

**DECLARATION OF PROTECTIVE COVENANTS
FOR
MCNEILL PLACE, A SUBDIVISION**

TABLE OF CONTENTS

I.	DEFINITIONS
II.	GENERAL APPLICABILITY OF DECLARATION
1.	General Applicability
III.	IMPROVEMENTS
1.	Land Use and Building Type
2.	Dwelling Quality, Size and Design
3.	Building Location
4.	Exterior Finishes
5.	Modular Housing
6.	Detached Buildings
7.	Traffic Hazards
8.	Restrictions of Easements
9.	Drainage
10.	Time Limit for Construction
IV.	GENERAL USE AND OTHER RESTRICTIONS
1.	Nuisances
2.	Temporary Structures
3.	Signs
4.	Livestock and Poultry
5.	Garbage and Refuse Disposal
6.	Maintenance of Property
7.	Utilities and Antennas
8.	Mailboxes and Property Identification Markers
9.	Vehicles
10.	Boat and Boat Trailers
11.	Recreational Vehicles and Other Trailers
12.	Clotheslines
13.	Fences
14.	Exterior Color Schemes
15.	Miscellaneous
16.	Dual Facing of Residence
17.	Subdividing of Property
V.	ARCHITECTURAL CONTROL
1.	Membership of the Architectural Review Committee
2.	Approval of Architectural and Landscape Plans
3.	Landscape
4.	Variances
VI.	PROPERTY OWNERS ASSOCIATION
1.	Powers and Duties
2.	Membership
3.	Voting Rights

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on:

2007 May - 3 10:17AM

Instrument Number 1047498 Pages 30
Recording 98.00 Mortgage
Deed Min Tax
Index DP 5.00
Archive 5.00
Adrian T. Johns, Judge of Probate

1047498

4. **Governance**
5. **Election to the Board of Directors**
6. **Indemnification**
7. **Limitation of Liability**
8. **By-laws**
9. **Quorum Required for any Action Authorized at Regular or Special Meetings of the Association**
10. **Proxies**
11. **Ballots by Mail**
12. **Proviso**
13. **Availability of Records**
14. **Reserves for Replacements**

VII. MEMBERS' RIGHTS IN THE COMMON AREAS

1. **Members' Easements of Enjoyment in Common Areas**
2. **Title to Common Areas**
3. **Extent of Members' Easements**

VIII. COVENANTS FOR ASSESSMENTS

1. **Creation of the Lien and Personal Obligations for Assessments**
2. **Purpose of the Assessments and Payment to Developer**
3. **Application of "Maximum" Assessment**
4. **Special Assessment for Improvements and Additions**
5. **Reserve Funds**
6. **Date of Commencement of Annual Assessments**
7. **Duties of the Board of Directors**
8. **Subordination of the Lien of Mortgage**
9. **Exempt Property**
10. **Annual Statements**
11. **Annual Budget**

IX. FUNCTIONS OF ASSOCIATION

1. **Ownership and Maintenance of Common Areas**
2. **Services**
3. **Reduction of Services**
4. **Obligations of the Association**
5. **Mortgage and Pledge**
6. **Transfer of Authority**

X. AMENDMENT

1. **Plans**
2. **Declaration**

XI. MISCELLANEOUS

1. **Covenants, Conditions and Restrictions**
2. **Severability**
3. **Notice**
4. **Governing Law**
5. **Waiver**
6. **Ratification**
7. **Captions**
8. **Enforcement**

- 9. Costs and Attorney’s Fees
- 10. Conflicting Provisions

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this _____ day of _____, 2007, by M & V Investments, LLC, an Alabama limited liability company, having its principal office at 8191 Highway 59 South, Foley, Alabama 36535, hereinafter referred to as "Declarant," is formed under the laws of the State of Alabama.

WITNESSETH:

THAT, WHEREAS, the said Declarant is the owner of McNeill Place, a subdivision, located in Gulf Shores, Baldwin County, Alabama, as shown on the plat thereof recorded in the records of the Judge of Probate of Baldwin County, Alabama, at Slide 2335-C and as Instrument Number 1043252.

WHEREAS, it is for the interest, benefit and advantage of the Declarant and the future owner(s) of each Lot hereafter purchased and lying in the Subdivision that certain protective covenants governing and regulating the use and occupancy of the same be established, set forth and declared to be covenants running with the land;

NOW THEREFORE, for and in consideration of the promises and of the benefits to be derived by the Declarant, these Protective Covenants are hereby established and promulgated and shall apply to all of the Lots, to any owners of property located in the Subdivision and to Common Areas of the Subdivision. These protective covenants shall become effective immediately upon the sale of Lots by the Declarant and shall run with the land and shall be binding on all persons claiming under or through the Declarant.

ARTICLE I

DEFINITIONS

1. "ARCHITECTURAL REVIEW COMMITTEE" or "A.R.C." means that certain committee originally appointed by the Declarant but will be elected by the Members once the Association is turned over to the Members that has the right and authority to approve any and all architectural and landscaping plans prior to any Lot Owner constructing a Dwelling or any other structure on a Lot and further prior to any Lot Owner installing any landscaping on a Lot.

2. "ARTICLES" means the Articles of Incorporation of the Association, recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

3. "ASSESSMENT" means proportionate share (or share derived by formula) of the funds required for the maintenance of the Common Areas which from time to time may be levied against each Lot Owner.

4. "ASSOCIATION" means McNeill Place Owners Association, Inc., an Alabama not for profit corporation, and its successors, which is organized under § 10-3A-1, et seq. Code of

Alabama (1975).

