

**AMENDED DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS**

**FOR**

**CORNERSTONE HILL COMMUNITY ASSOCIATION, INC.**

IMP FD SHARE \$	20.00
RECORDING FEE	75.00
TOTAL	95.00
Recd ALB1	Recd # 62374
DL NKS	DL # 1025
Jul 20, 2003	03:17 pm

JGenny

**TABLE OF CONTENTS**

ARTICLE I: PREAMBLE ..... 1

ARTICLE II: PROPERTY SUBJECT TO GOVERNING DOCUMENTS ..... 2

Section 2.1 Property Subject to the Governing Documents ..... 2

Section 2.2 Annexations ..... 2

Section 2.3 Community Property ..... 3

Section 2.4 Exclusive Community Property ..... 3

ARTICLE III: PROPERTY RIGHTS ..... 3

Section 3.1 Owner’s Easements of Enjoyment ..... 3

Section 3.2 Limitations ..... 5

Section 3.3 Restrictions ..... 5

ARTICLE IV: THE ASSOCIATION AND ITS MEMBERS ..... 5

Section 4.1 Purpose and Role of the Association ..... 5

Section 4.2 Membership in the Association ..... 5

Section 4.3 Voting Rights ..... 6

ARTICLE V: COVENANT FOR ASSESSMENTS ..... 7

Section 5.1 Creation of Lien and Personal Obligation for Assessments ..... 7

Section 5.2 Purpose of Assessments ..... 7

Section 5.3 Adoption of Common Expense Budget ..... 8

Section 5.4 Special Assessments ..... 9

Section 5.5 Commencement and Applicability of Assessments ..... 9

Section 5.6 Declaration Exemption from Assessments ..... 10

Section 5.7 Community Property Exempt ..... 10

Section 5.8 Initial Contribution and Working Capital Contributions ..... 10

Section 5.9 Reserves ..... 10

Section 5.10 Assessment Due Dates ..... 10

ARTICLE VI: REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF ASSESSMENTS 10

Section 6.1 Non-Payment of Assessments ..... 10

Section 6.2 Assessment Certificate ..... 11

Section 6.3 Acceleration of Installments ..... 11

Section 6.4 Priority of Lien ..... 11

Section 6.5 Application of Past Due Assessments ..... 11

ARTICLE VII: DESIGN REVIEW AND ARCHITECTURAL CONTROL ..... 12

Section 7.1 Architectural Approval ..... 12

Section 7.2 Changes and Modifications to Living Units ..... 12

Section 7.3 Design Review Committee ..... 12

Section 7.4 Application Review ..... 13

Section 7.5 Declarant’s Veto Rights ..... 14

Section 7.6 Application Fees and Reimbursements ..... 14

Section 7.7 Design Guidelines and Procedures ..... 14

Section 7.8 Completion of Improvements ..... 15

Section 7.9 Non-Precedential Nature of Approvals ..... 15

Section 7.10 Waivers and Variances ..... 15

Section 7.11 Limited Scope of Approval ..... 16

Section 7.12 Enforcement ..... 16

Section 7.13 Certificate of Compliance ..... 17

Section 7.14 Appeal ..... 17

ARTICLE VIII: [RESERVED] ..... 17

ARTICLE IX: [RESERVED] ..... 17

ARTICLE X: COMMUNITY CODES ..... 18

Section 10.1 Objectives and Goals ..... 18

Section 10.2 Promulgation of Community Codes ..... 18

Section 10.3 Owner’s Acknowledgement and Notice to Purchaser ..... 19

Section 10.4 Community Code Limitations ..... 19

Section 10.5 Initial Community Codes ..... 20

ARTICLE XI: EASEMENTS ..... 22

Section 11.1 Declaration of Easements and Rights ..... 22

Section 11.2 Association Easements ..... 26

ARTICLE XII: MAINTENANCE OF LIVING UNITS AND COMMUNITY AREAS .... 26

Section 12.1 Living Unit Maintenance ..... 26

Section 12.2 Association Maintenance ..... 26

ARTICLE XIII: MORTGAGEE NOTICES, CONSENTS AND APPROVALS ..... 27

Section 13.1 Rights of Eligible Mortgagees ..... 27

section 13.2 No Priority ..... 28

Section 13.3 Notice to Association ..... 28

Section 13.4 Failure of Mortgagee to Respond ..... 28

ARTICLE XIV: AMENDMENT OF GOVERNING DOCUMENTS ..... 28

Section 14.1 Declaration ..... 28

Section 14.2 Changes and Modifications by the Declarant ..... 28

Section 14.3 Declarant’s Power of Attorney ..... 28

Section 14.4	<u>Validity and Effective Date of Amendments to the Declaration</u> .....	29
ARTICLE XV:	<u>[RESERVED]</u> .....	29
ARTICLE XVI:	<u>GENERAL PROVISIONS</u> .....	30
Section 16.1	<u>Security and Safety: Limitation of Liability</u> .....	30
Section 16.2	<u>Enforcement</u> .....	30
Section 16.3	<u>Severability</u> .....	31
Section 16.4	<u>Successors of the Declarant</u> .....	31
Section 16.5	<u>Arbitration</u> .....	31
Section 16.6	<u>Taxes and Assessments</u> .....	32
Section 16.7	<u>Conservation Easements and Other Restrictions</u> .....	32
Section 16.8	<u>No Dedication to Public Use</u> .....	32
Section 16.9	<u>Incorporation by Reference on Resale</u> .....	32
Section 16.10	<u>Reserved Rights of Declarant</u> .....	32
Section 16.11	<u>Non-Association Disputes</u> .....	32
Section 16.12	<u>Limitation on Opposition to Development</u> .....	32
Section 16.13	<u>Conveyance of Community Property by the Declarant</u> .....	33
Section 16.14	<u>Captions and Gender</u> .....	33
Section 16.15	<u>Perpetuities</u> .....	33
Section 16.16	<u>Conflicts</u> .....	33

**APPENDICES**

Appendix One	Definitions of Significant Terms Used in the Governing Documents
Appendix Two	Declarant's Reserved Rights and Obligations

**EXHIBITS**

Exhibit A	Description of Property Subject to this Declaration
-----------	---

Exhibit B

Bylaws of Cornerstone Hill Community Association, Inc.

**CORNERSTONE HILL COMMUNITY ASSOCIATION, INC.****AMENDED DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS**

**THIS AMENDED DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS** (the "**Declaration**") is made on the date set forth on the signature below by **CUMBERLAND HOUSING ALLIANCE, INC.**, a Maryland corporation (the "**Declarant**").

On January 8, 2007, Cornerstone Enterprises, LLC caused the Cornerstone Hill Homeowners Association Declaration to be recorded among the Homeowners Association Declaration Depository in the office of the Clerk of the Circuit Court for Allegany County, Maryland. Pursuant to Article X, Section 2 of the Declaration, upon the approval of ninety percent (90%) of the owners of Lots, the Declaration may be amended.

The Cumberland Housing Alliance, Inc. has succeeded to the ownership interests of Cornerstone Enterprises, LLC and currently is the owner of one hundred percent (100%) of the Lots and desires to amend the Declaration by repealing it in its entirety and recording this Amended Declaration.

NOW, THEREFORE, the Declarant hereby affirms, adopts and subscribes to the purposes and provisions of this Amended Declaration (hereinafter "**Declaration**") and declares that the covenants, conditions, easements, restrictions and Community Codes which are promulgated or adopted in accordance with, or which become a part of, the Governing Documents shall be binding upon and applicable to all real property subjected to this Declaration and all real property which may be subjected to this Declaration by one or more Declarations of Annexation as provided herein. The Declarant intends, by the recordation of this Declaration, to create a general plan and scheme of development for a community known as "Cornerstone Hill" located in the City of Cumberland, Allegany County, Maryland. This Declaration provides a framework for an orderly and reasonable development and operation of the Association. The Governing Documents for the Association provide various rights and privileges to the Declarant to permit the Declarant to achieve its development goals in a reasonable manner, including implementation of the Community Plan. This Declaration also confers powers and authority to Cornerstone Hill Community Association, Inc., a Maryland non-stock corporation comprised of all Owners within the Association, to permit the reasonable administration and operation of the Association and to permit the Association to maintain and preserve the Community Areas.

**ARTICLE I****PREAMBLE**

WHEREAS, the Declarant is or may become the owner of the property described on Exhibit A attached hereto and made a part of this Declaration; and

WHEREAS, the Declarant desires to adopt and implement a common scheme of development for the Community; and

WHEREAS, the Declarant believes that for the Community to offer unique opportunities to its Owners, its Owners must necessarily make special efforts to contribute to the well being of the Community; and

WHEREAS, to accomplish these objectives, the Declarant believes that it is in the best interests of the Community for the Declarant to maintain a significant and influential role in the implementation of the Community Plan and the Declarant has, therefore, retained numerous rights and will exercise significant control and influence over the Community until the development process has been completed.

