if so instructed, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, convey, or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover money judgment for unpaid Common Expenses may be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Statement of Common Expenses. The Board of Directors shall promptly provide any Lot Owner, its grantee or contract purchaser making written request therefor, a written statement of all unpaid Common Expenses due from such Lot Owner.

Section 7. Maintenance and repair.

(a) **Maintenance of Lots.** All maintenance and repairs to any Lot, ordinary or extraordinary (other than maintenance of and repairs to any portion thereof required to be maintained by the Association) shall be made by the Owner of such Lot.

(b) **Maintenance of Common Properties.** All maintenance, repairs and replacements to the Common Properties, whether located inside or outside of the Lots (unless necessitated by the negligence, misuse or neglect of a Lot Owner, his guests, lessees, employees, servants or invitees, in which case such expense shall be charged to such Lot Owner), shall be made by the Board and shall be charged to all Lot Owners as a Common Expense of the Property.

Section 8. Use of Common Properties. The Common Properties shall be used only for the purposes for which they are intended in furnishing services and facilities for the enjoyment of the Lots.

Until all of the Lots of the Declarant referred to in Article I, Section 1, hereof have been sold, neither the Lot Owners nor the Board shall interfere with the sale of additional Lots. Declarant may make such use of the unsold Lots and the Common Properties as may facilitate such completion and sale, including, but not limited to, the rental of the same, showing of the Lots and the display of signs and maintenance of a sales office.

Section 9. Rules of conduct. Rules and Regulations concerning the use of the Common Properties may be promulgated and amended by the Board. Copies of such Rules and Regulations shall be furnished by the Board to each Lot Owner, and all amendments and new Rules and Regulations shall be furnished to Lot Owners prior to the time that amendment or new rule or regulation becomes effective.

Section 10. Utility charges. All charges for utilities used in connection with the maintenance and use of the Common Properties shall be a Common Expense.

ARTICLE IX

RECORDS AND AUDITS

The Board of Directors or the manager shall keep detailed records of actions of the Board and the manager, minutes of the meetings of the Board of Directors, minutes of meetings of the Association, and financial records and books of accounts, including a chronological listing of receipts and expenditures, which, among other things, shall contain the amount of each assessment of the Common Expenses against each Lot, the date when due, and amounts paid thereon, and the balance remaining unpaid, and including maintenance and repair expenses of the Common Properties and any other expenses incurred. The financial record and books of account shall be available for examination by any Lot Owner or his duly authorized agent or attorney at convenient hours on working days by prior arrangement with the Board or the manager. An outside audit of all receipts and expenditures of the Association and Property shall be rendered by the Board to all Lot Owners on or before the 90th day following the close of each fiscal year, covering the preceding year. All books and records shall be kept in accordance with good and accepted accounting practices. A copy of the audit shall be furnished to all mortgagees of Lots who have requested the same.

ARTICLE X

OPERATION PRIOR TO INITIAL MEETING OF BOARD

Prior to the first meeting of the initial Board of Directors, all functions of the Association and of the Board of Directors as herein set forth shall be performed and carried out by the Declarant through its officers and agents.

ARTICLE XI

AMENDMENT OF BYLAWS

Section 1. Amendment by Owners. Except as provided in Section 2 below, these Bylaws may be amended by the affirmative vote of the voting members having at least sixty-seven percent (67%) of the aggregate voting interests, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Such amendment shall be executed in the name of the Association and recorded in the Office of the Register of Deeds of the county in which the Property is located. No such amendment shall be effective until duly recorded as aforesaid.

Section 2. Amendment by Declarant or the Board. The Declarant, for so long as it controls the Board and remains a Class B member, may amend these Bylaws without the consent of the Owners:

(a) To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots therein for mortgage or improvement loans made or insured by a governmental agency, Federal National Mortgage Association or Government National Mortgage Association or to comply with the requirements of law or regulations of any corporation or agency regarding purchase of mortgage interests in Lots by such agency.

(b) To further completion and development of the project as by the Declaration or by law provided and to facilitate and exercise any rights reserved unto Declarant as provided on the Declaration or by law.

Section 3. Amendment prior to sale of Lot. Declarant shall have the right to amend these Bylaws at any time prior to recording of the sale of the first Lot to an Owner.