5. "BOARD" means the Board of Directors of the Association.
6. "BY-LAWS" means the duly adopted By-Laws of the Association.
7. "COMMON AREAS" means all portions of the Subdivision other than the Lots and are owned by the Association.
8. "COMMON EXPENSES" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.
9. "COMMON SURPLUS" means the excess of all receipts of the Association arising out of the Common Areas over the amount of the Common Expenses.
10. "DECLARATION" means this Declaration of Protective Covenants and any amendments thereto which may be made from time to time.
11. "DEVELOPER" or "DECLARANT" means M & V Investments, LLC, and its successors and assigns.
12. "DEVELOPMENT" shall mean McNeill Place, a subdivision, created by recording the plat therefore in the Office of the Judge of Probate of Baldwin County, Alabama.
13. "DWELLING" means any house or residence constructed on a Lot in the Subdivision.
14. "LOT" means any individual parcel of real property that has been created by recording the plat for McNeill Place, a subdivision, in the Office of the Judge of Probate of Baldwin County, Alabama
15. "LOT OWNER" means any individual who owns a Lot in the Subdivision.
16. "MEMBER" means a member of the Association, membership in which is confined to Lot Owners.
17. "PERSON" means a natural person, a corporation, a limited liability company, a partnership, a limited partnership, the Association, a Trust or other legal entity.
18. "PLANS" mean the design and layout of the Lots, Common Areas and other portions of the Property and shall include the Plat for McNeill Place.
19. "REAL PROPERTY" means the Real Property which has been subdivided by recording the plat for McNeill Place in the Office of the Judge of Probate of Baldwin County, Alabama.
20. "SUBDIVISION" means that certain parcel of real property that has been or will be subdivided into smaller parcels or Lots by the recording of the Plat for McNeill Place in the Office of the Judge of Probate of Baldwin County, Alabama, for such Lots to be sold to third parties by the Declarant, and the Common Areas of which are owned by the Association.
21. "SUBDIVISION DOCUMENTS" mean collectively the Declaration, Articles and By-laws.
22. "UTILITY SERVICES" shall include but not be limited to electrical power, cable, internet, telephone, gas, garbage and sewage disposal.

When the context permits, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

ARTICLE II

GENERAL APPLICABILITY OF DECLARATION

1. GENERAL APPLICABILITY. This Declaration shall apply to all Lots, Common Areas, streets and easements shown upon the plat for McNeill Place, a subdivision, recorded in the Office of the Judge of Probate of Baldwin County, Alabama, at Slide 2335-C and as Instrument Number 1043252 and shall apply to any future addition to, extension of or phase of the Subdivision by proper amendment to this Declaration, if such addition or extension shall be made by the Declarant, its successors and/or assigns. Under no circumstances shall this Declaration be deemed or construed to apply to any other adjacent portions of property which are and shall remain the separate property of the Declarant. The imposition of these restrictions shall in no way be construed as a representation that the Subdivision may be expanded or additional subdivisions or extensions thereto be made. Each of the restrictions, covenants, limitations, conditions, reservations, and easements made and set forth herein shall apply as if this Declaration were set forth in its entirety in each deed from the Declarant to any person, firm or corporation conveying or affecting any of the Lots, areas or streets and by the acceptance of any deed to said property. Any purchaser or grantee agrees and binds itself to make all deeds of Lots in the Subdivision and all contracts of sale or contracts for deeds conveying Lots in the Subdivision, subject to this Declaration.

ARTICLE III

IMPROVEMENTS

1. LAND USE AND BUILDING TYPE. Except for a sales office and display models by the Declarant, no Lot shall be used except for residential purposes. No Dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family Dwelling and an attached garage.

2. DWELLING QUALITY, SIZE AND DESIGN. All Dwellings shall be of quality workmanship and materials. The main structure shall be not less than one thousand two hundred (1,200) square feet of heated and air conditioned space and shall be not more than two (2) stories in height. The garage shall house a minimum of one (1) and a maximum of three (3) vehicles. The

roof rafter bearing height shall not be less than nine feet above finished first floor. The primary roof pitch of the main structure shall not be less than 6/12. All building plans shall be approved by the Architectural Review Committee.

3. BUILDING LOCATION. No building or structure shall be located on any Lot nearer to any Lot line than the setback line noted or shown on the recorded Subdivision plat. If no such setback line is noted or shown on the plat, then all minimum set backs shall be in conformity with the Gulf Shores Zoning Ordinances as they pertain to this subdivision.

4. EXTERIOR FINISHES. Exterior finish materials shall be of high quality and durable, such as wood, brick, stucco and the like. No materials constructed out of asbestos, vinyl or fiberglass shall be allowed. All exterior materials, including roofing, windows and other materials shall be approved by the Architectural Review Committee before use.

5. MODULAR HOUSING. No modular housing units may be used on the premises. No metal-clad siding, asphalt, asbestos or roll siding will be permitted on the exterior of any building, unless express written permission is granted by the Architectural Review Committee.

6. DETACHED BUILDINGS. Any detached building must be in architectural keeping with the main dwelling and be approved by the Architectural Review Committee.

7. TRAFFIC HAZARDS. No fence, wall hedge, shrub, bush, tree or other thing, natural or artificial, shall be placed, maintained, or permitted to remain on any Lot or Common Area, if the location of such obstructs the vision of a motorist.

8. RESTRICTIONS OF EASEMENTS. No title to land in any street is intended to be conveyed, or shall be conveyed to the grantee under any deed, or the purchaser under any contract of purchase, unless expressly so provided in such deed or contract or purchase.

Easements for installation and maintenance of utilities and drainage facilities are reserved as noted or shown on the recorded plat.

No dwelling house, garage, outbuilding or other structure of any kind shall be built, erected or maintained upon any such easements, and said easements shall, at all times, be open and accessible to public or quasi-public utility corporations, and other persons erecting, constructing or servicing such utilities and Declarant, its successors and assigns, all of whom shall have the right of ingress and egress thereto, and therefrom and the right and privilege of doing whatever may be

necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights-of-way are reserved, or may hereinafter be reserved.

9. DRAINAGE. Drainage flow shall not be obstructed nor be diverted from drainage or utility easements as designated on said plat. Each Lot shall be developed in such a manner as to carry away surface water that may exist either prior to, or as a result of, the development of the Lot. Each Lot shall further be developed in such a manner as to include common Lot line swales and designed to prevent water from draining onto neighboring Lots. No fences or other structure shall be erected in a manner that will hinder or prohibit the free flow from the drainage easement, and the owner will keep the same clean and free from obstruction. For a period of five (5) years from the date of conveyance of any Lot, Declarant reserves a blanket easement on, over and under the ground within the Subdivision to maintain and correct drainage or surface water in order to maintain health, safety and appearance. Such right expressly includes the right to cut trees, bushes and shrubbery, make any grading of the road or take similar action, following which Declarant will restore the property as nearly as possible to its original condition.