NOW, THEREFORE, in consideration of the foregoing, the provisions of which are a substantive part of this Declaration, and other good and valuable consideration, the Declarant hereby declares that the real property described in Exhibit A, and any other real property annexed within the jurisdiction of the Association in accordance with Article 2 and Appendix Two hereof, shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, easements and restrictions set forth in the Governing Documents, as modified and amended from time to time, all of which shall run with the real property subject to the Governing Documents and which shall be binding on all parties having any right, title or interest in all or any portion of the Community, their respective heirs, personal representatives, successors, transferees and assigns, as well as occupants, guests and invitees, and shall inure to the benefit of each Owner thereof.

## ARTICLE II

### PROPERTY SUBJECT TO GOVERNING DOCUMENTS

Section 2.1 *Property Subject to the Governing Documents.* The real property which shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the Governing Documents, including all of the provisions set forth in this Declaration, is described on Exhibit A. This Declaration, each Declaration of Annexation, the Bylaws, the Articles of Incorporation and the Community Codes together establish a general plan of development for the Association and this general plan of development may be modified or amended from time to time by supplemental or additional covenants, conditions, easements, restrictions, rules, guidelines or Community Codes applicable to all or portions of the Property. Such supplemental and additional covenants, conditions, easements, restrictions, rules, guidelines, or Community Codes may be more or less restrictive than the provisions of this Declaration.

#### Section 2.2 *Annexations.*

(a) The Association shall also have the right to annex any real property to this Declaration. Annexations by the Association shall require the consent of the Owner of the property to be annexed, the consent of a majority of the Members of the Association, and the consent of the Declarant, if the Declarant owns any portion of the Property or the property to be annexed at the time of such annexation by the Association.



(b) Any annexations made pursuant to this Article, or otherwise, shall be made by recording a Declaration of Annexation among the Land Records, which Declaration of Annexation shall extend the scheme of this Declaration to such annexed property. Any Declaration of Annexation 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 this Declaration as may be considered necessary or desirable by the maker of the Declaration of Annexation to reflect the different character, use or nature, if any, of the annexed property. Without limiting the generality of the foregoing, the Declaration of Annexation may contain provisions which are more and/or less restrictive than those set forth in this Declaration and may limit or modify the rights and obligations of the Association with respect to the property described in the Declaration of Annexation.

Section 2.3 ***Community Property.*** All Community Property and completed facilities must be annexed within the Association by the Declarant in accordance with the terms and conditions of the approved Regulatory Plans, as such plans may be amended from time to time, and must otherwise be in accordance with the terms of any regulatory plan enforcement agreement, including a phasing schedule, as may be amended. The Declarant reserves the right to seek an amendment to the Regulatory Plans for the purpose of modifying the location or amount of real property comprising the Community Property and for the purpose of modifying the improvements to be constructed on the Community Property. The Community Property will be available for the type of active and passive recreational and open space uses contemplated in the Regulatory Plans. Facilities include, as may be applicable, all recreational facilities, stormwater management facilities, private roads and other required features that are to be constructed on Community Property pursuant to the Regulatory Plans. Facilities are to be constructed in a good, workmanlike manner.

Section 2.4 ***Exclusive Community Property.*** Exclusive Community Property refers to any portions of the Community Property designated as such by the Declarant or the Board of Directors in accordance with this Section 2.4 which are intended for the exclusive use or primary benefit of one or more, but less than all, Living Units.

(a) The Declarant may designate any portions of the Community Property as Exclusive Community Property pursuant to (i) a Declaration of Annexation, (ii) a deed of conveyance to the Association, or (iii) a duly adopted Community Code.

(b) The Board of Directors may designate any portions of the Community Property as Exclusive Community Property pursuant to a duly adopted Community Code.

### ARTICLE III

#### PROPERTY RIGHTS

Section 3.1 ***Owner's Easements of Enjoyment.*** Every Owner shall have a non-exclusive right and easement of use, access and enjoyment in and to the Community Property, including an easement for the use and enjoyment of the private streets, roadways, parking areas, trails and walkways within the Community Property. Each Owner's right to use and enjoy the Community Property shall extend to members of the Owner's family, lessees and invitees,

subject to applicable Community Codes. Any Owner who leases his/her Living Unit shall be deemed to have assigned his/her right to utilize the Community Property to the lessee of the Living Unit. Such Easement of use, access and enjoyment shall be appurtenant to and shall pass with the title to every Living Unit, subject to:

(a) The rights and obligations set forth in the Governing Documents, as amended from time to time, and any other covenants and easements relating to the Community Property;

(b) Any covenants, conditions, easements, restrictions or reserved rights contained in any deed conveying Community Property to the Association;

(c) The right of the Association to charge reasonable admission, user or other fees for the use of the Community Property or any facilities situated upon the Community Property;

(d) The right of the Association to suspend an Owner's right to use the Community Property and/or any facilities situated thereon for (i) any period during which any assessment against such Owner's Living Unit remains delinquent, and (ii) for any period as may be determined by the Board for each infraction of the Governing Documents, provided that the Owner is given reasonable notice of the violation and an opportunity for a hearing in accordance with the Governing Documents;

(e) The right of the Association to dedicate or transfer all or any part of the Community Property to any public agency, authority or utility for such purposes as are consistent with the purposes of the Governing Documents and subject to such approval requirements as may be set forth in the Governing Documents;

(f) The right of the Association to limit the number of guests of Owners that may utilize the Community Property and any facilities situated thereon;

(g) The rights of the Declarant and the Association to establish Community Codes pertaining to the use of the Community Property and any facilities situated thereon including, without limitation, the right to designate portions of the Community Property as Exclusive Community Property;

(h) The rights of the Association, the Declarant, utility companies and Owners with respect to the easements established by or created pursuant to the Governing Documents;

(i) The right of the Association, in accordance with the Governing Documents, to borrow money for the purpose of improving the Community Project and any facilities situated thereon in a manner designed to promote the enjoyment and welfare of the Owners and in aid thereof to mortgage any of the Community Property and facilities situated thereon;

(j) The right of designated Owners to the exclusive use of any portions of the Community Property designated as Exclusive Community Property;

(k) The rights of the Declarant to grant easements, to utilize reserved rights and easements and to otherwise utilize the Community Property as it deems appropriate in connection with the development of the Community;

(l) The rights of the Declarant and the Association to grant easements, licenses or other rights of use of the Community Property and any facilities situated thereon to Owners and to persons or entities who are not Owners for such consideration and on such terms and conditions as the Declarant of the Association, as the case may be, may from time to time consider appropriate; and

(m) Such other rights of the Declarant and the Association as are not inconsistent with the Governing Documents.

Section 3.2 **Limitations.** Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Owner to use any private streets, roadways, or parking areas within the Community Property for both vehicular and pedestrian ingress and egress to and from such Owner's Living Unit and for parking; provided, however, that the Association shall have the right to designate the use of parking spaces within the Community Property for the exclusive use of certain Owners, residents or guests.

Section 3.3 **Restrictions.** Each Living Unit subject to the Declaration is subject to a restriction on the sale and alienation of the Living Unit for a period of fifteen (15) years from the date of this Declaration. No Living Unit may be transferred to any Owner who does not meet the income qualifications and eligibility restrictions for affordable housing as defined by the State of Maryland Department of Housing and Community Development.

## ARTICLE IV

### THE ASSOCIATION AND ITS MEMBERS

Section 4.1 **Purpose and Role of the Association.** Except as otherwise provided in the Governing Documents, the Association shall be responsible for the management, operation and control of the Community Areas. The Association is empowered to enforce the Governing Documents. The Association shall exercise its responsibilities in accordance with the Governing Documents.

Section 4.2 **Membership in the Association.** Every Owner shall be a Member of the Association. With the exception of the Declarant, no Owner, whether one or more persons or entities, shall have more than one (1) membership for each Living Unit owned. However, all Owners shall be subject to the Governing Documents. Membership in the Association shall be appurtenant to and may not be severed from ownership of any Living Unit. Membership rights and obligations are more fully described in the Bylaws.

4.3 **Voting Rights.** The Association shall have two (2) classes of voting membership.

(a) **Class A.** With the exception of the Declarant (until expiration of the Class B memberships as provided below), every person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who is an Owner of any Living Unit shall be a Class A Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Class A Member solely on account of such interest. Ownership of a Living Unit shall entitle each Owner holding the interest required for Class A membership to cast one (1) vote; provided, however, that if more than one (1) person or entity are the owners of a Living Unit, then such Living Unit shall still be apportioned just one (1) vote which shall be exercised in any manner as such Owners themselves determine, but may not be cast as fractional votes. No Owner, other than the Declarant, shall have more than ten (10) votes, regardless of the number of Class A memberships held by such Owner. Any Owner that leases a Living Unit may, in the lease or other written instrument, assign the voting right appurtenant to such Living Unit to the Owner's lessee, provided that a copy of such instrument is furnished to the Association. Notwithstanding anything in the Governing Documents to the contrary, the Declarant shall be a Class A Member with respect to any Living Unit owned by the Declarant and occupied for residential purposes.

