

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
RIDGEVIEW VALLEY PLANNED
RESIDENTIAL DEVELOPMENT**

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RIDGEVIEW VALLEY PLANNED RESIDENTIAL DEVELOPMENT
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION dated _____, 2006, by RIDGEVIEW VALLEY, LLC, a Maryland limited liability company, hereinafter referred to as the "Declarant".

RECITALS:

R.1 By Deed dated November 9, 2004, which Deed is recorded in Liber 1078, Folio 466 of the Garrett County, Maryland Land Records (the "Land Records"), the Declarant acquired certain real property from Hugh D. Umbel ("Parcel One").

R.2 By Deed dated May 13, 2005, which Deed is recorded in Liber 1124, Folio 322 of the Land Records, the Declarant acquired certain additional real property from Gail Altenburger and Kevin McLaughlin, Co-Personal Representatives for William C. McLaughlin ("Parcel Two").

R.3 The total real property acquired by the Declarant in Parcel One and Parcel Two consists of 308.58 acres, more or less.

R.4 The Owner desires to develop certain portions of Parcel One and Parcel Two as a planned residential development ("PRD"), as that term is defined in '201 44 of the Deep Creek Watershed Zoning Ordinance for Garrett County, Maryland (the "Ordinance"), which portions are shown on the ATentative Development Plan of the Ridgeview Valley Planned Residential Development", and such additional land as may be subjected to this Declaration under the provisions of **Article II** below (the "Property").

R.5 The Declarant desires to subject the portion of the Property shown on the plat of the first phase of the Development that has been recorded in Plat Case DKM3, File 273 A-d of the Garrett County Land Records ("Land Records") and subsequent plats of the Property that are recorded in the Land Records (collectively, the "Plat"), and the lots located therein (the "Lots"), to the Covenants, Conditions and Restrictions set forth below which are for the purposes of (i) protecting the value and desirability of the Property and the Lots and (ii) distributing among the Lot Owners the cost of maintaining and operating the Common Areas located within the Property, and any improvements constructed thereon.

WITNESSETH

NOW, THEREFORE, Declarant hereby declares that the portion of the Property shown on the Plat shall be held, sold and conveyed subject to the Covenants, Conditions and Restrictions set forth below, which shall run with the real property and be binding on all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns, as the case may be, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

(a) "Act" means the Maryland Homeowners Association Act set forth in Title 11B of the Real Property Article of the Annotated Code of Maryland.

(b) "Articles" mean the Articles of Incorporation for the Ridgeview Valley Master Homeowners Association, Inc. that have been filed with the Maryland State Department of Assessments and Taxation ("MSDAT").

(c) "Assessments" means the annual and special assessments addressed in **Article V** of this Declaration.

(d) "Association" means the Ridgeview Valley Master Homeowners Association, Inc., a Maryland corporation.

(e) "Board" or "Board of Directors" means the elected board of directors of the Association referenced in the Articles.

(f) "Builder/Owner" means the purchaser of a Lot from the Declarant who does not intend to occupy or rent the Lot for residential purposes so that the initial sale of the Lot is permitted to be effected in accordance with '11B-107 of the Act.

(g) "Bylaws" mean the Bylaws of the Ridgeview Valley Master Homeowners Association, Inc.

(h) "Class A Members" and "Class B Members" are defined in the Articles of Incorporation ("Articles") and Bylaws ("Bylaws") of the Corporation and in **Section 4.02** hereof.

(i) "Common Area(s)" means those areas of land, designated on the Plat of the Property as "Drainage and Utility Easement", "Sewer Easement", "Drainage and Sewer Easement", "Open Space", "Parking", "Recreation Area" (e.g. hiking and biking paths and nature trails), or "Road", or "Walkway", or otherwise designated as an easement area, or on, over, under, or in any portion of any Common Area, pipes, drains, mains, conduits, lines, and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, cable television lines, and other public utilities or quasi-public utilities deemed necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established on the Property, or the area in which the same is located, together with the right and privilege of entering upon the Common Area for such purposes and making openings and excavations therein, which Common Area is intended to be owned by the Association and devoted to the common use and enjoyment of the Owners of the Lots.

(j) "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association and maintaining the Common Area, including a reasonable reserve, all as may be found to be necessary or appropriate by the Board pursuant to this Declaration, the Bylaws and the Articles of the Association.

(k) "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined and set forth by the Architectural Review Committee (as such term is defined in Article 6.01) or similar Committee established for such purposes by the Board.

(l) "Declarant" means Ridgeview Valley, LLC and any successor or assign thereof to whom Ridgeview Valley, LLC shall convey or otherwise transfer all of the rights, title and interest in the Property then owned by it, and to whom Ridgeview Valley, LLC shall expressly transfer, and assign all of its rights, title and interest under this Declaration, or any amendment or modification thereof.

(m) "Depository" has the meaning set forth in Section 11D-101(e) of the Act.

(n) "Development Plan" shall mean the Tentative Development Plan for the Development prepared by Lewis-Scully-Gionet, Inc., Landscape Architects, as approved by appropriate governmental agencies which shall represent the total general scheme and general uses of Property in the Development as such,

which may be amended from time to time subject to at least thirty (30) days notice to the Association and any required approval of the governmental agencies involved. A copy of the Development Plan has been filed by the Declarant in the Depository.

(o) "Eligible Mortgage Holder" shall mean a holder of a first mortgage on a Lot who has requested notice from the Association of amendments to the Association documents or other significant matters which would affect the interests of the mortgagee.

(p) "Lawn and Garden Areas" shall mean and refer to those portions of the Type II Lots and Type III Lots, which are appurtenant to the dwelling units located upon such Type II lots and Type III Lots, upon which grasses, shrubs, trees, flowers or plant material have been or are naturally intended to be planted, provided, however, any area which is fenced or walled-in or which otherwise is not easily accessible by the Association shall not be deemed a Lawn and Garden Area.

(q) "Lien Act" means the Maryland Contract Lien Act set forth in Subtitle 2 of Title 14 of the Real Property Article of the Annotated Code of Maryland.

(r) "Lot" shall mean and refer to any plot of land shown upon the Plat of the Property upon which it is intended that a dwelling unit be constructed, including, but not limited to, Type I Lots, Type II Lots and Type III Lots, as such terms are hereinafter defined. In addition, "Lot" shall include within its meaning any designated portion of the Property on which an apartment building is developed.

(s) "Member" shall mean and refer to every person, group of persons, corporation, trust, or other legal entity, or any combination thereof, who holds any class of membership in the Association.

(t) "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. "Mortgage", as used herein, shall include deed of trust. "First Mortgage", as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include banks, trust companies, insurance companies, mortgage insurance companies, savings and loan

associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, the Veterans Administration ("VA"), the Federal Housing Administration ("FHA"), the Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Federal National Mortgage Association ("Fannie Mae"), the Government National Mortgage Association ("Ginnie Mae") or any successor agencies or entities thereto or any agencies or entities providing similar programs, all corporations and any agency or department of the United States Government or of any state or municipal government, or any other organization or entity which has a security interest in any Lot.

(u) "Ordinance" has the meaning set forth in **Recital R.4** above.

(v) "Owner" means the person, or legal entity, or the combination thereof, including contract sellers, holding the record fee simple or undivided fee interest in a Lot in the Property, as the Lot is now or may from time to time hereafter be created or established. If more than one person, or other legal entity or any combination thereof, holds the record title to any Lot, all of them shall be deemed a single record owner and shall be a single Member of the Association by virtue of their ownership of the Lot. The term "Owner" shall include any contract seller but not any contract purchaser, nor shall it include any mortgagee or other person or legal entity holding an interest in a Lot as security for the performance of a debt obligation.

(w) "Parcel" or "Phase" shall mean and refer to separately designated residential areas comprised of various types of housing, initially or by Supplementary Declaration, made subject to this Declaration.