The Association, which will be created to maintain the Common Areas of the Subdivision and to perform such other duties as are set forth herein, in the Articles and in the By-laws, shall be responsible for maintaining the drainage system of the Subdivision pursuant to Gulf Shores, Ala. Ordinance No. 311 and Gulf Shores, Ala. Ordinance No. 472, as follows:

a. The Association shall inspect all drainage structures monthly and clean said structures periodically as is necessary to remove all silt and other debris.

b. The Association shall maintain all swales and detention ponds in the same state as their original construction by repairing and/or replacing sod and/or grass as necessary to maintain all slopes and berms.

c. The Association shall repair and/or replace all concrete culverts, flumes, swales and/or headwalls as necessary to maintain said structures as originally constructed.

d. The Association shall be required to perform such other maintenance and/or repair to the drainage systems of the Subdivision as are reasonably necessary for the drainage system to function properly.

10. TIME LIMIT FOR CONSTRUCTION. Construction of a Dwelling must be

completed no later than twelve (12) months from commencement of construction.

ARTICLE IV

GENERAL LAND USE AND OTHER RESTRICTIONS

1. NUISANCES. No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

2. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, shack, garage, barn or other outbuilding shall be used on any Lot at any time either temporarily or permanently.

3. SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except one professional sign of not more than five (5) square feet advertising the Lot for sale or rent, or identification during the construction period. The Declarant shall be exempt from this section.

4. LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. Dogs, cats, or other household pets in a reasonable number, may be kept provided that they are not kept, bred or maintained for any commercial purposes, nor shall they be bred for non-commercial purposes so as to become a nuisance.

5. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish, garbage, trash or other waste. All such waste shall be kept in sanitary, covered containers with locking lids, which shall be maintained in a clean and sanitary condition, and which shall, unless required to be placed elsewhere on certain days for pickup, be kept from public and from the view of any street and adjoining Lots.

6. MAINTENANCE OF PROPERTY. Each Lot Owner shall keep his or her respective Lots and all improvements thereon in good appearance and repair, free of debris. All lawns shall be mowed. All trees and shrubbery shall be pruned, except for Lots left in their natural wooded state. Lawns shall be kept free of noxious insects, and infectious and spreading weeds, all in a manner consistent with good property management. In the event the Lot Owner shall fail to comply with these provisions, the Association, upon thirty days written notice to Owner, shall have the right to enter upon said Lot to correct same and shall be entitled to levy a special assessment against the Owner of said Lot to cover the cost thereof.

7. UTILITIES AND ANTENNAS. All utilities shall be placed underground. Each Lot Owner is required to connect to said utilities at his or her expense. No exterior tower, large satellite dish or other device shall be visible from any street or adjoining Lots.

8. MAILBOXES AND PROPERTY IDENTIFICATION MARKERS. All mailboxes and mail box posts must be approved by the Architectural Review Committee. The Lot Owner shall not place any additional lettering on the mailbox, except as required by the Postal Service.

9. VEHICLES. The immobilization of any vehicle for repairing or overhauling at a Lot or on any street within the Subdivision is hereby prohibited.

10. BOAT AND BOAT TRAILERS. Boat trailers or boats may not be stored on a Lot, except in enclosed garages or in a screened area approved by the Architectural Review Committee. Boat trailers or boats shall not be stored on the Common Areas.

11. RECREATIONAL VEHICLES AND OTHER TRAILERS. Recreational Vehicles and trailers may not be stored or kept on a Lot or on the Common Areas except in enclosed garages or in a screened area approved by the Architectural Review Board.

12. CLOTHESLINES. No clotheslines shall be erected or maintained on any Lot.

13. FENCES. All proposed fences must be submitted to the Architectural Review Committee for approval. No fences shall be located on the front portions of any Lot.

14. EXTERIOR COLOR SCHEMES. Exterior color schemes shall be submitted to the Architectural Review Committee for approval. This requirement shall also include all exterior maintenance painting, unless the original color scheme is retained.

15. MISCELLANEOUS. Wood piles, dog houses, kennels, etc., shall be in a screened area, approved by the Architectural Review Committee, or hidden from view from any adjacent street and shall be cleaned and properly maintained.

16. DUAL FACING OF DWELLING. Any Dwelling built on a corner Lot abutting two (2) streets shall be so designed and oriented on the Lot as to present an attractive appearance from each street.

17. SUBDIVIDING OF PROPERTY. No Lot shall be sold or subdivided except as a whole for the purpose of building a complete Dwelling, and only one Dwelling shall be constructed upon each Lot. Two (2) Lots may be combined into one Lot or a Lot may be divided between two

(2) adjoining Lots for the purpose of creating a larger Lot, but no more than one Dwelling shall be built on any Lot and portion of an adjoining Lot that may have been divided or subdivided to create a larger Lot. This paragraph is subject to the subdivision regulations promulgated by the City of Gulf Shores, Alabama.

ARTICLE V

ARCHITECTURAL CONTROL

1. MEMBERSHIP OF THE ARCHITECTURAL REVIEW COMMITTEE.

The initial members of the Architectural Review Committee, hence A.R.C., shall be Earl B. Vick, Jr. and Edmon Motes. At such time as Earl B. Vick, Jr. and Edmon Motes, in their sole discretion should elect to relinquish the duties and responsibilities of the A.R.C., then in that event the A.R.C., shall be appointed by, and serve, at the pleasure of the Lot Owners of the Subdivision. A majority of the A.R.C., may designate a representative to act for it. The initial A.R.C. shall serve subject to the power of the Declarant as hereinafter set forth. The A.R.C. may charge a review fee to offset the expense of making a review.