(b) **Class B.** The Class B Members shall be the Declarant, its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity or any combination thereof, who shall obtain any Class B membership by specific assignment in writing from the Declarant. The Class B Members shall be entitled to one (1) vote for each Class B membership. There shall initially be forty-five (45) Class B memberships in the Association. Each Class B membership shall lapse and become a nullity on the first to happen of the following events:

(i) Thirty (30) days following the date on which the total authorized, issued and outstanding votes of Class A Members equals thirty-five (35); or

(ii) The later of (A) ten (10) years after the recordation of this Declaration, or (B) five (5) years after the last filing of a Declaration of Annexation; provided, however, that if the Declarant is delayed in the improvement and development of the Community on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less; or

(iii) When all remaining Class B memberships are relinquished expressly and in writing by the Class B Member(s).

(c) Upon the lapse or surrender of any Class B membership as provided for in this Article, the Declarant shall thereafter remain a Class A Member of the Association as to each and every Living Unit in which the Declarant then holds the interest otherwise required for Class A membership. The Declarant shall continue to retain all other rights reserved to the Declarant in the Governing Documents, notwithstanding the lapse or surrender of the Class B memberships.

## ARTICLE V

COVENANT FOR ASSESSMENTS

Section 5.1 *Creation of Lien and Personal Obligation for Assessments.* Except as Assessments of the Declarant are limited herein, each Owner of a Living Unit by acceptance of a deed therefore, whether or not expressly stated in such deed, shall be deemed to covenant and agree to pay the Association all Assessments levied in accordance with the Governing Documents. Each Assessment made against a Living Unit, together with interest, costs, late fees and reasonable attorneys' fees and other legal and collection costs, shall be a charge on the Living Unit and a continuing lien, provided the requirements of the Maryland Contract Lien Act, if applicable, have been fulfilled. Each Assessment, together with interest, costs, late fees and reasonable attorneys' fees and other legal and collection costs shall also be the personal obligation of the Owner of the Living Unit at the time the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to a prior Owner's successors in title unless expressly assumed by such successors; however, any lien established prior to the transfer of any Living Unit shall continue until paid and satisfied in full. No Owner shall be exempt from liability for Assessments by abandonment of such Owner's Living Unit or by the abandonment of such Owner's right to the use and enjoyment of the Community Property, or by any other means. No Owner shall be entitled to any diminution, abatement or set-off of Assessment for any alleged failure of the Association to perform its duties or for any reduction in services or benefits by the Association.

Section 5.2 *Purpose of Assessments.* Assessments levied by the Association may be used to promote the recreation, health, safety and welfare of the Owners within the Community and for any lawful purpose relating to the proper conduct of Association activities, including, without limitation, the following:

(a) Improvement, maintenance, repair and replacement of the Community Areas including, without limitation, some or all of the rights-of-way, entry strips, signs and entrance features or improvements located within the Community, or which are appurtenant to and serve or benefit the Community;

(b) Improvement, maintenance, repair and replacement of any and all storm water management facilities (including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets and underground facilities) whether such storm water management facilities are located within the Property or not, as long as such storm water management facilities are designed to benefit or serve any portion of the Property or are required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental or quasi-governmental authority or agency. The Association shall not refuse to accept the conveyance of any such facilities from the Declarant;

(c) Payment of charges or expenses accruing with respect to off-site facilities that serve or benefit the Community, which the Association elects to maintain or which are otherwise required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency;

(d) Payment of all taxes, charges and assessments levied against the Community Property and any facilities situated thereon;

(e) Payment for services provided to the Association for the benefit of the Community Property, any facilities situated thereon, as well as for the Living Units and/or Owners, to the extent the Association agrees to provide such service;

(f) Payment of management fees, utility charges and operating expenses relating to the Community Areas and any facilities situated thereon;

(g) Payment of insurance premiums for liability and property insurance on the Community Areas and any facilities situated thereon, for directors and officers liability insurance, and for such other insurance as the Association may obtain with respect to its officers and directors, management agent, or the Community Property, any facilities situated thereon and/or the Living Units within the Community;

(h) Funding all reserves established by the Association, including, without limitation, general operating reserves and reserves for replacements and/or contingencies;

(i) Payment of costs related to the Association's maintenance responsibilities under Section 12.2 of this Declaration;

(j) Payment of indebtedness from the Association to the Declarant (or the Declarant's affiliates) pursuant to any note, bond, instrument or contractual obligation entered into between the Declarant (or the Declarant's affiliates) and the Association from time to time in connection with the (i) financing of costs related to the development or operation of the Community Areas or (ii) funding of operating deficits of the Association; and

(k) Payment of all other costs and expenses incurred by the Association in the proper conduct of its activities or as may be deemed by the Board of Directors to be in any reasonable way related to the well being of the Community and the Owners.

**Section 5.3 *Adoption of Common Expense Budget.***

(a) At least sixty (60) days before the beginning of each fiscal year, the Board of Directors shall make a reasonable effort to prepare a budget setting forth the estimated Common Expenses during the coming year, including a reasonable amount to establish a reserve fund in accordance with this Article 5.

(b) The Association is hereby authorized to levy General Assessments against all Living Units subject to assessment in order to fund the Common Expenses. The General Assessment shall be set at a level which is reasonably expected to produce the revenue for the Association equal to the total budgeted Common Expenses, including reserves.

(c) General Assessments shall be levied at a uniform rate for all Living Units, provided that nothing in this Declaration or the other Governing Documents shall be deemed to require that Common Expenses and General Assessments be limited to services and other items

that generally or uniformly benefit all Living Units. Maintenance, services and other items provided by the Association that benefit less than all Living Units may be included as part of the Common Expenses payable through General Assessments.

(d) The Board of Directors shall make a reasonable effort to send a copy of the budget and a notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. The budget and Assessments shall become effective unless a special meeting of the Association is held and at such special meeting the budget and Assessments are disapproved by Members representing at least a majority of the total votes in the Association. There shall be no obligation to call a special meeting of the Association for the purpose of considering the budget except on petition of the Members as provided in the Bylaws for special meetings.

(e) If the proposed budget and General Assessment are disapproved or if the Board of Directors fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

#### Section 5.4 *Special Assessments.*

(a) In addition to the General Assessments authorized by this Article, the Association may levy in any assessment year a Special Assessment or Special Assessments, applicable in that year only, for the purpose of defraying any unbudgeted expenses or any expenses in excess of those contained in the budget, or for such other purposes as the Board of Directors may consider appropriate in its discretion; provided, however, that any such Special Assessment which exceeds fifteen percent (15%) of the annual budget for the current year shall have the prior consent of Owners representing at least fifty-one percent (51%) of the total votes allocated to Living Units which will be subject to the Special Assessment, and the consent of the Declarant, during the Declarant's Rights and Obligations Period. A Special Assessment may be levied against all Owners and Living Units if it relates to Common Expenses.

(b) The Association may also levy a Special Assessment against any Owner to reimburse the Association for costs incurred in bringing the Owner and/or such Owner's Living Unit into compliance with the Governing Documents or if the actions or activities of any Owner cause or result in increased expenses to the Association. Such Special Assessment may only be levied upon the affirmative vote of the Board of Directors, after notice and an opportunity for a hearing has been provided to the Owner. Special Assessments levied under this Section 5.4(b) shall not be subject to the one-year limitation set forth in Section 5.4(a), but may be imposed for such time period as the circumstances require.

Section 5.5 *Commencement and Applicability of Assessments.* Subject to Section 5.6, Assessments shall commence as to each Living Unit upon the date that the Living Unit is conveyed from the Declarant to another Owner. General Assessments shall be adjusted based upon the number of months remaining in the fiscal year in which the Assessments commence.

Section 5.6 ***Declarant Exemption from Assessments.*** Living Units owned by the Declarant shall not at any time be subject to any Assessments or other charges levied by the Association and the Declarant shall have no obligation to pay any such assessments or other charges. A Living Unit formerly owned by the Declarant shall cease to be exempt from Assessments and other charges levied by the Association upon transfer or conveyance of such Living Unit from the Declarant to any other Owner.

Section 5.7 ***Community Property Exempt.*** No portion of the Community Property or the facilities situated thereon shall be subject to assessment of any kind by the Association.

Section 5.8 ***Initial Contribution and Working Capital Contributions.*** An Assessment in the amount of Seventy-Five Dollars (\$75.00) shall be paid by the initial purchaser of each Living Unit (excluding the Declarant) upon settlement of the completed Living Unit (the "**Initial Contribution**"). The Initial Contribution is established to assist with the funding of the initial operation of the Association and shall be in addition to other Assessments and shall not be considered an advance payment of Assessments. The Association may, but shall not be obligated to, collect a reasonable working capital contribution in addition to all other Assessments, which working capital contribution shall be payable by transferee Owners upon subsequent re-sales of Living Units.