(x) "Parcel Assessments" shall mean assessments for those portions of the Common Expenses, if any, which are incurred in connection with the promotion of the recreation, health, safety, welfare, common benefit and enjoyment of the Owners of the Lots against which the specific Parcel Assessment is levied and for maintaining the properties within a given Parcel/Phase, all as may be specifically authorized from time to time by the Board and as more particularly authorized below. Parcel Assessments shall be levied equally against all Owners of Lots in a Parcel/Phase for such purposes that are authorized by this Declaration by the Board from time to time, provided that in the event of assessments for exterior maintenance on dwellings, or insurance on dwellings, or replacement reserves which pertain to particular dwellings or any similar assessments which benefit one or more but less than all of the Lots within a Parcel/Phase, such Assessments (that are for the

use and benefit of particular Lots) shall be levied upon a pro-rata basis among the benefitted Owners.

(y) "Plat" has the meaning set forth in **Recital R.5** above.

(z) "Project" and the "Development" as used in this Declaration means that certain community being developed by the Declarant (or affiliates, successors and assigns of the Declarant) in Garrett County, Maryland, known as "RIDGEVIEW VALLEY PLANNED RESIDENTIAL DEVELOPMENT" or "RIDGEVIEW VALLEY".

(aa) "Property" means all of the land shown on the Plan and such additional land as may be subjected to this Declaration under the provisions of Article II below.

(bb) "Type I Lots" shall mean and refer to those Lots upon which there is constructed a single family detached dwelling.

(cc) "Type II Lots" shall mean and refer to those Lots upon which there is constructed duplexes or similar attached dwellings that may contain garages or other on-Lot structures or facilities (including, but not limited to driveways and carports) intended for the parking of automobiles or other motor vehicles.

(dd) "Type III Lots" shall mean and refer to those Lots upon which there is constructed a townhouse or similar attached dwellings without any structure or facilities intended for the parking of automobiles or other motor vehicles (except for the possibility of garages for end units).

(ee) "Unit" or "Dwelling Unit" shall mean and refer to any portion of any building or any individual building situated on the Property other than Common Area, designed and intended for independent residential use and occupancy for which an initial use and occupancy permit has been issued. This term is further addressed in **Section 7.01** hereof.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

Section 2.01. Initial Property Subject to the Declaration. The real property which is, and shall be held, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in Garrett County, State of Maryland, and is more particularly shown on the Plat filed by the

Declarant in the Land Records.

Section 2.02. Additions. At all times, Declarant shall have the right to record one or more additional Plats so as to make any portion of Parcel One and/or Parcel Two referenced in **Recital R.1** and **R.2** above part of the Development and, therefore, subject to this Declaration without the necessity of recording any Supplementary Declaration. So long as there are Class B members, as referenced in the Articles of the Association, additional property may be annexed to the above-referenced Property without the consent of the Class A members, as referenced in the Articles of the Association, if any.

Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Supplementary Declaration of Covenants, Conditions and Restrictions among the Land Records for Garrett County, Maryland, which Supplementary Declaration shall extend the scheme of the within Declaration of Covenants, Conditions and Restrictions to any such annexed property.

Any Supplementary Declaration of Covenants, Conditions and Restrictions made pursuant to the provisions of this Article may contain such complementary or supplemental additions and modifications to the covenants and restrictions set forth in the within Declaration as may be considered necessary by the maker of such Supplementary Declaration of Covenants, Conditions and Restrictions to reflect the different character or use, if any, of the annexed property.

Every Owner of a Lot in property to be annexed as provided herein shall have an easement of enjoyment in and to the Common Area, and such other rights of use as provided in **Section 3.01** herein.

Section 2.03. Reliance on Development Plan. The Declarant hereby discloses that while the Development Plan sets forth and designates the Property by specific references to the planned development of Lots and Common Area that the Declarant intends to develop the Property in Phases and, therefore, subject additional portions of the Property to this Declaration by recording in the future additional Plats of such portions of the Property. In this regard, the Declarant reserves the right to modify/amend the specific designations of Lots/Common Area shown on the Development Plan, prior to subjecting any additional portions of the Property subject to this Declaration by filing a Plat of any such portion in the Land Records, so as to address and stay current with the evolution of the Development over time, provided that such

modification/amendment of the Development Plan shall not be effected in a manner so as to deviate or detract from the Community-Wide Standard established by the Declarant for the Development. Further, any such modification/amendment of the Development Plan with respect to any portion of the Property that is made subject to this Declaration shall be effected only in a manner that complies with the Ordinance and be subject to the approval of the governmental authorities enforcing compliance with the Ordinance.

ARTICLE III

PROPERTY RIGHTS

Section 3.01. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area shown on the Plat, including an easement for the use and enjoyment of the streets and parking lots and walkways within the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable and uniform admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of any recreational facilities by an Owner for any period during which any assessment against his/her Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) the right of the Association to limit the number of guests of Owners;

(d) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the facilities thereon;

(e) the right of the Association to provide for the exclusive use by Owners of certain designated parking spaces within the Common Areas;

(f) the right of the Association, the Declarant, utility companies and other Owners with respect to the easements established in **Section 7.07** hereof;

(g) the right of the Association, in accordance with its

Articles and Bylaws, and with the consent of a majority of each class of the then Members of the Association, voting separately, to borrow money for the purpose of improving the Common Area and community facilities in a manner designed to promote the enjoyment and welfare of the Members and in aid thereof to mortgage any of the Common Area and community facilities;

(h) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosures; provided, however, that the same are in conformity with the other provisions of this Declaration;

(i) the right of the Association, acting by and through its Board and as may be permitted by the Ordinance, to grant easements, licenses or other rights of use to persons or entities who are not Members of the Association in connection with the recreational facilities installed as a part of the Common Area for such consideration and on such terms and conditions as the Board may from time to time consider appropriate.

Section 3.02. Limitations.

(a) Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Member of the Association to use any streets and roadways located upon the Common Area (including, without limitation, any streets and roadways located within the Property) for both vehicular and pedestrian ingress and egress to and from his/her Lot and for parking;

(b) Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Member of the Association to use the Common Area for necessary, ordinary and reasonable pedestrian ingress and egress to and from his/her Lot or to suspend any easement over the Common Area for storm water drainage, electrical energy, water, sanitary sewer, natural gas, CATV or similar service, telephone service or similar utilities and services to the Lots.

Section 3.03. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws and rules and regulations of the Association, his/her right of enjoyment to the Common Area and facilities to the members of his/her family, his/her tenants, social invitees, or contract purchasers who reside on the Property.

Section 3.04. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration to the Contrary, it shall be expressly permissible for Declarant and all Builder/Owners to maintain and carry on upon such portion of the Property as the Declarant may deem necessary, including, but not limited to, the Common Area, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to construction or sale, including, without limitation, business offices, signs, model homes, and sales offices, so long as construction on or original offering for sale of all or any portions of the Property or additional property, continues. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots owned by Declarant or Builder/Owners as models and sales offices and to authorize sales and construction personnel to travel upon and enter the Common Area. Furthermore, Declarant reserves the right, during installation of concrete paving or streets, as shown on any Plat, to enter onto any Lot or Lots for the purpose of disposing of street excavation, including the removal of any trees, if necessary, whether or not the Lot or Lots have been conveyed to and/or contracted for or by any other Owner or Owners.

Section 3.05. Conveyance of Common Area. The Association covenants to accept title to all or portions of the Common Area when offered by the Declarant.