When the A.R.C. is appointed by the Lot Owners, there shall be at least five (5) members of the A.R.C., two (2) of which may not be Members of the Association. Members of the A.R.C. shall be elected by a majority of the Members present in person or by proxy at a meeting held for the purpose of election of members of the A.R.C. A member of the A.R.C. may also be a director or officer of the Association. Once elected, any member of the A.R.C. may be removed and a new member elected to his place by a majority vote of the Members present in person or by proxy at any meeting (at which a quorum is present) called for that purpose.

2. APPROVAL OR ARCHITECTURAL AND LANDSCAPE PLANS. No building or Dwelling, fences, walls, driveways, parking areas, service courts, satellite dishes, antennas, dog houses, flagpoles or other structure shall be commenced, erected or maintained nor shall any addition to or exterior change or alteration thereto be made until the plans and specifications showing the nature, kind, shape, height, material, floor plan, structural specifications, exterior color scheme, location, square footage and grading shall have been submitted to and approved by a majority of the members of the A.R.C., its successors and assigns, and a copy of the plans and building specifications to be lodged permanently with A.R.C. Upon submission of the plans as herein

specified the A.R.C. shall have fourteen (14) days to approve or disapprove any such building plans and specifications, and may in its absolute discretion, reject any or all the plans which are not suitable or desirable for any reason, including purely aesthetic reasons. In approving or passing upon such plans and specifications, the A.R.C. shall have the absolute and discretionary right to take into consideration the stability of the proposed building, the materials from which it is to be constructed, the Lot upon which it is proposed to be erected, the harmony thereof with the surrounding Lots as planned and taking into consideration the outlook from the adjacent or neighboring Lots. All such building plans and specifications shall consist of not less than section details, floor plans of all floors, elevation drawings of all exterior walls fronting any street, roof plans and a plot plan showing the location and orientation of the building on the Lot, with all setbacks and shall also show the location of driveways, service courts, parking and all other proposed construction upon the Lot. At the same time, a preliminary landscape development plan shall be submitted to the A.R.C. for approval concurrently with the building plans. A final landscape plan shall be submitted and approved before planting. The A.R.C. reserves the absolute right to establish and enforce the general development criteria for the approval of construction of a Dwelling on the Lot which is subject to these restrictions, said right to include general or specific requirements concerning the nature, kind, shape, height, width, materials, color schemes, as well as the architectural and structural requirements thereof.

3. LANDSCAPE. Plans for all landscaping shall be provided the A.R.C. for all portions of the Lot. Lot Owners are encouraged to maintain their landscape in as much of a natural environment as is practicable, preserving where practicable all trees on their respective Lots. All landscaping, including sodding the front and side yards and planting as shown on the landscape plan shall be kept and maintained thereafter for the duration of this Declaration.

4. VARIANCES. The A.R.C. may issue variances from any building covenant, except set back requirements and dwelling size covering the construction or alteration of improvements on the property provided such improvements substantially comply with the provisions hereof and provided the A.R.C. acts in accordance with adopted and published guidelines and procedures.

ARTICLE VI

PROPERTY OWNERS ASSOCIATION

The Developer has formed or will cause to be formed McNeill Place Property Owners Association, Inc., an Alabama non-profit corporation.

1. **POWERS AND DUTIES.** The operation and administration of the Common Areas of the Development shall be by the Association, membership in which shall consist of the Lot Owners only. The Association shall be a not for profit Alabama corporation incorporated by Articles of Incorporation recorded in the Office of the Judge of Probate of Baldwin County, Alabama. The Association shall be an entity which shall have the capability of bringing suit and being sued with respect to the exercise or nonexercise of its powers. The Association shall have exclusive authority and power to maintain a class action and to settle a cause of action on behalf of Lot Owners of the Subdivision with reference to the Common Areas; and with reference to any and all other matters in which all the Lot Owners have a common interest. The Association shall have all the powers and duties set forth in § 10-3A-1, et seq. *Code of Alabama* (1975), as well as all the powers and duties granted to or imposed on it under the By-Laws, the Articles and this Declaration as they may be amended from time to time. The Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other Person or Persons. The Association shall have the right to grant permits, licenses and easements over the common areas for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Development. The Board shall have the authority and duty to levy and enforce the collection of general and specific Assessments for Common Expenses and is further authorized to provide adequate remedies for failure to pay such Assessments.

2. **MEMBERSHIP.** Each Lot Owner shall be a Member of the Association, so long as he is a Lot Owner. A Lot Owner's membership shall immediately terminate when he ceases to be a Lot Owner. The membership of a Lot Owner cannot be assigned or transferred in any manner except as an appurtenance to his Lot.

3. **VOTING RIGHTS.** The Association shall have one (1) class of regular voting membership. Members shall be all Lot Owners (including the Developer) of Unimproved Lots and Improved Lots. Each Member who has presented to the Association satisfactory proof that such

Member is an Owner of any such Lot prior to the close of business on the Record Date established in accordance with the Association's By-Laws, shall be entitled to notice of and shall be entitled to one (1) vote for each Unimproved or Improved Lot owned, which vote is not divisible, in all matters in which membership voting is authorized in this Declaration, the By-Laws, the Articles or any other rules and regulations shall be binding upon the Association and its Members with respect to Members' voting rights.

Each Member who has provided satisfactory proof of ownership as set forth above prior to the applicable Record Date, so long as such Member is not then delinquent in the payment of assessments, shall be entitled to vote at any meeting of Members, or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member becomes a Lot Owner, and each such Member shall be entitled to the number of votes calculated above as if each Member had been a Member for a full year and had paid the Regular Annual Assessment for the year in which the vote takes place. Payment of any Special Assessment shall not entitle Members to additional votes.

When any Lot entitling the Owner thereof to membership in the Association has an Owner which is a corporation, limited liability company, trust, partnership, or where two or more persons or entities are Owners, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, one officer, trustee, person or entity shall be designated the Voting Member to bind all the others. Written evidence of such designation in a form satisfactory to the Board shall be delivered to the Board prior to the exercise of a vote of such Lot Owners.

4. GOVERNANCE. The Association shall be governed by a Board of Directors, consisting of not fewer than three (3) nor more than five (5) Members. Initially, the Board shall consist of three (3) Members, with the number in subsequent years to be determined by the Members of the Board of Directors as provided in the By-Laws.