Section 5.9 ***Reserves.*** The Association shall establish and maintain a reasonable reserve fund for the repair and replacement of the Community Areas and any facilities situated thereon. Such reserve fund may also be established for the repair and replacement of any property, improvements of facilities otherwise required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency. The Board of Directors shall set the required reserve fund contribution in an amount sufficient to meet the projected reserve needs of the Association. The reserve fund contribution shall be included as part of the Association's annual budget, and shall be payable as part of the General Assessments. The Association may establish such other reserve funds as the Board of Directors may from time to time consider necessary or desirable, including, without limitation, a general operating reserve. The proportional interest of an Owner in any reserve fund established by the Association shall be considered an appurtenance of such Owner's Living Unit and shall not be separately withdrawn, assigned, transferred or otherwise separated from the Living Unit to which it appertains, and shall be deemed to be transferred with such Living Unit.

Section 5.10 ***Assessment Due Dates.*** Installments of Assessments may be levied and collected on a monthly, quarterly, semi-annual or annual basis, as may be determined from time to time by the Board of Directors.

## ARTICLE VI

### **REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF ASSESSMENTS**

Section 6.1 ***Non-Payment of Assessments.*** Any Assessment levied by the Association pursuant to the Governing Documents which is not paid within fifteen (15) days after the due date established for such assessment by the Board of Directors, may, upon resolution of the Board, bear interest from the due date until paid at the rate of interest established by the Board,



not to exceed the maximum, if any, rate of interest permitted under the laws of the State of Maryland. The Board of Directors may also impose a reasonable late fee, to the extent not restricted by law, against any Owner (and such Owner's Living Unit) for failure to pay any assessment within fifteen (15) days after the due date for such Assessment. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment and/or establish and foreclose the lien against such Owner's Living Unit in the manner now or hereafter provided under the Maryland Contract Lien Act, or as may otherwise be provided under applicable law.

Section 6.2 *Assessment Certificate.* The Association shall, upon demand of any Owner, issue such Owner a written certificate signed by an officer of the Association setting forth whether the Assessments applicable to such Owner's Living Unit have been paid, and if not paid, the amount of the delinquent Assessments. A properly executed certificate of the Association regarding the status of Assessments on a Living Unit shall be binding on the Association as of the date of issuance. If not prohibited by applicable law, the Association may charge a reasonable fee for the issuance of each such certificate.

Section 6.3 *Acceleration of Installments.* Upon default in the payment of any Assessment, the entire balance of all unpaid Assessments for the remainder of the fiscal year may, at the Board's discretion, be accelerated and declared due and payable in full, in the same manner as the delinquent portion of such Assessment.

Section 6.4 *Priority of Lien.* The lien for Assessments under the Governing Documents shall be subordinate to the lien of any first mortgage or deed of trust recorded against a Living Unit. The sale or transfer of any Living Unit shall not affect the Assessment lien; provided, however, that the sale or transfer of any Living Unit pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to installments which became due prior to such sale or transfer. No sale or transfer of a Living Unit shall exempt such Living Unit or the Owner thereof from liability for any Assessments thereafter coming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on a Living Unit (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof shall join in the execution of such amendment.

Section 6.5 *Application of Past Due Assessments.* Except as may be otherwise required by applicable law, amounts collected for past due Assessments and related costs shall be applied in the following order:

- (a) To payment of attorneys' fees and other legal and collection costs;
- (b) To payment of late fees;
- (c) To payment of any interest accrued on the delinquent Assessments; and
- (d) To payment of delinquent Assessments.

## ARTICLE VII

**DESIGN REVIEW AND ARCHITECTURAL CONTROL**

Section 7.1 *Architectural Approval*. Complete plans and specifications for all "Improvements" (defined below), except those Improvements constructed by or on behalf of the Declarant, shall be approved in writing in accordance with this Article 7 prior to the commencement of any construction or development activities for such Improvements within the Property. "Improvements" shall mean, collectively, the following items and activities within the Property:

- (a) staking, clearing, landscaping, excavation, grading or other site work;
- (b) buildings, structures and other improvements of any kind; and
- (c) exterior additions, changes or alterations of any nature to the Living Units buildings or other existing improvements, including, without limitation, changes in color, changes or additions to driveway or walkway surfaces, installation of fences, decks, patios, swimming pools, spas and similar improvements and landscaping improvements and modifications.

Section 7.2 *Changes and Modifications to Living Units*. No Owner or any other person or entity shall commence, erect or maintain any Improvements with the Property until complete plans and specifications for such Improvements have been approved, in writing, by the Board of Directors or the Design Review Committee (as applicable) in accordance with Sections 7.3 through 7.14 below.

Section 7.3 *Design Review Committee*. The Design Review Committee, if appointed by the Declarant or the Board of Directors (as applicable), shall consist of at least three (3) but not more than seven (7) members who shall serve at the pleasure of and may be removed and replaced at the discretion of the Declarant, during the Declarant's Rights and Obligations Period, and at the discretion of the Board of Directors thereafter. If a Design Review Committee is not appointed, the Board of Directors shall exercise all rights and powers that could be exercised by the Design Review Committee. The members of the Design Review Committee need not be members of the Association and may, but need not, include architects, engineers and similar design professionals. All rights and powers of the Design Review Committee may be exercised by a decision of a majority of its members. The members of the Design Review Committee, if any, shall not be entitled to any compensation. Each Owner of a Living Unit shall be deemed to covenant and agree that (i) no exterior addition, change or alteration to existing Improvements shall be commenced within the Owner's Living Unit until approval for such construction, addition, change or alteration is approved in accordance with this Article 7, and (ii) as the developer and initial Owner of the Property, the Declarant has a significant and substantial interest in ensuring that all Improvements are consistent with the Community Plan and that the Improvements do not have an adverse impact upon the Declarant's ongoing ability to market, sell, and/or lease all or any portion of the Property. Accordingly, in its exercise of the rights and powers under this Declaration, the Declarant, through its designees on the Design Review Committee, shall have the right to approve or disapprove any plans and specifications for

Improvements in the Declarant's sole discretion, and all Owners acknowledge that in reviewing and acting upon any such plans and specifications, the Declarant shall be acting in its own interest and shall owe no duty whatsoever to any other individual or entity, including, without limitation, the Association or the Owners.

Section 7.4 *Application Review.*

(a) No Improvements of any kind shall be commenced, erected or maintained upon the Property until a design review application ("**Application**") is submitted to and approved by the Design Review Committee. The Application shall include detailed plans showing the site layout, exterior elevations, exterior materials and colors, landscaping, drainage, lighting, irrigation, and other relevant features of the Improvements, as required by the Design Review Committee and any Design Guidelines applicable to the applicant's Living Unit. The Design Review Committee may also require the submission of such additional information as it deems necessary to consider any Application. The Design Review Committee may consider, but shall not be restricted to consideration of, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, compliance with the general intent of applicable Design Guidelines and architectural merit. In many instances, decisions will be based solely on aesthetic considerations and each applicant acknowledges that determinations as to such matters may be highly subjective and opinions may vary as to the desirability and/or attractiveness of particular Improvements. The Design Review Committee shall make a material consideration of its review of any Application the goal of preserving the initial design and appearance of all Improvements constructed on the Property, and all Owners and the Association hereby acknowledge the Design Review Committee's obligation in this regard.

(b) The Design Review Committee shall, within thirty (30) calendar days after receipt of a complete Application, advise the applicant in writing of the approval or disapproval of the Application. The Design Review Committee shall provide a reasonable explanation of the objectionable segments or features of any disapproved Application and suggestions for addressing such objections. If the Design Review Committee fails to advise the applicant by written notice within thirty (30) calendar days of receipt of a complete Application of either the approval or disapproval of the Application, the applicant shall give the Design Review Committee written notice of the Design Review Committee's failure to respond. The applicant's notice shall include a statement that unless the Design Review Committee responds within fifteen (15) calendar days of receipt of such applicant's notice, approval of the Application shall be deemed granted. Upon such further failure of the Design Review Committee to grant an approval or disapproval, approval shall be deemed to have been given, subject to the Declarant's veto rights under Section 7.5. Notwithstanding the foregoing, no approval, whether expressly granted or deemed granted pursuant to this Section 7.4, shall be materially inconsistent with the Design Guidelines, unless a variance has been granted in writing in accordance with Section 7.10 below. Notices from an applicant to the Design Review Committee under this Section 7.4 shall be deemed to have been given at the time the envelope containing such notice, property address and postage prepaid, is delivered by the U.S. Postal Service by registered or certified mail, return receipt requested, or by any other delivery or courier service, such as Federal Express or UPS, which can provide tracking information regarding the delivery of such notice. Personal verified

delivery of such written notice by any other means shall also be sufficient and shall be deemed to have been given at the time of delivery.