Section 3.06. Reserved Rights of Declarant. Declarant hereby reserves to its Members, Peter L. Versteegen, Rosemary J. Versteegen, Jeffrey T. Gosnell, Sherry L. Gosnell, Howard R. Strauss, Lisa L. Strauss, and Debra Savage, for the lifetime of each of them, the right to use the amenities located in the Common Area(s) without payment of dues or fees.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 4.01. Membership. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 4.02. Voting Rights. The Association shall have two (2) classes of voting membership as provided in the Articles.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 5.01. Creation of the Lien and Personal Obligation of Assessments. There are hereby created assessments for Common Expenses as may be from time to time specifically authorized by the Board to be commenced at the time and in the manner set forth in this **Article V**. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments. The annual and special assessments, together with interest, late fees, costs and reasonable attorneys' fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such assessment is made, provided the requirements of the Lien Act have been fulfilled. Each such assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his or her successors in title unless expressly assumed by such successors.

Section 5.02. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Property and for the improvement and maintenance of the Common Area, the payment of real estate taxes, assessments and utility services for the Common Area, and management fees, administration expenses, insurance and all other costs and expenses incurred by the Association in the proper conduct of its activities, including, without limitation, reserves for replacements or contingencies, charges accruing with respect to off-site facilities required to be maintained by the Association or which the Association elects to maintain whether such facilities are located within the Property or not. In addition, a portion of the assessments levied against Type II Lots and Type III Lots shall be used to maintain the Lawn and Garden Areas and other areas which serve and benefit the Type II Lots and/or the Type III Lots. Owners of Type I Lots shall not be required to pay any assessments for expenses which benefit the Type II Lots and/or the Type III Lots, exclusively.

(b) Notwithstanding anything contained in this Declaration, the Articles or the Bylaws to the contrary, the Association shall be responsible for maintaining roads, any and all storm water management facilities, including, without limitation,

ponds, basins and drainage areas, whether such facilities are located within the Property or not, which are designed to benefit or serve any portion of the Property and are required to be maintained by the Association.

Section 5.03. Initial Annual Assessment. The initial annual assessment for Type I Lots shall be set forth in the budget materials placed by the Declarant in the Depository and/or provided by the Declarant pursuant to the Act prior to the sale of Lots; provided, however, that there shall not at any time be any annual assessment (including special assessments) for Lots (if any) owned by the Declarant. Notwithstanding the foregoing, the Declarant shall pay the full maximum annual and special assessments for Lots owned by Declarant upon which a dwelling unit has been completed and is occupied by a party other than the Declarant. Notwithstanding any provision contained in this Declaration to the contrary, Declarant hereby covenants and agrees for the benefit of each Class A Member to pay any and all expenses incurred by the Association during the Deficit Period (as such term is hereinafter defined) in furtherance of its purposes to the extent that the annual and special assessments levied during the Deficit Period are insufficient to pay such expenses; provided, however, that at such time as the Declarant has paid what would equal one hundred percent (100%) of the assessments for its Lots, had it not been exempted from the payment of assessments, then the Declarant shall only be obligated to pay any further assessments during that annual period in an amount equal to what would be due for such Lots had they been owned by a Class A Member. As used herein, the term "Deficit Period" shall mean that period of time commencing on the date of recordation of this Declaration and ending on the earlier of (i) the date on which the Class B Membership lapses and becomes a nullity in accordance with the provisions of this Declaration; or (ii) the date upon which the Declarant, in writing and recorded among the Land Records of Garrett County, Maryland, declares that it (from the date specified in such recorded writing) waives its right to not pay any assessments on Lots owned by the Declarant in accordance with this **Section 5.03**. The Declarant may make such Declaration with respect to less than all of the Lots owned, to be owned or to be brought within the jurisdiction of the Association in which event the Deficit Period shall terminate only with respect to those Lots specifically described.

It shall be the duty of the Board, at least sixty (60) days before the beginning of the fiscal year and thirty (30) days prior to the meeting at which the budget shall be presented to the Membership, to prepare a budget covering the estimated costs of operating the Association during the coming year. The budget shall

include an amount sufficient to establish and maintain a reserve fund in accordance with a reserve fund budget separately prepared by the Board pursuant to **Section 5.11**. The Board shall cause a copy of the budget, and the amount of the assessments to be levied against each Lot, for the following year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget and the assessments shall become effective unless disapproved at the meeting by a vote of at least a majority of both classes of the total Association Membership.

Notwithstanding the foregoing, however, in the event the Membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

The Declarant may establish a working capital fund for the initial operation of the Association. Such working capital fund may be funded by a one-time assessment of two (2) times the monthly assessment for a Lot and shall be payable, if established, by the Declarant's grantee upon the earlier of settlement or occupancy of a completed dwelling unit located on any Lot.

Section 5.04. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment or special assessments applicable to that year for such purposes as the Board may deem appropriate, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. The Association may also levy a special assessment against any Owner to reimburse the Association for costs incurred in bringing any Owner and his/her Lot into compliance with the provisions of the Declaration, any Supplementary Declaration, the Articles, the Bylaws and the rules and regulations of the Association. Such a special assessment may be levied upon the vote of the Board after notice to the Owner and an opportunity for a hearing before the Board.

Section 5.05. Notice and Quorum for any Action Authorized Under Section 5.04. Written notice of any meeting called for the purpose of establishing a special assessment in accordance with **Section 5.04** shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty five percent (25%) of all the votes

of each class of Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.06. Variable Rate of Assessment. The Board may, from time to time, establish by resolution non-uniform rates of assessments for Lots within the Property. Such rates shall be based on actual costs incurred by the Association relating to the operation and maintenance of the Property. The imposition of non-uniform rates of assessment shall rest solely at the discretion of the Board.

Section 5.07. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the date determined by the Board. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer for the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association as of the date of its issuance.

Section 5.08. Effect of Non-Payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date until paid at a rate equal to one and one-half percent (1 2%) per month (or such lesser sum as VA and/or FHA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA or insured by FHA). Additionally, the entire balance of the unpaid annual assessments for the remainder of the fiscal year shall also become due, payable and collectible in the same manner as the delinquent portion of such annual assessment. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against the Lot (and all improvements thereon) provided the provisions of the Lien Act are substantially fulfilled. No Owner may waive or otherwise escape liability for the assessments

provided for herein by non-use of the Common Area or abandonment of his/her Lot. The Owner shall also be obligated to pay all attorneys' fees and court costs incurred in connection with the collection of assessments if not paid when due. In addition, the Owner shall be subject to paying a late fee as determined by the Board in accordance with the By-Laws.

Section 5.09. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust 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. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 5.10. Additional Default. Any recorded first mortgage secured on a Lot shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby); but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of this **Section 5.10** shall not be altered, modified or diminished by reason of such failure.

Section 5.11. Reserve Fund Budget and Contribution. The Board shall annually prepare a reserve fund budget which shall take into account the number and nature or replaceable assets of the Association, the expected life of each asset, and the expected repair or replacement cost of each asset. The Board shall set the required reserve fund contribution, if any, in an amount sufficient to meet the projected reserve needs of the Association, as shown on the reserve fund budget, with respect both to amount and timing by the imposition of annual assessments over the period of the budget. The reserve fund contribution shall be fixed by the Board and included within the budget and assessment, as provided in **Section 5.03**. Such reserve fund contribution shall be payable as part of the (i) general assessment, applicable to all Lots, to the extent such reserve fund will be utilized to replace assets which are

determined by the Board of Directors to benefit substantially all Owners, (ii) Type II Lot Assessment, to the extent such reserve fund will be utilized to replace assets which are determined by the Board to primarily benefit Owners of Type II Lots and (iii) Type III Lot Assessment, to the extent such reserve fund will be used to replace assets which are determined by the Board to primarily benefit Owners of Type III Lots. A copy of the reserve fund budget shall be distributed to each Owner in the same manner as the operating budget for the Association.