5. ELECTION TO THE BOARD OF DIRECTORS.

- a. The Board of Directors shall be elected by the Members.
- b. In electing Directors of the Association, each Member shall be entitled to cast one (1) vote per Lot owned by such Member for each Director's position to be filled. No cumulative

voting is permitted.

6. INDEMNIFICATION. Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, or any settlement thereof, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or officer of the Association, whether or not he is a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which such Director or officer may be entitled.

7. LIMITATION OF LIABILITY. Notwithstanding the liability of the Association to maintain and repair parts of the Common Areas, the Association shall not be liable for injury or damage caused by a latent condition of the Property to be maintained and repaired by the Association, nor for injury or damage caused by the elements, or other Lot Owners or Persons.

8. BY-LAWS. The Association and its Members shall be governed by the By-Laws.

9. QUORUM REQUIRED FOR ANY ACTION AUTHORIZED AT REGULAR OR SPECIAL MEETINGS OF THE ASSOCIATION. The quorum required for any action which is subject to a vote of the Members at a meeting of the Association shall be as follows:

With respect to any particular proposed action, the presence at the meeting of the Association of Members, in person or by proxy, entitled to cast ten percent (10%) of the total vote of the Membership shall constitute a quorum. If the required quorum is not present at any such meeting, a majority of those Members entitled to vote thereat, present in person or by proxy, shall have the power to adjourn the meeting, from time to time, without notice other than announcement of the meeting, until the requisite number of members, present in person or by proxy, shall be present; provided, however, that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If a quorum is present, a majority of the votes which are properly voted at any meeting shall determine any matter coming before the meeting unless a different vote

is required by statute, by this Declaration, by the Articles or by the By-Laws. The Members at a meeting at which a quorum is once present may continue to transact business at the meeting or any adjournment thereof, notwithstanding the withdrawal of enough Members to have less than a quorum. Notwithstanding the foregoing, except with respect to an amendment effected by the Developer in order to add property to the Subdivision, no action to amend this Declaration shall be effective unless taken at a meeting at which Members entitled to cast sixty-seven percent (67%) or more of the total vote of the Membership are present, either in person or by proxy.

10. PROXIES. Each Member of the Association entitled to vote may vote in person or by proxy at any meeting of the Association. Each proxy shall be executed in writing by the Member or by his duly authorized attorney-in-fact, shall state the meeting for which such proxy is given and shall be filed with the Secretary of the Association. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date.

11. BALLOTS BY MAIL. When authorized by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for a vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in this Declaration. However, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

12. PROVISIO. Subject to the provisions herein, until the Declarant sells each Lot in the Subdivision, the Declarant shall have the exclusive right to appoint, remove and designate the officers and members of the Board of Directors, and neither the Lot Owners nor the Association nor the use of the Common Areas by Lot Owners shall interfere with the completion of the contemplated improvements and the sale of the Lots. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board; but, in that event, the Declarant may require, for the duration of the period of Declarant control, that specified actions of the Association or Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

The Declarant may make such use of the unsold Lots and of the Common Areas and facilities as may facilitate such completion and sale, including but not limited to showing of the Lots

and the display of signs. The Declarant may maintain sales offices, management offices, leasing and operations offices, and models on any Lot of the Development or on Common Areas in the Development without restriction as to the number, size or location of said sales offices, management offices, leasing and operations offices and models. The Declarant shall be permitted to relocate said sales offices, management offices, leasing and operations offices, and models from one Lot location to another or from one area of the Common Areas to another area of the Common Areas in the Development. The Declarant may maintain signs on the Common Areas advertising the Development. The rights of the Declarant as provided for in this paragraph shall cease and terminate when the Declarant relinquishes control of the Association.

13. AVAILABILITY OF RECORDS. The Association shall keep financial records sufficiently detailed to enable the Association to comply with § 10-3A-43 *Code of Alabama* (1975). The Association shall make reasonably available in the county where the Subdivision is located for examination by Lot Owners or their authorized agents, current copies of the Declaration, Articles, By-Laws, Rules and Regulations and other books, records, financial statements and the most recent annual financial statement of the Association. Reasonably available shall mean available for inspection upon request, during normal business hours or under reasonable circumstances.

14. RESERVES FOR REPLACEMENTS. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas. The fund shall be maintained out of regular Assessments for Common Expenses.

ARTICLE VII

MEMBERS' RIGHTS IN THE COMMON AREAS

1. MEMBERS' EASEMENTS OF ENJOYMENT IN COMMON AREAS. Subject to the provisions of this Declaration, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every guest or lessee of such Member shall have an easement of enjoyment in and to the Common Areas in the Subdivision, and such easement shall be appurtenant to and shall pass with the title to every Lot. A Member's or lessee's spouse and children who reside with such Member or lessee in the Development shall have the same easement of enjoyment hereunder as a Member. The easement of enjoyment herein shall pass from

a Member to a lessee during the lease term; provided, however, the Association may adopt additional restrictions to its rules and regulations limiting the easement of enjoyment of guests and lessees, including, but not limited to the specification of minimum lease terms, the number of guests allowed, or the prohibition or use by lessees or guests as to specific Association properties.

2. TITLE TO COMMON AREAS. The Developer has or will convey the Common Areas, or any part or parts thereof, including without limitation the retention pond area(s) by statutory warranty deed to the Association, subject to all restrictions and limitations of record and to all additional restrictions and covenants set forth in the deed of conveyance. The Association shall be required to accept such conveyance of the Common Areas and shall, after such conveyance, immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors subject to this Declaration. The Common Areas shall also be conveyed subject to all easements and restrictive covenants of record at the time of conveyance and the rights that others may have to use certain Common Areas.