**Section 7.5 *Declarant's Veto Rights.*** Until termination of the Declarant's Rights and Obligations Period, the Declarant may, in its sole discretion, veto any decision made pursuant to this Article 7 by the Design Review Committee. The Design Review Committee shall give the Declarant written notice of each Application it approves within three (3) business days after such approval. The Declarant shall have ten (10) calendar days after receipt of such notice to veto the approved Application by written notice to the applicant and/or the Design Review Committee, as applicable.

**Section 7.6 *Application Fees and Reimbursements.*** The Design Review Committee may (i) establish and charge reasonable fees, based upon costs actually incurred, for review of Applications hereunder; (ii) retain architects, engineers or other design professionals to assist in its review of Applications, provided that the nature and scope of the Improvements under review justify the use of such design professionals; and (iii) require reimbursement by the applicant of fees charged by any architects, engineers or other design professionals.

**Section 7.7 *Design Guidelines and Procedures.***

(a) The Design Review Committee may, but shall not be required to, establish Design Guidelines to provide guidance to Owners, builders and contractors regarding matters deemed to be of relevance or importance to the Design Review Committee in considering Applications for architectural approval. Such Design Guidelines shall not be the exclusive basis for decisions hereunder and compliance with the Design Guidelines shall not guarantee approval of an Application. Design Guidelines may contain general provisions applicable to all Living Units, as well as specific provisions which vary from one Living Unit to another, depending upon the location, type of construction or use, and unique characteristics of the Living Units.

(b) Any Design Guidelines adopted pursuant to this Article 7 shall be subject to modification and amendment from time to time in the sole discretion of the Design Review Committee. Modifications and amendments to Design Guidelines shall not apply to or require modification to or removal of Improvements previously approved once such Improvements have commenced. However, modifications and amendments to Design Guidelines may prohibit an exact replacement of a previously approved Improvement. Any subsequent removal or alteration of any previously approved Improvements shall be subject to the Design Guidelines in existence at the time of such subsequent removal or alteration. There shall be no limitation on the scope of modifications or amendments to any Design Guidelines. All modifications and amendments to Design Guidelines shall be published in Association newsletters, electronic bulletin boards, e-mails, community website, or by other means calculated to give reasonable notice to the Owners covered by such Design Guidelines; provided, however that the failure of any Owner to actually receive any Design Guideline or modification or amendment to any Design Guideline shall not affect the validity or enforceability against such Owner of any Design Guideline or modification or amendment thereto. The Design Review Committee shall make copies of Design Guidelines available to Owners, builders and contractors, and may charge a reasonable fee to cover the costs of providing the Design Guidelines.

(c) The Design Review Committee may, from time to time, adopt and promulgate procedures and requirements for the submission of Applications to the Design Review Committee, including, without limitation, requirements regarding the number of copies, the content, scale and detail of the plans and specifications to be included with such Applications, and the identification of any required supporting materials; provided, however, that such application procedures shall not contravene any specific requirement established by this Declaration. Any application procedures adopted pursuant to this Article 7 shall be subject to modification and amendment from time to time in the sole discretion of the Design Review Committee. Such application procedures shall not be construed as a waiver of the provisions of this Article 7 or any other provision or requirement of this Declaration.

(d) Any Design Guidelines or application procedures promulgated by the Design Review Committee shall be subject to the Declarant's prior approval during the Declarant's Rights and Obligations Period.

**Section 7.8 *Completion of Improvements.*** Construction of Improvements in accordance with the approved Application shall be completed within twelve (12) months following approval of the Application, or within such greater or lesser periods as the Design Review Committee may specify in its approval. In the event construction is not completed within the period aforesaid, then approval of the plans and specifications shall be conclusively deemed withdrawn and the applicant must re-submit an Application and otherwise comply with the requirements of this Article 7. There shall be no material deviations from plans and specifications approved by the Design Review Committee without the prior consent in writing of the Design Review Committee. Notwithstanding the time requirements imposed by this Section 7.8 for the completion of Improvements, the twelve (12) month deadline for completion of Improvements may be delayed to the extent and for so long as the completion of such Improvements is prevented, delayed or otherwise hindered by acts of God, fire, earthquake, flood, explosion, actions of the elements, war riot, mob violence, inability to procure labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lock-outs, actions of labor unions, condemnation, court orders, laws, regulations or orders of governmental or military authorities or any other cause, whether similar or dissimilar to the foregoing, not within the reasonable control of the party applying for such Improvements.

**Section 7.9 *Non-Precedential Nature of Approvals.*** Each applicant acknowledges that the composition of the Design Review Committee will change from time to time and that decisions regarding anesthetic matters and interpretation and application of the Design Guidelines applicable to the applicant's Living Unit may vary from time to time. Approval of Improvements for any particular applicant or Living Unit shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.

**Section 7.10 *Waivers and Variances.*** The Design Review Committee in its sole discretion may, but shall not be required to, authorize waivers or variances from compliance with any Design Guidelines or for nonconforming Improvements when circumstances such as topography, natural obstructions, anesthetic or environmental considerations, architectural merit, or other reasonable considerations warrant such a waiver or variance. Such waivers and variances shall be granted only if and when the Design Review Committee determines that some or all of the foregoing circumstances warrant a waiver or variance. No applicant shall have any

right to demand or obtain a waiver or variance. Except for a waiver or variance authorized by the Declarant, no waiver or variance may (i) be effective unless in writing, (ii) be contrary to this Declaration, or (iii) be inconsistent with the goals or objectives of the Declarant. In no event shall any waiver or variance estop the Design Review Committee from denying a waiver or variance in other circumstances.

**Section 7.11 *Limited Scope of Approval.*** The standards and procedures established by this Article 7 are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Community. Approval of an Application by the Design Review Committee shall in no way be construed 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. Neither the Design Review Committee, nor any of its members, officers, directors, employees, agents or representatives, shall bear any responsibility for ensuring structural integrity, soundness or compliance with building codes and other governmental approvals or requirements, or that any Improvements are located so as to avoid negative impacts on other Living Units including, without limitation, impaired views. No representation is made by the Design Review Committee with respect to the quality, size, value or design of future Improvements. Approval by the Design Review Committee shall not be construed as a representation or warranty of any type regarding the design or construction of any Improvement and neither the Design Review Committee, nor any of its members, officers, directors, employees, agents or representatives, shall be liable for (i) soil conditions, drainage or other site work problems (ii) defects or errors in any plans or specifications submitted as part of an Application, (iii) any structural or other defects in Improvements constructed according to an approved Application, or (iv) any injury, damage or loss arising out of the design, quality of manner of construction of any approved Improvements. Approvals by the Design Review Committee shall in no way be deemed to constitute a determination as to compliance with local zoning ordinances, governmental guidelines or restrictions, or be substituted in lieu of applicable governmental approvals and permits, and no construction may commence until all such approvals and permits have been obtained.

**Section 7.12 *Enforcement.*** Any Improvements constructed in material violation of this Article 7 or in a manner inconsistent with an approved Application shall be deemed to be nonconforming. Upon written request from the Design Review Committee, the default Owner shall, at its own cost and expense, promptly either remove any nonconforming Improvement and restore the Living Unit to substantially the same condition that existed prior to the installation of the nonconforming Improvement or bring the nonconforming Improvement into compliance with the approved Application, as applicable. If an Owner fails to remove any nonconforming Improvement and restore its Living Unit or bring the nonconforming Improvement into compliance with the approved Application, as applicable, the Design Review Committee shall have the right to enforce this Article 7 in accordance with Section 16.2 of this Declaration, assess fines in accordance with the Governing Documents, and remove the violation and restore the Living Unit to substantially the same condition as previously existed. If the Design Review Committee undertakes the foregoing self-help remedy, such action shall not be deemed a trespass. Upon demand of the Design Review Committee, the Owners of the Living Unit shall promptly reimburse all costs incurred in connection with the enforcement under this Section 7.12, and such costs shall be collectible in the same manner as Assessments and may become a lien upon such Living Unit, provided the requirements of the Maryland Contract Lien

Act have been satisfied. The Design Review Committee may preclude any contractor, subcontractor, agent, employee or other invitee of any Owner who fails to comply with the terms and provisions of this Article 7 and the applicable Design Guidelines from continuing any further activities on the Living Unit or any other portion of the Property. Neither the Design Review Committee, nor any of its members, officers, directors, employees, agents or representatives shall be held liable to any Owner or any other person for exercising the rights granted by this Article 7.

Section 7.13 *Certificate of Compliance.* Upon satisfactory completion of the Improvements on a Living Unit in accordance with plans and specifications approved by the Design Review Committee in accordance with the provisions of this Article 7, the Design Review Committee shall, at the written request of the Owner of the Living Unit, issue a certificate of compliance, provided such request is made within one (1) year after completion of the Improvements. A certificate of compliance shall be *prima facie* evidence that the Improvements referenced in such certificate have been approved by the Design Review Committee in full compliance with the provisions of this Article 7 and with such other provisions and requirements of the Governing Documents as may be applicable. The Association may charge the Owner of the applicable Living Unit a reasonable administrative fee for issuing a certificate of compliance.