Section 5.12. Credits for Lots Providing Utilities to Common Areas. Without limiting the generality of the other provisions of this Declaration which provide for other than fixed and uniform assessments the Declarant may, at its election, make a utility connection to any dwelling unit located on a Lot to serve all or a portion of the Common Areas, provided, however, that:

(i) the average monthly consumption charge for all facilities within the Common Areas that are connected to the utility meter for any Lot shall be determined by the Board; and

(ii) the Declarant shall, in cooperation with appropriate utility companies and/or engineering advisors, establish a monthly credit against the assessment for the Lot to which such utility is connected, which credit shall equal one hundred ten percent (110%) of the reasonable estimate of utility consumption charges for the Common Area that are connected to such Lot; and

(iii) the Owner of the Lot to which such connection is made shall, in a timely manner, pay all utility fees and charges accruing with respect to his/her Lot so as to prevent the interruption of service to those facilities within the Common Areas which are served by such Owner's utility connection.

Any Owner upon whose Lot such connection is made shall be entitled, from time to time, and upon good cause, to request that the Association re-establish and/or re-evaluate the usage charge estimated pursuant to the provisions of subparagraph (ii) hereof. Any dispute as to such amount shall be settled in accordance with arbitration procedures established by the American Arbitration Association.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 6.01. Architectural Change Approval. No building, fence, wall, mailbox or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including, but not limited to, changes in color, changes or additions to driveway or walkway surfaces and landscaping modifications) until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relating to surrounding structures and topography and conformity with the design concept for the Property by the Board, or by an architectural committee or similar committee composed of three (3) or more representatives appointed by the Board ("Architectural Review Committee"). The decisions of the Board or the designated committee shall be made in accordance with those Architectural Design Guidelines filed by the Association in the Depository. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within sixty (60) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Design approval by the Architectural Review Committee or by the Board shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being reviewed. The Board or the Architectural Review Committee shall have the right to charge a reasonable fee for reviewing each application. Any construction, exterior addition to or change or alteration made without application having first been made and approval obtained as provided above shall be deemed to be in violation of this covenant and the construction, addition, change or alteration may be required to be restored to the original condition at the Owner's cost and expense. In any event, no such construction, exterior addition to or change or alteration shall be made without approvals and permits therefor having first been obtained by the Owner from the applicable public authorities or agencies. Notwithstanding any provision of this Declaration to the contrary, the provisions of this **Article VI** shall not be applicable to the Declarant or any part of the Property owned by the Declarant.

Section 6.02. Board/Architectural Review Committee; Architectural Design Guidelines; Appeal of Board/Architectural Review Committee Decision. The Board/Architectural Review Committee may from time to time adopt and promulgate such Architectural Design Guidelines regarding the form and content of plans and specifications to be submitted or approval and may publish such statements of policy, standards, guidelines and/or establish such

criteria relative to architectural styles or details, or other matters, as it may consider necessary or appropriate. No such rules, regulations, statements, criteria or the like shall be construed as a waiver of the provisions of this Article or any other provisions or requirement of this Declaration. The decisions of the Board/Architectural Review Committee shall be final except that any Member who is aggrieved by any action or forbearance from action by the Board/Architectural Review Committee may appeal the decision of the Board/Architectural Review Committee to the Board and, upon the request of such Member, shall be entitled to a hearing before the Board. Two thirds (2/3) of the Board shall be required to reverse any decision of the Architectural Review Committee.

ARTICLE VII

USE RESTRICTIONS

In addition to all other covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 7.01. Permitted Uses. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any such Lot other than one used as a single-family dwelling, except that a no-impact home-based business, as that term is defined in the Act, may be maintained in a dwelling. The terms "dwelling" or "dwelling unit", as used in this Declaration, shall include an apartment unit, townhouse, duplex, condominium unit, or detached dwelling or any other dwelling. The sale of fractionalized ownership interests in any such dwelling/dwelling unit shall be permitted, provided any such sale is effected in compliance with Maryland law and the Ordinance. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant or Builder/Owners from the use of any Lot or dwelling, or improvement thereon, for promotional or display purposes, or as "model homes", a sales and/or construction office, or the like.

Section 7.02. Prohibited Uses and Nuisances. Except for the activities of the Declarant or Builder/Owner during the construction of the Development, or except with the prior written approval of the Board, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the Common Area no use of any Lot and/or dwelling/dwelling unit shall be permitted that is not in accordance with the rules and regulations adopted by the Board and filed by the Association in the Depository.

The Board may allow reasonable variances and adjustments of the restrictions stated in this **Section 7.02** in order to overcome practical difficulties and prevent unnecessary hardships in the applications of the provisions herein contained provided, however, that such adjustment or variation: (i) is made in conformity with the purposes hereof; and (ii) shall not be materially detrimental or injurious to other property or improvements in the neighborhood. Enforcement of the restrictions set forth herein shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any restriction, either to restrain the violation or to recover damages.

Section 7.03. Leasing and Transfers.

(a) No portion of a dwelling unit, other than an entire dwelling unit, may be leased or rented. All leases and rental agreements shall be in accordance with all applicable laws and regulations in effect from time to time in Garrett County. All leases shall be on forms approved by the Association and shall (i) contain provisions advising the tenant of his/her obligation to comply with all provisions of this Declaration, the Bylaws and the rules and regulations of the Association; (ii) provide that the Association shall have the right to terminate the lease upon default by the tenant in observing any of the provisions of this Declaration, the Bylaws or rules and regulations of the Association, or of any other document, agreement or instrument governing the dwelling units and/or the Property. The Owner(s) of a leased Lot shall notify the Association in writing of the Owners' current address. The Owner(s) of a leased or rented dwelling unit shall be jointly and severally liable with his/her tenant(s) to the Association to pay any claim for injury or damage to persons or property caused by any action or omission, including, without limitation, the negligence of the tenant(s). Every lease and rental agreement shall be subordinate to any lien filed by the Association, whether before or after such lease was entered into. The minimum term any dwelling unit may be rented or leased shall be determined by the Board and set forth in the rules and regulations of the Association referred to in **Section 7.02** above.

(b) Prior to the sale, conveyance or transfer of any Lot or dwelling unit to any person, the Owner shall notify the Board in writing, by certified mail, return receipt requested of the name and address of the person to whom the proposed sale, conveyance or transfer is to be made and provide to it such other information as the Board may reasonably require. Failure to comply with the

provisions of this **Section 7.03(b)** shall not void, prohibit or otherwise invalidate the sale, conveyance or transfer of any Lot or dwelling unit, nor may it have any affect upon any mortgage or deed of trust thereon.

Section 7.04. Parking. Parking within the Property shall be subject to the following restrictions:

(a) The Declarant and thereafter the Board shall have the right to designate areas on the Common Area for temporary guest parking. Except as set forth below or as otherwise established by the Declarant or the Association, said designated guest parking areas shall be for temporary guest parking only.

(b) Said designated guest parking areas may only be used by Owners and occupants (non-guests) within the Property between the hours and for periods as the Board may establish from time to time and set forth in the rules and regulations of the Association.

(c) All Owners and occupants of any dwelling located on any Lot shall, of possible, park within such Lot, either in the garage or on the driveway, if any.

(d) All Owners or occupants of any dwelling located on a Type III Lot shall be limited to a maximum of the number of parking spaces equal to the number of bedrooms in the subject Type III Lot Unit and shall park within the designated parking space(s) for such Type III Lot.

(e) The Association shall be entitled to establish supplemental rules concerning parking on any portion of the Common Area and Lots, including, without limitation, providing for the involuntary removal of any vehicle violating the provisions of this Declaration and/or such rules.

(f) The Declarant, it successors and assigns, and its nominee or nominees and any agents, servants and/or employees thereof shall be exempt from the provisions of this **Section 7.04.**

Section 7.05. House Rules, Etc. There shall be no violation of any reasonable rules for the use of the Common Area and community facilities or "house rules" or other community rules and regulations not inconsistent with the provisions of this Declaration which may from time to time be adopted by the Board and promulgated among the Membership by them in writing, and the Board is hereby and elsewhere in this Declaration authorized to adopt such rules.