3. EXTENT OF MEMBERS' EASEMENTS. The easements of enjoyment created hereby shall be subject to the following:

a. the right of the Association, in accordance with its By-Laws, to place mortgages or other encumbrances on the Common Areas as security for borrowings by the Association;

b. the right of the Association, in accordance with its By-Laws, to take such steps as are reasonably necessary to protect Common Areas against foreclosures;

c. the right of the Association, in accordance with its By-Laws, to suspend the voting rights and easements of enjoyment of any Member, lessee or guest of any Member for any period during which the payment of any assessment against the property owned by such Member is delinquent, and 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 Members' obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roadways belonging to the Association although such use shall be subject to the rules and regulations

established by the Association for such use;

d. the right of the Association, in accordance with its By-Laws and subject to the general covenants, to place any reasonable restrictions upon the use of the roadways shown on the Plat as being within the Development, subject to a Lot Owner's or lessee's right of ingress and egress, including, but not limited to the types and sizes of the vehicles permitted to use said roadways, the maximum and minimum speeds of vehicles using said roadways, all other necessary traffic and parking regulations, and the maximum noise level of vehicles using said roadway. The fact such restrictions on the use of the roadways shall be more restrictive than the laws of a state or local government shall not make such restrictions unreasonable;

e. the right of the Association, in accordance with its By-Laws, to adopt and publish rules and regulations governing the use of the Common Areas, and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations;

f. the right of the Developer, or the Association in accordance with its By-Laws, to dedicate or transfer to any public or private utility company, utility or drainage easements on, over or under any part of the Common Areas;

g. the right of the Association, in accordance with its By-Laws, to give or sell all or any part of the Common Areas including a leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift of sale or determination as to the purposes or as to the conditions thereof shall be effective unless such gift, sale or determination as to the purposes or as to the conditions shall be authorized by the affirmative vote of at least two-thirds ($\frac{2}{3}$) of the votes cast at a duly constituted meeting of the Association. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President, and Secretary or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument or dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of Authorization by the Members;

h. restrictions and limitations affecting later phases, if any, as set forth in this Declaration as it may be later amended by the Declarant; and

- i. the rights that others may have to use Common Areas.

ARTICLE VIII

COVENANTS FOR ASSESSMENTS

1. CREATION OF THE LIEN AND PERSONAL OBLIGATIONS FOR ASSESSMENTS. Each Lot Owner, except the Developer, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Developer or the Association as provided below the following: (1) annual assessments or charges ("Annual Assessment" or "Regular Assessment"); and (2) special assessments or charges for the purposes set forth in this Article ("Special Assessment"), both such assessments to be fixed, established and collected from time to time as provided for herein and in the By-laws. The Annual and Special Assessments and interest thereon from the date of the delinquency, along with all costs of collection, including, without limitation, attorney's fees, and additional charges as set forth herein and in the By-laws, shall be a charge and continuing lien on the Lot and improvements thereon against which each such assessment or charge is made. A penalty in an amount to be determined annually by the Board of Directors of the Association and consistently applied may also be added to such late assessment or charge, which shall further become a lien on the Lot and improvements thereon against which each such assessment or charge is made and collected in the same manner as the delinquent assessments. Each such assessment and penalty, if any, together with interest thereon at the maximum percentage rate as may then be permitted under the laws of the State of Alabama from the date of delinquency until collected (unless waived by the Board), and the cost of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the Lot Owner of such real property at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment, interest, penalties and costs of collection. In the event an Owner of a Lot does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association may foreclose the Lien encumbering the Lot created by non-payment of the required moneys in the same fashion as mortgage liens on real estate are foreclosed; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed, postage prepaid, to the Lot Owner and to all persons having

a mortgage lien or other interest of record. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid on the Lot at a foreclosure sale and to acquire, hold, mortgage and convey the same. In addition to foreclosing its Lien, the Association may bring suit to recover a money judgment for all sums, charges, assessments or penalties due, including interest, brought by or on behalf of the Association against a Lot Owner, and also to recover the costs thereof, together with a reasonable attorney's fee. Unless otherwise provided by the Board of Directors, Annual Assessments shall be due and payable on a pro rata basis with one-twelfth (1/12) of the Annual Assessment due on the first day of each month for the year in which the Annual Assessment is charged.

If the Association becomes the Owner of a Lot by reason of foreclosure, it shall offer said Lot for sale, and at such time as a sale is consummated it shall deduct from such proceeds all sums of money due it for monthly assessments, including, without limitation, interest and penalties, and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, and any and all expenses incurred in the re-sale of the Lot, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Lot in question. All moneys remaining after deducting the foregoing items of expenses shall be returned to the former Owner of the Lot in question.

2. PURPOSE OF THE ASSESSMENTS AND PAYMENT TO DEVELOPER. Notwithstanding any provision contained herein, until such time that the Developer has in fact conveyed to the Association all of the Common Areas, all assessments of any nature provided for herein shall be due and payable to the Developer, its successors and/or assigns, and all rights hereby established on behalf of the Association, including all remedies in the event of default by a Lot Owner, shall accrue to the benefit of the Developer. The assessments levied by the Association or the Developer shall be used exclusively for the improvement, replacement, maintenance, repair, enhancement, enlargement and operation of the recreational amenities, common landscaping, roadways, paths, boardwalks, bridges, security systems, patrols and gates, insect control, vegetation control, drainage systems and similar purposes which are for the benefit of Lot Owners, including Common Areas, and to provide all services which the Developer or Association is authorized to

provide hereunder; including, but not limited to, payment of taxes and insurance, costs of labor and equipment, erosion control devices, materials, management supervision, accounting and Lot Owner information services, repayment of loans and such other action as is necessary to carry out its authorized functions. Such assessments shall not be used to maintain or repair any property not belonging to the Association or comprising a portion of the Common Areas.

3. APPLICATION OF "MAXIMUM" ASSESSMENT. The annual assessments, as set forth in the schedule hereinbelow, and as annually increased pursuant to the provisions of subparagraph (c) below, shall be levied by the Association or by the Developer pursuant to this Declaration. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by annual assessments less than those set out below, it may levy such lesser assessments. However, so long as the Developer is engaged in the Development of properties which are subject to the terms of this Declaration, the Association may not reduce annual assessments below those set out in subparagraph (a) of this section without prior written consent of the Developer. The levy of annual assessments less than the maximum regular annual assessments in one (1) year shall not affect the Board's right to levy the maximum regular annual assessments in subsequent years. If the Board of Directors shall levy less than the maximum regular annual assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments.

a. The maximum regular annual assessment shall be the sums determined by the Board of Directors. The regular annual assessment for the year ending December 31, 2007, is Two Hundred and No/100ths Dollars (\$200.00).

b. All assessments charged by the Association shall be rounded to the nearest dollar.

c. The maximum regular annual assessment for Improved Lots and for Unimproved Lots may be increased, adjusted or reduced from year to year by the Board of Directors of the Association as the Board in its sole judgement, may require.