Section 7.14 *Appeal.* Any decisions made by the Design Review Committee may be appealed to the Board of Directors by the Owner whose Application or other request was the subject of the Design Review Committee's decision. Upon written request, such Owner shall be entitled to a hearing before the Board of Directors. A vote of two-third (2/3) of all members of the Board of Directors shall be required to reverse or modify a decision of the Design Review Committee. Notwithstanding the foregoing, the decisions of the Declarant pursuant to Section 7.5 hereof shall be final and shall not be subject to appeal.

#### ARTICLE VIII

**[RESERVED]**

#### ARTICLE IX

**[RESERVED]**

## ARTICLE X

COMMUNITY CODESSection 10.1 *Objectives and Goals.*

(a) By the recordation of this Declaration and the implementation of the Development Plan, the Declarant intends to create a planned community with the goals of enhancing the quality of life of Owners, protecting the aesthetics and environment within the Community and promoting a sense of community among Owners. To serve these goals, the Declarant recognizes that changes in circumstances, conditions, needs and desires within the Community will require the adoption, modification and amendment of the Community Codes from time to time.

(b) Every provision of the Governing Documents, including the Community Codes, shall apply to all Owners, tenants, occupants, guests and invitees of the Living Unit. All owners who lease their Living Units shall include a notice provision in the lease informing the tenant and all occupants that the Living Unit and Community Property are subject to the Governing Documents, including the Community Codes. However, the failure to include such a provision in the lease shall not relieve any Person of responsibility for complying with the Governing Documents.

Section 10.2 *Promulgation of Community Codes.* Community Codes shall be promulgated by the Declarant or the Board of Directors in accordance with this Section and provided to prospective purchasers of Living Units within the Community, in accordance with the Maryland Homeowners Association Act and/or such other applicable laws. Community Codes shall have the same force and effect and binding nature against the Property as the covenants, conditions, easements and restrictions contained within this Declaration. Consequently, the Property and the Owners are not only subject to the provisions of this Declaration, but shall also be subject to the Community Codes as promulgated in accordance with this Article 10. By way of example and not limitation, Community Codes may include permitted and prohibited uses for Living Units and procedures for implementing the right of the Association to process cases of alleged violations of the Governing Documents and to levy fines for violations of the Governing Documents. Subject to the terms of this Article 10, Community Codes may be established, modified, repealed or amended as follows:

(a) Subject to the terms of this Article 10 and in accordance with its duty to exercise reasonable judgment on behalf of the Association and its Members, the Declarant (during the Declarant's Rights and Obligations Period), or the Board of Directors, as applicable, may establish, modify, cancel, limit, create exceptions to, or expand Community Codes. The Declarant or the Board of Directors, as applicable, shall make a good faith effort to provide each Member with at least thirty (30) days prior notice of a proposed Community Code in a community newsletter, electronic bulletin board, e-mail, or by other means which the Declarant or Board of Directors determines will be reasonably effective in providing such notice to a majority of Members. Members shall have a reasonable opportunity to express their views on proposed Community Codes at a Board meeting or other forum prior to action on the proposed Community Code.



(b) Any Community Code adopted by the Declarant or the Board shall become effective thirty (30) days thereafter unless, within such thirty (30) day period, the proposed Community Codes is disapproved at a meeting called for such purpose by a majority of all Members. At any such meeting, Members may vote by proxy and proxies may be filed by facsimile or other electronic means so long as they meet the requirements of Maryland law. The Board shall have no obligation to call a meeting to consider disapproval except upon the petition of Members as required by the Bylaws for special meetings.

(c) All additions, modifications and amendments to the Community Codes shall be published in Association newsletters, electronic bulletin boards, e-mail or by other means calculated to give reasonable notice to Owners of such additions, modifications or amendments; provided, however, that the failure of any Owner to actually receive any additions, modifications or amendments to the Community Codes shall not affect the validity or enforceability against such Owner of any such additions, modifications or amendments to the Community Codes.

Section 10.3 *Owners' Acknowledgement and Notice to Purchasers.* All Owners of Living Units are given notice that use of their Living Unit is subject to all Community Codes as they may be modified from time to time in accordance with this Article 10. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Living Unit may be impacted by the Community Codes and that the Community Codes may change from time to time.

Section 10.4 *Community Code Limitations.* Except as may be specifically set forth in this Declaration, Community Codes shall be consistent with the following:

(a) *Equal Treatment.* Similarly situated Owners shall be generally treated in a substantially similar manner, provided the Community Codes may vary from one portion of the Community to another.

(b) *Activities Within Living Unit.* No Community Code shall unreasonably interfere with activities within the interior confines of Living Units, except that the Association may restrict or prohibit the following:

- (i) activities not normally associated with residential or home office use;
- (ii) activities that create monetary costs for the Association or other Owners;
- (iii) activities that create a danger to the health or safety of occupants or other Living Units;
- (iv) activities that generate excessive noise or traffic;
- (v) activities that create unsightly conditions visible outside the Living Unit;
- (vi) activities that create an unreasonable source of annoyance.

(c) **Animals.** The Association may adopt Community Codes regarding pets in order to minimize damage and disturbance to other Owners, including reasonable provisions requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on the size of the Living Unit, the facilities within the Living Unit, and the potential impact on the Community Areas. Nothing shall prevent the Association from requiring removal of any animal that presents an actual or realistic threat to the health or safety of Owners or occupants of Living Units or from requiring abatement of any nuisance or unreasonable source of annoyance caused by an animal.

(d) **Allocation of Usage Rights.** The initial allocation of rights to use Community Property among the Owners shall not be unreasonably and materially changed to the detriment of any Owner over that Owner's written objection to the Association. Nothing shall prevent the Association from altering the availability or use of Community Property, from adopting rules or Community Codes for use of Community Property, or from denying use privileges to those who abuse the Community Property, violate the Governing Documents, or fail to pay Assessments.

(e) **Alienation.** No Community Code shall prohibit outright the leasing or transfer of any Living Unit, or require consent of the Association for transfer of any Living Unit.

(f) **Altering Existing Uses or Rights.** Any Community Code which would (i) require Owners to dispose of personal property which is properly maintained in or on the Living Unit or (ii) require a material alteration of a use permitted with respect to a Living Unit prior to the effective date of such Community Code shall not apply to an Owner without his or her written consent unless the Community Code was in effect at the time the Owner acquired his or her interest in the Living Unit.

(g) **Reasonable Right to Complete the Development Plan.** No Community Code or action by the Association shall impede the Declarant's development rights within the Property.

Section 10.5 **Initial Community Codes.** Pursuant to Section 10.2, the Declarant adopts the following Community Codes:

(a) No noxious or offensive trade or activity shall be carried on within the Community Property or within any Living Unit, nor shall anything be done therein or thereon which may be or become an annoyance to the neighborhood or the other Owners.

(b) There shall be no obstruction of the Community Property, except as herein provided. Nothing shall be stored upon any Community property, except as herein provided, without the approval of the Board of Directors. Vehicular parking upon the Community Property shall be regulated by the Board of Directors.

(c) Nothing shall be done or maintained in any Living Unit, or upon any Community Property, which will increase the rate of insurance on any Living Unit or Community Property, or result in the cancellation thereof, without the prior written approval of the Board of Directors. Nothing shall be done or maintained in any Living Unit or upon Community Property which would be in violation of any law. No waste shall be committed upon any Community Property.

(d) Except for such signs as allowed by law or as may be posted by the Declarant for promotional purposes and signs of a directional nature, no signs of any character shall be erected, posted or displayed upon, in or from or about any Living Unit or Community Property, provided that one temporary real estate sign not exceeding six feet by three feet in area may be erected upon any Living Unit placed upon the market for sale or rent. Any such temporary real estate sign shall be removed promptly following the sale or rental of such Living Unit.

(e) Except as herein elsewhere provided and except as otherwise approved by the Board of Directors, no junk vehicle or other vehicle, on which current registration plates are not displayed, trailer (boat or otherwise), camper, camp truck, house trailer, commercial vehicle, recreational vehicle, any vehicle displaying commercial advertisement, or the like shall be kept upon any Community Property, nor upon any parking lots or roadways, nor shall the repair or maintenance of automobiles or other vehicles be carried out thereon. The foregoing sentence shall not be interpreted as prohibiting an Owner from keeping a passenger car sized taxi-cab, police car, fire car or other vehicle used by such Owner in connection with his or her occupation.

(f) Except as otherwise provided in this Declaration, no part of the Property shall be used for commercial activities of any character. This subsection shall not apply to the use of Living Units or Community Property by the Declarant for its sole display, promotional or sales purposes or the use of a Living Unit by its Owner as a home office.

(g) No burning of any trash, and no unreasonable or unsightly accumulation or storage of litter, new or used building materials, or trash of any other kind shall be permitted within any Living Unit or upon any Community Property. Trash and garbage containers shall not be permitted to remain in public view, except within locations designated by the Board of Directors. This subsection shall not apply to the Declarant during the period of construction.