Section 7.06. Exemptions. None of the foregoing restrictions set forth in this **Article VII** shall be applicable to the activities of:

(a) Declarant, its officers, employees, agents or assigns, in their development, marketing, leasing and sale of Lots or other parcels within the Property; or

(b) To the Association, its officers, employees and agents, in connection with the proper maintenance, repair, replacement and improvement of the Common Areas and community facilities.

Section 7.07. Declaration of Easements and Rights. The following easements and rights are hereby declared or reserved:

(a) Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area.

(b) Each Lot within the Property is hereby declared to have an easement, not exceeding one foot (1') in width, over all adjoining Lots and Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, roof overhangs, gutters, architectural or other appendages, draining of rainwater from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owner shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

(c) There is hereby reserved unto the Declarant, and to such other party(ies) as the Declarant may specifically, and in writing, assign such rights, for the benefit of the Property, a blanket easement upon, across and under the Property (provided such easement does not encroach upon any building within the Property or unreasonably interfere with the use and enjoyment of the Property), for vehicular and pedestrian ingress and egress, curb cuts, slope,

or grading easements, as well as for the installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water management, gas, cable television, telephones and electricity, and further including the right to connect to and use any such utilities which may exist or be located upon the Property from time to time. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles, pipes, lines and other equipment on the Property, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Property, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise the aforesaid right of ingress and egress over the Property. There is further reserved unto the Declarant the right to erect entry features, promotional and other similar items within the Property provided they do not unreasonably interfere with the use, operation and enjoyment of the Property. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this **subsection (c)**. Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary in order to give effect to the foregoing easements and other rights, which additional easements and other agreements need not be consented to or joined in by any party having an interest in the Property; provided, however, that if requested by the Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements. Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon. Each Lot shall further be subject to a public pedestrian access easement over and upon any sidewalk (or the replacement thereof) constructed on the Lot by the Declarant, which sidewalk is reasonably deemed to be for the use of the community of which the Lot is a part.

(d) An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale of the Property, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of

residences, including, without limitation, a business office, sales office, storage area, construction yards, signs, displays and model units.

(e) Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon. There is further reserved unto the Declarant and its agent(s) a non-exclusive easement over, across and through all of the Common Areas for the purpose of access, the storage of building supplies and materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the development, construction or rehabilitation and repair of the Property.

(f) For a period of ten (10) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of blanket easement created by this **subsection (f)**.

(g) The rights and duties with respect to sanitary sewer and water, storm drains, downspouts, yard drains, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

(i) Whenever water, sanitary sewer and water, storm drains, downspouts, yard drains, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain

said installations.

(ii) The right granted in **Subsection (i)** above shall be only to the extent necessary to entitle the property of the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(iii) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board, who shall decide the dispute, and the decision of the Board shall be final and conclusive as to the parties.

(h) The Association shall have an easement to enter any portion of the Property for the performance of its duties hereunder; provided that except as provided in **Article VIII** hereof, such easement shall not entitle the entry within the interior portion of any dwelling located on the Property, but (by way of illustration only and not in limitation of the rights granted herein) shall permit the entry into fenced, or other similar areas of the Property.

(i) With respect to any step, patio, deck, downspout or yard drain or other similar structure that may benefit any Lot and is constructed by the Declarant and which may encroach upon any portion of the Common Area, there is hereby reserved for the benefit of the Lot for which such step, patio, deck, downspout, drain or other structure serves, a perpetual easement for the location, maintenance, repair and use of such structure or items within the Common Area, but only to the extent that Declarant's original construction thereof encroaches within the Common Area. The Owner of the Lot benefitting from such easement agrees to maintain such structure or item and to indemnify and hold the Association harmless from any loss, liability or damage arising out of or resulting from the use, enjoyment and benefit of the easement granted hereby.

(j) There is hereby created for the benefit of each Lot, which is enclosed, in whole or in part, by any wooden, brick, stone or other similar fence and/or wall constructed by the Declarant, a perpetual easement to use any portion of the Common Area that may be located between such fence and/or wall and the record platted

lot line for such benefitted Lot; provided, however, that subject to the provisions of **Section 5.02(b)** of this Declaration, the obligation to maintain such portion of the Common Area shall be that of the Owner of the benefitted Lot and the obligation to maintain the wooden, brick, stone, or other similar fencing located within the Common Area, which encloses the benefitted Lot, shall be that of the Owner of the benefitted Lot. The Declarant shall deliver to the Association (who shall maintain it among its permanent records) a plat showing all of such areas, which plat shall define the maintenance responsibilities of the benefitted Owners. The Owner of any Lot benefitting from the foregoing easement agrees to indemnify and hold the Association harmless from any loss, liability or damage arising out of our resulting from the use, enjoyment and benefit of the easement rights provided for herein.

(k) A mutual right and easement for utility services is hereby established for the benefit of all Owners, such that no Owner shall take any action which would in any way interfere with utility services being provided to other Owners within the Project. If a Lot contains any utility pipes, ducts, conduits, wires or the like which are for the benefit, in whole or in part, of other Owners within the Project, then the Owner of such Lot shall promptly, at his/her expense, repair any damage to such utilities caused by the Owner, his/her guests or invitees.

(l) The Association, its agents and employees, shall have an irrevocable right and an easement to enter the Lots for the purposes of exercising the rights and fulfilling the obligations established by this Declaration and any Supplementary Declaration recorded hereafter, including, without limitation, the right to maintain and care for Lawn and Garden Areas in accordance with this Declaration.

ARTICLE VIII

MAINTENANCE

Section 8.01. Owners' Rights and Responsibilities. Except as otherwise specifically provided in this Declaration, each Owner shall keep each Lot owned by him/her, and all improvements therein or thereon, in good order and repair and free of debris in a manner and with such frequency as is consistent with good property management and the Community-Wide Standard. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon, the Board or its agent shall have the right to enter upon said Lot to correct damage and to repair,

maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. Whenever entry is not required in an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry. All costs related to such correction, repair or restoration shall be collectible from the Owner of such Lot in the same manner as assessments as provided in **Article V** herein.

Section 8.02. Association Maintenance. The Association shall maintain and keep in good order the Common Areas, such maintenance to be funded as hereinbefore provided. In addition, the Association shall maintain and keep in good repair rights-of-way and entry strips, whether owned as part of a Lot or dedicated for public use, so long as the rights-of-way or entry strips are within or appurtenant to the Project. This obligation shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures and improvements situated upon such areas.

The Association shall maintain and keep in good order the Lawn and Garden Areas, such maintenance to be funded as hereinbefore provided. Without limiting the generality of the foregoing, the Association shall be responsible for mowing, fertilizing, trimming and otherwise caring for the lawns, as well as planting, pruning, fertilizing and otherwise maintaining trees, shrubs and other plant materials which are located within the Lawn and Garden Areas. All such maintenance and care of the Lawn and Garden Areas shall be in conformity with the Community-Wide Standard.

Any Owner may request that the Association refrain from performing all or a part of the Lawn and Garden Area maintenance described above. Such a request must be made to the Association at least thirty (30) days prior to the date the Owner desires the Association to refrain from such maintenance. The Association shall not unreasonably withhold approval of such request, provided the Owner has demonstrated to the satisfaction of the Association his or her intentions to maintain the Lawn and Garden Area, the Association shall determine the amount of savings to be realized by the Association (if any) as a result of the reduced expenses (if any) to be incurred by the Association due to such Owner's election to maintain his/her Lawn and Garden Areas and shall reimburse such Owner the amount of such savings (less reasonable administrative expenses) on a quarterly basis, in arrears, provided the Association is satisfied with the maintenance actually performed by the Owner.