4. SPECIAL ASSESSMENTS FOR IMPROVEMENTS AND ADDITIONS. In

addition to the maximum regular annual assessment authorized herein, the Association may also levy special assessments against the Lot Owners for the following purposes:

- a. construction or reconstruction, repair or replacement of capital improvements upon the Common Areas including the necessary fixtures and personal property related thereto;
- b. additions to the Common Areas;
- c. facilities and equipment required to offer the services authorized herein;
- d. repayment of any loan made to the Association to enable it to perform the duties and functions authorized herein.

The proportion of each special assessment to be paid to the Lot Owners of the assessable property shall be equal to their respective proportions of the annual assessments made for the assessment year during which such special assessments are levied.

5. RESERVE FUNDS. The Association may establish reserve funds from its annual assessments to be held in reserve in an interest-bearing account or in obligations of the United States, State of Alabama, or any agency of either, or in Triple-A debt, or in prime commercial paper with a maturity of not more than nine (9) months, as a reserve for (a) major rehabilitation or major repairs; (b) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss; (c) recurring periodic maintenance; and (d) initial costs of any new service to be performed by the Association.

6. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS. Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence on January 1, 2007. The annual assessment for the year 2007 shall be due and payable on the date the Lot is purchased.

7. DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot, in accordance with the assessment schedule as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be sent promptly to every Member subject thereto.

The Association shall upon written demand from any Lot Owner at any time furnish to such Lot Owner liable for any assessment a certificate in writing signed by an officer of the Association,

setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Lot Owner of Payment of any assessment therein stated to have been paid.

8. SUBORDINATION OF THE LIEN OF MORTGAGE. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments occurring subsequent to the date such mortgages becomes of record and, provided further, that upon a sale or transfer of such property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure, the title acquired by the purchaser of such property be subject to the lien of such subsequent assessments.

9. EXEMPT PROPERTY. The following property, individuals, partnerships or corporations subject to this Declaration shall be exempted from the assessments, charges and lien created herein:

- a. the Developer and any Lots(s) owned by the Developer;
- b. the Grantee in conveyances made for the purpose of granting utility and drainage easements;
- c. the Common Areas; and
- d. property which is used in the maintenance and service of facilities within Common Areas, or by non-profit, governmental or charitable institutions.

10. ANNUAL STATEMENTS. The President, Treasurer or such other officer as may have custody of the funds of the Association, within ninety (90) days after the close of each fiscal year of the Association, shall prepare and execute general itemized statements as of the close of such fiscal year showing the actual assets and liabilities of the Association, and a statement of revenues, costs and expenses. The name of any creditor to which an amount of more than Two Hundred Fifty and No/100ths Dollars (\$250.00), is owed by the Association, and a statement of revenues, costs and expenses. The name of any creditor to the Association shall be set out in such statement. The Association shall furnish to each Member of the Association who may make a request therefor in writing, a copy of such statement within thirty (30) days after receipt of such request. Such copies may be furnished to the Member either in person or by mail.

11. ANNUAL BUDGET. The Board of Directors shall prepare or cause to be prepared

a proposed annual budget for each fiscal year of the Association. Within thirty (30) days after adoption of any proposed budget for the Common Properties, the Board shall provide a copy of the budget to all Property Owners outlining anticipated receipts and expenses for such fiscal year. The financial books of the Association shall be available for inspection by all Members at the office of the Association at all reasonable times.

ARTICLE IX

FUNCTIONS OF ASSOCIATION

1. **OWNERSHIP AND MAINTENANCE OF COMMON AREAS.** The Association shall be authorized to own and/or operate and maintain Common Areas and equipment, furnishings, and improvements devoted thereto. Land included in "Common Areas" shall be used in the manner set forth by the Developer and/or the Association.

2. **SERVICES.** The Association shall be authorized, but not required, to provide the following services which shall not limit or affect any services provided by any municipality, county, state or federal agency:

a. employment of a manager, an independent contractor, or such other employees as are necessary to perform services for the Association;

b. cleanup and maintenance of all roadways, road medians and Common Areas within the Subdivision and also public properties which are located within or in a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole;

c. landscaping and landscape maintenance of roadways, sidewalks, walking and bicycle paths, and any Common Areas;

d. lighting of roadways, sidewalks and paths through the Phase Two Property;

e. administrative services, including but not limited to legal, accounting and financial services; and communication services informing Members of activities, notice of meetings, referenda and other matters incident to the above listed services;

f. liability and hazard insurance covering improvements and activities on the Common Areas;

g. water, sewage and any necessary utility services not provided by a public

body, private utility or the Developer;

h. maintenance of water pollution and shoreline erosion abatement measures;

i. exercise of any rights reserved by the Developer and transferred by the Developer to the Association including, but not limited to, all rights and functions of the Developer under the general covenants;

j. taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions authorized by the Board of Directors.

3. REDUCTION OF SERVICES. The Board of Directors of the Association shall periodically define and list a minimum level of services of the sort described herein to be furnished by the Association in any given year.

4. OBLIGATIONS OF THE ASSOCIATION. The Association shall not be obligated to carry out or offer any of the functions or services specified by the provisions of this Article. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association or set forth in the By-Laws, taking into consideration the funds available to the Association and the needs of the Members of the Association.

5. MORTGAGE AND PLEDGE. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association to perform its authorized functions. The Developer may make loans to the Association, subject to approval by the Developer of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the maximum regular annual assessments at any time there are any outstanding amounts owing the Developer from loans made by the Developer to the Association.