(h) No structure of a temporary character, trailer, tent, shack, barn or other out-building shall be maintained upon any of the Community Property at any time except as permitted by written permission of the Board of Directors. The foregoing sentence shall not apply to the Declarant during the period of construction.

(i) No items or material shall be hung on the exterior of any building or draped from windows over the exterior of any building except sales materials which may be utilized by the Declarant.

(j) The Owner of a Living Unit must maintain the Living Unit as their primary residence. Notwithstanding the foregoing, the Declarant expressly reserves to itself the right to lease any Living Unit owned by it to any third party upon terms and conditions acceptable to Declarant in its sole discretion.

(k) No tree, hedge or other landscape feature shall be planted or maintained in a location which obstructs sight-lines for vehicular traffic on public streets or on private streets and roadways.

(l) No decorative lawn ornament, no structure of a temporary character and no trailer, tent, shack, barn, pen, kennel, run, stable, or other similar structure shall be erected, used or maintained on any Living Unit at any time.

(m) No water pipe, sewer pipe, gas pipe, drainage pipe, cable or other similar transmission line shall be installed or maintained above the surface of the ground and no wire, cable or other similar transmission line may be attached to the exterior of any structure on any Living Unit; provided, however, that such transmission lines, wires or cables providing utility services to any Living Unit (including, but not limited to electricity, telephone, gas, water and cable television) shall be permitted.

(n) Except as specifically permitted by applicable federal governmental regulations, no exterior aerials or antennas of any type including, but not limited to, satellite dishes for reception or transmission, may be erected or maintained within the Property without the prior written approval of the Design Review Committee, provided, however, that satellite dishes not in excess of one (1) meter in diameter are permitted. The Design Review Committee may impose reasonable rules and regulations regarding the location and screening of any such satellite dish, subject to applicable federal governmental regulations. Aerials and antennas situated entirely within a dwelling unit, and not visible from the exterior, are permitted.

(o) Vegetable gardens shall be maintained only within a Community Garden at the location designated by the Board of Directors for the use of Owner of Living Units under the conditions imposed by the Board of Directors of such garden.

## ARTICLE XI

### EASEMENTS

Section 11.1 *Declaration of Easements and Rights*. In addition to the reserved rights and easements set forth in Appendix Two of this Declaration, the following easements and rights are hereby declared and reserved:

(a) The Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities (including, but not limited to, all State and County governmental authorities and agencies) and utility companies over any part of the Property and there are no restrictions to the Governing Documents which preclude an Owner from granting such an easement, temporary or permanent, over any part of such Owner's Living Unit.

(b) Each Living Unit is hereby declared to have an easement, not exceeding three (3) feet in width, over adjoining Community Property (if any) for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the Living Unit, 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 Owners 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 and knowing conduct of said Owner or Owners.

(c) There is hereby reserved unto the Declarant and to such other parties as the Declarant may specifically, and in writing, assign such rights, for the benefit of the Community, blanket easements upon, across and under the Property for (i) vehicular and pedestrian ingress and egress (ii) curb cuts, slope or grading easements, (iii) for the placement of signs, including, without limitation, signs relating to the Community and signs used for sales and marketing purposes, (iv) the right to erect entry features, promotional and sales displays and other similar items within the Property provided they do not unreasonably and materially interfere with the use, operation and enjoyment of Living Units within the Property, and (v) for the installation, replacement, repair and maintenance of all utilities, including, but not limited to, water, sewer, drainage, storm water detention and/or siltation, 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 utility easement, it shall be expressly permissible to erect and maintain the necessary poles, pipes, lines, and other equipment within 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 within 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 created by this subsection. 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 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.

(d) Each Living Unit shall be subject to a public pedestrian access easement over and upon any sidewalk, alley or pathway constructed within the Living Unit, which sidewalk or pathway is reasonably deemed to be for the use of the Community.

(e) There is hereby further reserved for the benefit of the Community and the Owners, a right for any Owner (or such Owner's guests, invitees, licensees, or other parties entitled to occupy any dwelling Unit within the Community) to use any recreational or other similar facilities that may, from time to time, be located within the Community; provided, however, as a condition precedent to the exercise of such rights, the election to allow the use of such facilities is specifically made by the Declarant pursuant to a written instrument recorded among the Land Records. If the rights contemplated by the provisions above are elected, then the parties benefiting from such rights shall be obligated to pay their pro-rata share of the cost of maintaining, operating and repairing such facilities, which share shall be computed by multiplying the total of such bona-fide costs times a fraction, the numerator of which shall be the number of completed dwelling units owned by the party from whom such contribution is sought and the denominator shall be the total number of completed dwelling units entitled to use such

facilities. The computation contemplated by the immediately preceding sentence shall be made at each time a contribution of such costs is sought.

(f) A blanket easement is hereby reserved to the Declarant to enter and utilize the Property during the period of construction and sales within the Community, and to maintain such facilities and perform such operations as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, business offices, sales and/or rental offices, storage areas, construction yard, signs, displays and model units.

(g) The Declarant reserves the right to enter any portion of the Community, including, without limitation, any Living Unit, 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 Community or the improvements thereon or with respect to any statutory or contractual warranty obligations of the Declarant. There is further reserved unto the Declarant and its agents a non-exclusive easement over, across and through all of the Community Property for the purpose of access, the storage of building supplies, materials and equipment, and without any limitation for any and all purposes reasonably related to the completion of the development, construction or repair of the Community.

(h) For a period of fifteen (15) years from the date of conveyance of the first Living Unit, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface or subsurface water in order to maintain reasonable standards of health, safety and appearance; provided, however, that the Declarant shall have no obligation to exercise such right. 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 nearly as practicable. The Declarant shall give reasonable notice of its 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 the blanket easement created by this subsection.

(i) The rights and duties with respect to sanitary sewer and water, electricity, gas, cable television, master television antenna systems, security and surveillance systems, telephone lines and similar utilities (individually and collectively "Systems") shall be governed by the following:

(i) Whenever Systems are or have been installed within the Community, the Owner of any Living Unit and the Association shall have the right, and are hereby granted easement to the extent necessary therefore, to enter upon or have a utility or repair company enter upon any portion of the Community in which the Systems lie, to repair, replace and generally maintain the Systems. Such easement shall include, without limitation, the right to enter upon any portion of the Community, including private streets, for the installation, replacement, repair and maintenance of water and sewer lines.

(ii) The rights granted in subsection (i) above shall be only to the extent necessary to entitle the Owner or the Association serviced by the Systems to the full and reasonable use and enjoyment of its property and provided further that anyone exercising said rights shall be responsible for reasonably 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 any Systems, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter may be submitted to the Board of Directors, who may, but shall not be required to, decide the dispute. Any decision of the Board made pursuant to this subsection shall be final and conclusive as to the parties.

(iv) Each Living Unit which is attached to another Living Unit, is hereby subject to an easement upon and across such other attached Living Unit for the drainage and discharge of water from any storm drain or downspout situated on the other attached Living Unit and the Owner of such Living Unit may not alter or obstruct such drainage or flow of water to the detriment of the other Living Unit or the Community Property.

(j) The Association shall have an easement to enter any portion of the Community for the performance of its duties hereunder; provided that such easement shall not entitle entry within the interior portion of any Living Unit and shall in no way interfere with the development activities of the Declarant.

(k) A mutual right and easement for the Systems is hereby established for the benefit of all Owners such that no Owner shall take any action which would in any way interfere with the Systems being provided to other Owners within the Community. If a Living Unit contains any utility pipes, ducts, conduits, wires or other Systems which are for the benefit, in whole or in part, of other owners within the Community, then the Owner of such Living Unit shall promptly, at such Owner's expense, repair any damage to such Systems caused by the Owner.

(l) Each Living Unit shall be subject to a non-exclusive easement and right of passage for the benefit of any adjacent attached Living Unit (the "**Benefited Living Unit**") to the extent reasonably necessary to permit the Owner of the Benefited Living Unit (the "**Benefited Owner**") access to the exterior of any adjacent Living Unit for purposes of inspecting, maintaining, repairing, replacing and otherwise caring for the exterior of the Benefited Living Unit; provided, however, that the Benefited Owner shall take reasonable steps to minimize any damage to an adjacent Living Unit and the Benefited Owner shall restore as nearly as possible to its original condition any adjacent Living Unit damaged or altered as a result of the exercise of this easement. The Benefited Owner's exercise of its rights hereunder shall be at reasonable times and shall not unreasonably interfere with any Owner's use and enjoyment of its Living Unit. The Benefited Owner shall indemnify any Owner of an adjacent Living Unit from any loss or damage that such Owner may sustain, including reasonable attorneys' fees, as a result of entry by the Benefited Owner on the adjacent Living Unit.

the Property or are required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental or quasi-governmental authority or agency (iii) rights-of-way, sidewalks, entry strips, signs and entrance features or improvements located within the Community, or which are appurtenant to and serve or benefit the Community, and (iv) and any other property, facilities or equipment appurtenant to and serving or benefiting the Community which the Association elects or is required to maintain, repair or replace pursuant to a Community Code or other agreement. Such maintenance, repair and replacement shall be funded as provided in the Governing Documents. The Declarant will provide the Association with information that describes how "complex" facilities (e.g. storm water management facilities or any large recreational facilities that may be constructed on the Property) function and how to inspect and perform routine maintenance. The Declarant will provide the Association a schedule indicating when each such facility contained in the Community Property will likely require major repairs, renovations or replacements and an estimate of the anticipated repair, renovation and replacement costs as such are known to the Declarant at the time the information is provided to the Association.