The Association may, in the discretion of the Board, assume additional maintenance responsibilities upon all or any portion of the Property. In such event, all costs of such maintenance shall be assessed only against those Owners residing within the portion of the Property receiving the additional services. This assumption of responsibility may take place either by contract or because, in the opinion of the Board, the level of quality of service then being provided is not consistent with the Community-Wide Standard of the Project. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association shall also have the right to enter any Lot, including the dwelling unit located on such Lot, without the consent of the Owner and/or occupant thereof, to conduct any emergency repairs as are necessary for the maintenance and protection of the Common Areas and the Lawn and Garden Areas. The costs of such repairs shall be collectible from the Owner of such Lot in the same manner as assessments as provided in **Article V** herein.

ARTICLE IX

INSURANCE

Section 9.01. Individual Coverage. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association that each individual Owner shall carry blanket all risk casualty insurance on the dwelling and all structures located upon the Lot. At a minimum, such coverage shall provide coverage against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any insured hazard. The Board or its duly authorized agent, shall have the authority to obtain insurance for all or any of the dwellings located on the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board's satisfaction. Each Owner further covenants and agrees that in the event of a partial loss or damage destruction resulting in less than total destruction to the dwelling and other structures constructed on the Lot, the Owner shall proceed promptly to repair or to reconstruct the dwelling and other damages structures in a manner consistent with the original construction. In the event that a detached dwelling located upon a Type I Lot is totally destroyed and the Owner determines not to rebuild or to reconstruct, the Owner shall clear the Type I Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of

construction of the dwelling on such Lot. Each Owner of a Type II Lot or Type III Lot covenants and agrees that in the event that such dwelling is totally destroyed, the Owner shall proceed promptly to repair or to reconstruct the dwelling in a manner consistent with the original construction, unless approval to do otherwise is obtained from the Board/Covenant Committee. The Board may impose more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lot and the standard for returning the Lot to its natural state in the event the Owner decides not to rebuild or reconstruct.

Section 9.02. Required Coverage. The Board or its duly authorized agent, shall be required to obtain, maintain and pay the premiums, as a Common Expense, upon a policy of property insurance covering all the Common Areas (except land, foundation, excavation and other items normally excluded from coverage) including fixtures and building service equipment, to the extent that they are a part of the Common Areas of the Association, as well as common personal property and supplies.

The insurance policy shall afford, as a minimum, protection against loss or damage by fire and other perils normally covered by the standard extended coverage endorsement, as well as all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "All Risk" endorsement, where such is available. The policy shall be in an amount equal to one hundred percent (100%) of the current replacement cost of the Common Areas (less a deductible deemed reasonable by the Board) and shall name the Association as the named insured.

Each hazard insurance policy must be written by a hazard insurance carrier which has a current rating by Best's Insurance Reports of B/VI or better (or its equivalent). Hazard insurance policies are also acceptable from any insurance carrier which has a financial rating by Best's Insurance Reports of Class V, provided it has a general policyholder's rating of at least "A". Each insurer must be specifically licensed or authorized by law to transact business within the State of Maryland. The policy contract shall provide that no assessment may be made against the mortgagees, and that any assessment made against others may not become a lien on the mortgaged premises superior to the first mortgage.

If any portion of the Common Areas are in a special flood hazard area, as defined by the Federal Emergency Management Agency, the Board or its duly authorized agent, shall be required to

obtain, maintain and pay, as a common expense, the premiums upon a "master" or "blanket" policy of flood insurance on Common Area buildings and any other Common Area property. The policy shall be in an amount deemed appropriate, but not less than the maximum coverage available under the NFIP for all buildings and other insurable property within any portion of the Common Areas located within a designated flood hazard area or one hundred percent (100%) of current replacement cost of all such buildings and other insurable property.

The Association shall maintain comprehensive general liability insurance coverage covering all of the Common Areas, public ways of the project, and other areas that are under its supervision (including, but not limited to, commercial spaces, if any, owned by the Association, whether or not they are leased to third parties). Coverage limits shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. Coverage under this policy shall include, without limitation, legal liability of the insured for property damage, bodily injuries and Common Areas, and legal liability arising out of lawsuits related to employment contracts in which the Association is a party. Such insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Such policies must provide that they may not be canceled or substantially modified, by any party, without at least ten (10) days' prior written notice to the Association.

Blanket fidelity bonds shall be required to be maintained by the Association for all officers, directors, managers, trustees, employees and volunteers of the Association and all other persons handling or responsible for funds held or administered by the Association, whether or not they receive compensation for their services. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, such management agent shall be covered by its own fidelity bond. All fidelity bonds, including those entered into by, and/or on behalf of or for the benefit of a management agent and its personnel, should name the Association as an obligee (for bonds entered into or on behalf of, or for the benefit of a management agent and its personnel, the Association should be named as an additional obligee). Fidelity bonds entered into by the Association shall have their premiums paid as a Common Expense of the Association. The total amount of fidelity coverage required shall be sufficient to cover the maximum funds that will be in the custody of the Association or management agent at any time.

Section 9.03. Repair and Reconstruction of Common Areas After Fire or Other Casualty. Except as hereinafter provided (and inconsistent herewith), in the event of damage to or destruction of any portion of the Common Areas covered by insurance payable to the Association as a result of fire or other casualty, the Board shall arrange for the prompt repair and restoration thereof, and the Board or the Insurance Trustee (as hereinafter defined), as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration, as provided below.

The Insurance Trustee may rely upon a certificate of the Board which certifies whether or not the damaged Property is to be reconstructed or repaired. The Board, upon request of the Insurance Trustee, shall deliver such certificate as soon as practicable.

Immediately after a casualty causing damage to the Common Areas for which the Association has the responsibility of maintenance, repair, and/or replacement, the Board shall obtain reliable and detailed estimates of the cost to place the damaged portions of the Common Areas in as good a condition as existed before the casualty. Such costs may include professional fees and premiums for such bonds as the Board desires.

In the event of reconstruction or repair (as estimated by the Board) which shall exceed Twenty Five Thousand Dollars (\$25,000.00), all proceeds of insurance shall be paid over to a trust company or bank having trust powers and authorized to engage in the trust business in the State of Maryland (hereinafter the "Insurance Trustee"), selected by the Board and shall be paid out from time to time as the reconstruction and repair progresses in accordance with the provisions of an Insurance Trust Agreement and which contains, *inter alia*, the following provisions:

(a) the reconstruction or repair shall be in the charge of an architect or engineer, who may be an employee of the Association, and hereinafter called the "Architect";

(b) any restoration or repair of the project shall be performed substantially in accordance with the Declaration and the original plans and specifications;

(c) each request for an advance of the proceeds of insurance shall be made to the Insurance Trustee and shall be accompanied by a certificate from the Architect and Board to the effect that (i) all work then completed has been performed in

accordance with the plans and specifications; and (ii) the amount requested to be advanced is required to reimburse the Board for payments previously made by the Board or is due to the contractor responsible for the restoration or repair, or to subcontractors, materialmen, laborers, engineers, and architects or to other persons responsible for services or materials in connection with such restoration or repair, or for fees or the like necessarily incurred in connection with the same; and (iii) when added to amounts previously advanced by the Insurance Trustee, the amount requested to be advanced does not unreasonably exceed the value of the work done and materials delivered to the date of such request;

(d) each request for an advance of the proceeds of insurance shall be accompanied by satisfactory waivers of liens covering that portion of the repair or reconstruction for which payment or reimbursement is being requested, together with appropriate evidence from a title insurance company or the like to the effect that there has not been filed with respect to the Common Areas, or any part thereof, any mechanics' or other lien, or notice of intention to file the same, which has not been dismissed, bonded, or satisfied or record;

(e) the fees and expenses of the Insurance Trustee, as agreed upon by the Board and the Insurance Trustee, shall be paid by the association as a Common Expense, and such fees and expenses may be deducted from any insurance proceeds in the hands of the Insurance Trustee, *pro rata*, as the reconstruction or repair progresses; and

(f) such other provisions no inconsistent with the provisions hereof as the Board or the Insurance Trustee may reasonably require.