6. TRANSFER OF AUTHORITY. This Declaration provides the Developer with various controls and rights, to be exercised (if at all) at the discretion of the Developer. This Declaration further provides that any of the Developer's rights and powers set forth herein may be specifically assigned to the Association. In the event that such powers are assigned of record to the

Association, the Association shall promptly provide for appropriate procedures to perform its obligations pursuant to the powers transferred to it.

ARTICLE X

AMENDMENT

1. PLANS. The Declarant shall have the right to amend or alter the Subdivision plans so long as it has a Lot in the Subdivision.

2. DECLARATION.

a. By the Declarant. The Declarant shall have the right to amend this Declaration so long as it has a Lot in the Subdivision.

b. By the Association. Once the Declarant has sold all of the Lots in the Subdivision, the Association shall have the right to amend this Declaration upon the agreement of Members, present in person or by proxy, entitled to cast sixty-seven percent (67%) or more of the votes available to the Members at any meeting called for that purpose.

ARTICLE XI

MISCELLANEOUS

1. COVENANTS, CONDITIONS AND RESTRICTIONS. All provisions of the Subdivision Documents shall to the extent applicable, and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the Subdivision, the Property, the Lots and with every part thereof and interest therein; and all of the provisions of the Subdivision Documents shall be binding on and inure to the benefit of any Lot Owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Lot Owners shall be subject to and shall comply with the provisions of the Subdivision Documents and any rules and regulations promulgated thereunder.

2. SEVERABILITY. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word or other provision of this Declaration, the Articles, the By-Laws, any rules and regulations of the Association promulgated pursuant thereto, and any exhibits attached hereto, as the same may be amended from time to time, or the invalidity

in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word or other provision shall not affect the remaining portions thereof.

3. NOTICE. The following provisions shall govern the construction of the Subdivision Documents, except as may be specifically provided to the contrary herein: All notices required or desired under the Subdivision Documents to be sent to the Association shall be delivered in person or sent by first-class mail to the address of the Association, which may be designated from time to time by notice in writing to all Lot Owners. All notices to any Lot Owner shall be delivered in person or sent by first-class mail to the address of such Lot Owner at the Subdivision, or to such other address as he may have designated from time to time, in a writing to the Association. Proof of such mailing or personal delivery to a Lot Owner by the Association may be provided by the affidavit of the Person making such personal delivery or by a post office certificate of mailing. All notices to the Association by a Lot Owner shall be deemed to have been given when delivered to the addressee in person or by a post office certificate of mailing of the date of the mailing.

4. GOVERNING LAW. Any dispute or litigation arising between any of the parties concerning matters, rights, or duties affected or determined by the Subdivision Documents, shall be governed by the laws of the State of Alabama.

5. WAIVER. No provisions contained in the Subdivision Documents or any rules and regulations promulgated by the Board shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

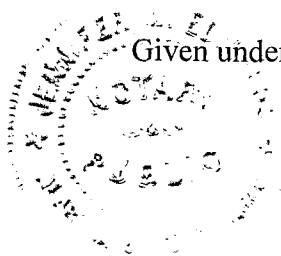
6. RATIFICATION. Each Lot Owner, by reason of having acquired ownership of his Lot, whether by purchase, gift, operation of law or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Subdivision Documents, and any Rules and Regulations promulgated thereunder, are fair and reasonable in all material respects.

7. CAPTIONS. The captions used in the Subdivision Documents are inserted solely as a matter of convenience and reference and shall not be relied on and/or used in construing the effect or meaning of any of the text of the Subdivision Documents.

8. ENFORCEMENT. In the event any Lot Owner fails to comply with any provision contained in this Declaration, the By-laws or the Articles, the Association, through its Board of Directors, shall have the right to enforce such provision by any means available at law or in equity, including, without limitation, the right to seek an injunction and the right to impose a fine on the Lot

STATE OF Alabama)
COUNTY OF Baldwin)

I, Jennifer M. Edwards, the undersigned Notary Public in for said County in said State, hereby certify that **Earl B. Vick, Jr.**, whose name as **Managing Member** of **M & V Investments, LLC**, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such manager and with full authority, executed the same voluntarily for and as the act of said company on the day the same bears date.



Given under my hand and seal this the 27th day of April, 2007.

My Commission Expires: 6/17/09

Jennifer M. Edwards
NOTARY PUBLIC

THIS INSTRUMENT PREPARED BY:

C. Andrew Harrell, Jr.
C. Andrew Harrell, Jr., P.C.
229 East 20th Ave., Suite 10
Post Office Box 4850
Gulf Shores, AL 36547
(251) 968-1555

Owner and the Lot owned by the non-complying party. If a fine is imposed, such fine may be collected in the same manner provided for the collection of Assessments set forth in this Declaration and in the By-laws.

9. COSTS AND ATTORNEY'S FEES. In any proceeding arising because of an alleged default under any of the provisions of the Subdivision Documents by a Lot Owner or any failure to comply with any of the provisions of the Subdivision Documents by a Lot Owner, the prevailing party shall be entitled to recover the costs of the proceedings and such reasonable attorney's fees as may be awarded by the Court or Arbiter.

10. CONFLICTING PROVISIONS. In the event of any conflict between the provisions of this Declaration, the By-Laws or the Articles, this Declaration shall govern.

IN WITNESS WHEREOF, the undersigned have caused these presents to be executed on this the 1st day of May, 2007.

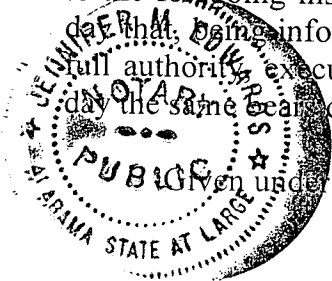
By: [Signature]
Edmon Motes
Its: Managing Member

By: [Signature]
Earl B. Vick, Jr.
Its: Managing Member

STATE OF Alabama

COUNTY OF Baldwin

I, Jennifer U. Edwards, the undersigned, a Notary Public in for said County in said State, hereby certify that **Edmon Motes**, whose name as **Managing Member** of **M & V Investments, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of said company on the day the same bear date.



Given under my hand and seal of office this 1st day of May, 2007.

[Signature]
NOTARY PUBLIC

My commission expires: 6/17/09