Upon completion of the reconstruction or repair and payment in full of all amounts due on account thereof, any proceeds of insurance then in the hands of the Insurance Trustee shall be paid to the Board if such funds relate to Common Areas, or (ii) to the Owner of any Lot to which any such proceeds may relate.

ARTICLE X

PARTY WALLS, PARTY FENCES AND PARTY DRIVEWAYS

The rights and duties of the Owners of Lots with respect to party walls, fences and driveways shall be governed by the following:

Section 10.01. General Rules of Law to Apply. Each wall, fence or driveway which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party wall, party fence or party driveway, as applicable, and with respect to such wall, fence or driveway, each of the adjoining Owners shall assume the burdens, and be subject to an easement for that portion of the wall, fence or driveway on his or her Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls, fences and driveways and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

Section 10.02. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall, fence or driveway is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his/her agents, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as formerly, in proportion to their respective use of the party wall, fence or driveway.

Section 10.03. Repairs of Damage Caused by One Owner. If any such party wall, fence or driveway is damaged or destroyed through the act of one adjoining Owner or any of his/her agents or guests or members of his/her family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, fence or driveway, then the Owner responsible for such damage shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

Section 10.04. Weatherproofing. Notwithstanding any other provision of this Article, any Owner who by his/her negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 10.05. Encroachments. If any portion of a party wall, fence or driveway shall encroach upon any adjoining Lot, or upon the Common Area by reason of reconstruction, settlement or shifting of any building, or otherwise, a valid easement for the encroachment and for the maintenance of the same as long as the building stands shall exist.

Section 10.06. Other Changes. In addition to meeting the other requirements of these restrictive covenants, and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his/her dwelling in any manner which requires the extension or other alteration of any party wall, fence or driveway, shall first obtain the written consent of the adjoining Owner.

Section 10.07. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 10.08. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall, fence or driveway or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board who shall decide the dispute, and the decision of such Board shall be final and conclusive upon the parties.

ARTICLE XI

MANAGEMENT

Section 11.01. Management Agent. The Board may employ for the Association a professional management agent or manager (the "Management Agent") at a rate of compensation established by the Board to perform such duties and services as the Board shall from time to time authorize in writing, including the following:

(a) to establish (with the approval of the Board) and provide for the collection of the annual maintenance assessments and any other assessments provided for in this Declaration and to provide for the enforcement of liens therefor in a manner consistent with the law and the provisions of this Declaration;

(b) to provide for the care, upkeep, maintenance and surveillance of the Common Area and community facilities;

(c) to designate, hire and dismiss such personnel as may be required for the good working order, maintenance and efficient operation of the Common Area and community facilities;

(d) to promulgate (with the approval of the Board) and enforce such rules and regulations and such restrictions or requirements, "house rules" or the like as may be deemed proper

respecting the use of the Common Area and community facilities; and

(e) to provide such other services (including legal and accounting services) for the Association as may be consistent with law and the provisions of this Declaration.

Section 11.02. Duration of Management Agreement. Any Management Agreement entered into by the Association shall provide, *inter alia*, that such Agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such Management Agreement shall not exceed one (1) year; provided, however, that the term of any such Management Agreement may be renewable by mutual agreement of the parties for successive one (1) year periods.

Any Management Agreement entered into by the Declarant, its nominee or nominees, assigns, successor(s) or agent thereof, prior to transfer of control of the Association must be terminable, without cause, any time after transfer of control, on not less than thirty (30) nor more than ninety (90) days' notice, and no charge or penalty may be associated with such termination.

ARTICLE XII

GENERAL PROVISIONS

Section 12.01. Common Area Responsibility. The Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including, without limitation, furnishings and equipment related thereto, roads, private drainage facilities and common landscaped areas), and shall keep the Common Areas in good, clean, attractive, and sanitary condition, order and repair, pursuant to the terms and conditions hereof.

Section 12.02. Personal Property and Real Property for Common Use. The Association may acquire, hold and dispose of tangible and intangible personal property and real property, subject to the requirements of this Declaration. The Board, acting on behalf of the Association, will accept any real or personal property, leasehold, or other property interests within the Property conveyed to it by the Declarant.

Section 12.03. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege

reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 12.04. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the Common Expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Areas or community facilities, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any Member for loss or damage, by theft of otherwise, of articles which may be stored upon the Common Areas or community facilities. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or community facilities, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

Section 12.05. Enforcement. The Association, or any Owner, or any Mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles, or Bylaws of the Association or any Architectural Design Guideline, rule or regulation promulgated by the Association pursuant to its authority as provided in the Declaration, Articles or Bylaws. Failure by the Association or by any Owner or by any Mortgagee of any Lot to enforce any covenant or restrictions herein contained or any provision of the Bylaws, Articles or Architectural Design Guidelines, rules and regulations of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provision of the Bylaws or Articles, of the Association cannot be adequately remedied by action at law or exclusively by recovery of damages. If the Association, or any Owner or Mortgagee of any Lot, successfully brings an action to extinguish a violation or otherwise enforce the provisions of this Declaration or the Articles or Bylaws of the Association, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner committing or responsible for such violation, and such costs shall also be a lien upon the Lot of such Owner, provided that the requirements of the

Lien Act are substantially fulfilled.

Without limiting the generality of the foregoing, and in addition to any other remedies available, the Association after reasonable notice, in writing, provided to the Owner, may enter any Lot to remedy any violation of the provisions of this Declaration, the Bylaws, Articles or Architectural Design Guidelines, rules and regulations of the Association provided, however, that the Association may not enter the interior of any dwelling unit except in an emergency. The costs of such action shall become a binding, personal obligation of the Owner otherwise responsible for such violation and shall also be a lien upon the Lot of such Owner.

Section 12.06. Fines. In addition to the means for enforcement provided elsewhere herein, the Association shall have the right to levy fines against an Owner or his guests, relatives, lessees or invitees, in the manner set forth herein, and such fines shall be collectible as any other assessment such that the Association shall have a lien against the Lot of such Owner as provided in this Declaration, the Bylaws and the Articles and such fine(s) shall also become the binding personal obligations of such Owner.

(a) The Board shall be charged with determining where there is probable cause that any of the provisions of this Declaration, the Bylaws, Articles or the Architectural Design Guidelines or the rules and regulations of the Association, regarding the use of the dwelling units, Lots, Common Area or other Association property, are being or have been violated. In the event that the Board or the Covenant Committee determines an instance of such probable cause it shall cause the Board to provide written notice to the person alleged to be in violation, and the Owner of the Lot which that person occupies or is visiting if such person is not the Owner, of the specific nature of the alleged violation and of the opportunity for a hearing before the Board upon a request made within five (5) days of the sending of the notice. The notice shall also specify, and it is hereby provided, that each recurrence of the alleged violation or each day during which it continues shall be deemed a separate offense, subject to a separate fine not to exceed for each offense an amount determined by the Board and set forth in the rules and regulations of the Association. The notice shall also specify, and it is hereby provided, that in lieu of requesting a hearing, the alleged violator or Owner may respond to the notice within five (5) days of its sending, acknowledging in writing that the violation occurred as alleged and promising that it will henceforth cease and will not recur, and that such acknowledgment and promise, and performance in accordance therewith, shall terminate for the enforcement activity of the

Association with regard to such violation.

(b) If a hearing is timely requested, the Board shall hold the same, and shall hear any and all defenses to the charges, including any witnesses that the alleged violator, Owner or the Board or Covenant Committee may produce. Any party at the hearing may be represented by counsel.

(c) Subsequent to any hearing, or if no hearing is timely requested and if no acknowledgment and promise is timely made, the Board shall determine whether there is sufficient evidence of a violation or violations as provided herein. If the Board determines that there is sufficient evidence, it may levy a fine for each violation in the amount provided herein.

(d) A fine pursuant to this **Section 12.06** shall be assessed against the Lot which the violator occupied or was visiting at the time of the violation, whether or not the violator is an Owner of that Lot, and shall be collectible in the same manner as any other assessment, including by the Association's lien rights as provided in this Declaration and the Bylaws. Nothing herein shall be construed to interfere with any right that an Owner may have to obtain from a violator occupying or visiting his Lot payment of the amount of any fine(s) assessed against that Lot.

(e) Nothing herein shall be construed as a prohibition of a limitation on the right of the Association to pursue any other means of enforcement of the provisions of this Declaration, the Bylaws, Articles or rules and regulations, including, but not limited to, legal action for damages or injunctive relief.

Section 12.07. Severability. Invalidation of any one of these covenants or restrictions of judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 12.08. Duration and Amendment. Except where permanent easements or other permanent rights or interest are herein created, the covenants and restrictions of the Declaration shall run with and bind the land 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. This Declaration may be amended by an instrument signed by the Owners of not less than sixty-six and two-thirds percent (66 2/3%) of the Lots. Any amendment must be recorded.

Section 12.09. Annexation. The Declarant shall have the right,

for a period of ten (10) years following the date of recordation of this Declaration, without the consent of the Members of the Association, to annex and bring within the scheme of this Declaration additional land in future stages of the Development, provided that so long as a Lot is encumbered by a deed of trust or mortgage which is guaranteed or insured by VA or FHA, then VA or FHA, as applicable, shall approve any annexations not in accord with the Development Plan (and amendments thereto) as approved by them. The additions authorized shall be made by filing of record Supplementary Declarations of Covenants with respect to the additional land which shall extend the scheme of the covenants and restrictions of this Declaration to such land and thereby subject such land to the effect and operation of this Declaration. Said Supplementary Declarations may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added Lots and as are not inconsistent with the scheme of this Declaration. Except as otherwise hereinafter provided, annexations to the Property shall require the consent of sixty-six and two-thirds percent (66 2/3%) of the Class A Members.

Section 12.10. FHA-VA Approvals. Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is insured by FHA or guaranteed by VA, and further provided that there are Class B Memberships of the Association outstanding, neither the Members, the Board, nor the Association shall by act or omission, take any of the following actions without the prior written consent or approval of the FHA and the VA, as circumstances may require:

(a) change the basic organization of the Association including the merger, consolidation, or dissolution of the Association;

(b) dedicate, convey, or mortgage the Common Area;

(c) annex additional properties (other than an annexation by the Declarant as provided in **Section 12.09**); or

(d) otherwise materially modify or amend any provision of this Declaration, the Bylaws or the Articles of the Association.

Section 12.11. Consents. Any other provision of this Declaration or by Bylaws or Articles of the Association to the contrary notwithstanding, neither the Members, the Board nor the Association shall, by act or omission, take any of the following

actions without obtaining the approval of such action by an instrument signed by the Owners of not less than sixty-six and two-thirds percent (66 2/3%) of the Lots:

(a) abandon, partition, alienate, release, hypothecate, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities directly or indirectly owned by the Association; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by Members of the Association shall not be considered a transfer within the meaning of this Section;

(b) abandon or terminate this Declaration;

(c) conversion of Lots into Common Areas, except as otherwise expressly provided herein;

(d) modify or amend any material provisions of this Declaration, which establish, provide for, govern or regulate any of the following:

(i) voting rights;

(ii) assessments, assessment liens or subordination of such liens;

(iii) reserves for maintenance, repair and replacement of the Common Areas;

(iv) insurance or fidelity bonds;

(v) rights to use the Common Areas by any Owner, except in accordance with **Section 3.01(b)**;

(vi) responsibility for maintenance and repairs;

(vii) subject to compliance with all applicable laws and regulations in effect from time to time in Garrett County, expansion or contraction of the property subject to this Declaration or the addition, annexation or withdrawal of property to or from this Declaration, except in accordance with **Section 12.09**;

(viii) boundaries of any Lot;

(ix) imposition of any restrictions on the rights of an Owner to sell or transfer his or her Lot; or

(x) restoration or repair of the Project (after a hazard damage or partial condemnation) in a manner other than that specified in the documents.

An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors, or for clarification only.

(e) substantially modify the method of determining and collecting assessments against an Owner or his/her Lot as provided in this Declaration;

(f) waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or exterior appearance of buildings or structures on the Lots, the exterior maintenance of buildings or structures on the Lots, the maintenance of the Common Areas, party walkways or common fences and driveways, or the upkeep of lawns and plantings within the Property;

(g) fail to maintain insurance in accordance with **Section 9.02** of this Declaration; and sixty-six and two thirds percent (66 2/3%) of the Owners have given their prior written approval; or

(h) use hazard insurance proceeds for losses to any Association Common Area for other than the repair, replacement or reconstruction of such Common Area or property.

Section 12.12. Additional Rights of Mortgagees - Notice. The Association shall promptly notify all Eligible Mortgage Holders who hold first mortgages on any Lot for which an assessment levied pursuant to the declaration, or any installment thereof, becomes delinquent for a period in excess of sixty (60) days and the Association shall promptly notify any Eligible Mortgage Holder who holds a first mortgage on any Lot with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any Eligible Mortgage Holder on any Lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose

the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the first mortgage on the Lot which is the subject matter of such suit or proceeding.

Any first mortgagee of any Lot may pay any taxes, utility charges or other charge levied against the Common Areas and community facilities which are in default and which may or have become a charge or lien against any of the Common Areas and community facilities and any such first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the Common Areas and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 12.13. Casualty Losses. In the event of substantial damage or destruction to any of the Common Areas or community facilities, the Board shall give prompt written notice of such damage or destruction to the Eligible Mortgage Holders who hold first mortgages of record on the Lots. No provision of this Declaration or the Articles or the Bylaws of the Association shall entitle any Member to any priority over the holder of any first mortgage of record on his/her Lot with respect to the distribution to such member of any insurance proceeds paid or payable on account of any damage or destruction of any of the Common Areas or community facilities.

Section 12.14. Changes Required by Lenders. Notwithstanding any provision to the contrary contained in the Articles or Bylaws of the Association or this Declaration, the Declarant shall have and hereby reserves the right to make modifications, additions or deletions to the Declaration, the Articles and the Bylaws of the Association if such modifications, additions or deletions are required by VA, FHA, Freddie Mac, Fannie Mae or Ginnie Mae. The Declarant further reserves the right to waive in writing any exemption, right or privilege granted or reserved to the Declarant by this Declaration or the Articles or the Bylaws of the Association.

Section 12.15. Taxes and Assessments. It is the intent of this Declaration that insomuch as the interests of each Owner to use and enjoy the Common Area is an interest in real property appurtenant to each Lot, the value of the interest of each Owner in such Common Area shall be included in the assessment for each such Lot and as a result, any assessment directly against such Common Area should be of a nominal nature reflecting that the full value of the same

should be included in the several assessments of the various Lots.

Section 12.16. Successors of Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by an instrument, in writing, without notice to the Association.

Section 12.17. No Dedication to Public Use. Nothing herein contained shall be construed as a dedication to public use or as an acceptance for maintenance of any Common Areas or community facility and any public or municipal agency, authority, or utility and no public municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Common Areas or community facilities.

Section 12.18. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 12.19. Declarant Reserved Rights. No amendment to this Declaration may remove, revoke, or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant or any successors or assignees (pursuant to **Section 12.16**) of the Declarant.

Section 12.20. Captions. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration.

IN WITNESS WHEREOF, the undersigned, bring the DECLARANT herein, has executed this instrument this _____ day of _____, 2006.

ATTEST:

RIDGEVIEW VALLEY, LLC

By: _____ (SEAL)
PETER L. VERSTEEGEN, Managing Member