### ARTICLE XIII

#### MORTGAGEE NOTICES, CONSENTS AND APPROVALS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Living Units.

Section 13.1 *Rights of Eligible Mortgagees*. Any institutional holder, insurer or guarantor of a first Mortgage who provides a written request to the Association stating its name and address and the street address of the Living Unit to which its Mortgage relates shall be deemed an "Eligible Mortgagee". Rights granted to Eligible Mortgagees include the following:

- (a) Eligible Mortgagees shall be entitled to timely written notice of the following:
  - (i) Any property loss, condemnation or eminent domain proceeding affecting (1) a material portion of the Community Property, or (2) any Living Unit on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgagees;
  - (ii) Any delinquency in the payment of assessments or charges owned by the Owner of a Living Unit subject to the Mortgage of such Eligible Mortgagees, where such delinquency has continued for a period of sixty (60) days, or any other violation of the Governing Documents relating to such Living Unit or the Owner or occupant which is not cured within sixty (60) days;
  - (iii) Any termination, lapse or material modification of any insurance policy required to be maintained by the Association; and
  - (iv) Any other matter with respect to which Eligible Mortgagees are entitled to notice or to give their consent as provided in this Declaration.



(m) The Declarant shall have the power, without the consent or joinder of any Owner, to grant such easements as it deems appropriate across any portion of the Property for the benefit of persons who are not Owners or residents of the Community for ingress and egress to and from areas within or adjacent to the Community.

Section 11.2 *Association Easements*. The Board of Directors of the Association shall have the right to grant easements, rights-of-way, licenses and similar interests over any part of the Community Property for any lawful purpose which the Board, in its sole discretion, determines to be in the best interest of the Association, provided that during the Declarant's Rights and Obligations Period, the prior consent of the Declarant is obtained. The Association shall be responsible for monitoring compliance with the requirements of any conservation easement or other restrictions imposed upon the Property as provided in the Development Plan and shall provide periodic notice to the Owners of any such easements or restrictions.

## ARTICLE XII

### MAINTENANCE OF LIVING UNITS AND COMMUNITY AREAS

Section 12.1 *Living Unit Maintenance*. Except as otherwise specifically provided in the Governing Documents, each Owner of a Living Unit shall keep such Living Unit, including all landscaping and improvements therein or thereon, as well as any areas such as right-of-ways adjacent to the Living Unit, in good order and repair and free of debris, including, but not limited to, painting and exterior maintenance of all buildings and other improvements located within such Living Unit, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Living Unit shall fail to maintain such Owner's Living Unit, the Board of Directors or its agent shall have the right, but not the obligation, to enter upon said Living Unit to repair, maintain and restore the Living Unit. The Association shall also have the right to enter Living Units to correct drainage. Except in the case of an emergency, the Board of Directors shall provide an Owner at least fifteen (15) days written notice prior to entering a Living Unit for the purposes set forth in this Section. Notice shall be deemed to be given when mailed by regular or certified mail or hand-delivered to the address of the Owner as it appears in the records of the Association. All costs related to such correction, repair, maintenance or restoration shall be collectible by the Association in the same manner as Assessments and may become a lien upon such Living Unit, provided the requirements of the Maryland Contract Lien Act have been satisfied. Such lien may be enforced in the same manner as the lien for any other Assessment under the Governing Documents.

Section 12.2 *Association Maintenance*. Except to the extent that such responsibilities may be delegated to others pursuant to a lease, license or other agreement, the Association shall maintain, repair, replace and keep in good order (i) the Community Areas including, without limitation, repair and replacement of the Community recreational facilities, snow and ice removal from roads, driveways and sidewalks and landscaping, (ii) any and all storm water management facilities (including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets and underground facilities) whether such storm water management facilities are located within the Property or not, as long as such storm water management facilities are designed to benefit or serve any portion of

Section 13.2 *No Priority*. No provision of this Declaration gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Living Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Community Property.

Section 13.3 *Notice to Association*. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Living Unit.

Section 13.4 *Failure of Mortgagee to Respond*. Any Mortgagee who receives a written request from the Board of Directors to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

## ARTICLE XIV

### AMENDMENT OF GOVERNING DOCUMENTS

Section 14.1 *Declaration*. This Declaration may only be amended by an instrument signed by, or the affirmative vote of, the Owners of not less than sixty-seven percent (67%) of the Living Units; provided, however, that the percentage of votes necessary to amend a specific clause within the Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause and provided further that any amendment to this Declaration shall require the prior written consent of the Declarant during the Declarant's Rights and Obligations Period. Any amendment must be recorded in the Land Records.

Section 14.2 *Changes and Modifications by the Declarant*. The Declarant shall have the right, until fifteen (15) years after the recordation of this Declaration, or until such time as the Declarant no longer owns any portion of the Property, whichever shall occur later, without the consent of the Members of the Association or any other party, to modify, amend or change the Governing Documents at any time and from time to time as the Declarant may deem necessary or desirable (i) to correct errors or omissions herein; (ii) to bring any provision of the Governing Documents into compliance with any applicable governmental statute, rule, regulation or judicial determination which is in conflict therewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; (iv) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example FHA, VA, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Living Units; (v) to satisfy the requirements of any governmental or quasi-governmental agency; or (iv) as may be necessary to reflect changes in the Fair Housing Laws.

Section 14.3 *Declarant's Power of Attorney*. Declarant reserves for itself, its successors, transferees and assigns the right to execute on behalf of all contract purchasers, owners, mortgagees, and other lien holders or parties claiming a legal or equitable interest in any

Living Unit or Community Property, any such agreements, documents, amendments or supplements to the Governing Documents made in accordance with Section 14.2 of this Declaration.

(a) By acceptance of a deed to any Living Unit or by the acceptance of any other legal or equitable interest in the Living Units or Community Property, each and every such contract purchaser, Owner, mortgagee or other lien holder or party having a legal or equitable or interest in any Living Unit or Community Property does automatically and irrevocably name, constitute, appoint and confirm the Declarant, its successors, transferees and assigns, as attorney-in-fact for the purpose of executing such agreement, document, amendment, supplement and other instrument(s) necessary to effect the foregoing, subject to the limitations set forth herein.

(b) No such agreement, document, amendment, supplement or other instrument which adversely affects the value of a Living Unit, or substantially increases the financial obligations of an Owner, or reserves any additional or special privileges for the Declarant not previously reserved, shall be made without the prior written consent of the affected Owner(s) and all owners of any mortgage(s) encumbering the Living Units owned by the affected Owner(s). Any such agreement, document, amendment, supplement or instrument which adversely affect the priority or validity of any mortgage which encumbers any Living Unit or Community Property shall not be made without the prior written consent of the owners of all such mortgages.

(c) The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Living Units and Community Property and be binding upon the heirs, personal representatives, successors, transferees and assigns of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said power of attorney. Said power of attorney shall be vested in the Declarant, its successors, transferees and assigns until fifteen (15) years after the recordation of this Declaration, or until such time as the Declarant no longer owns any portion of the Property, whichever shall occur later. Thereafter, said power of attorney shall automatically vest in the Association to be exercised by its Board of Directors.

Section 14.4 *Validity and Effective Date of Amendments to the Declaration.* Amendments to this Declaration shall become effective upon recordation in the Land Records, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to automatically amend any provisions of this Declaration.

## ARTICLE XV

**[RESERVED]**

## ARTICLE XVI

GENERAL PROVISIONS16.1 *Security and Safety; Limitation of Liability.*

(a) Neither the Association, the Declarant, nor any successor or assign of the Declarant, shall in any way be considered insurers or guarantors of security within the Community, nor shall any of them be held liable for any loss or damage by reason of or failure to provide adequate security or any ineffectiveness of security measures undertaken. No representation or warranty is made or implied that any fire protection system, burglar alarm system or other surveillance system or measures including, without limitation, any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system or security measures were designated or intended.

(b) Each Owner acknowledges, understands and covenants to inform its tenants, and all occupants, guests and invitees of its Living Unit that the Association, the Declarant and any successor or assign of the Declarant are not insurers and that each person using or present within the Property assumes all risks of personal injury and loss or damage to property, by theft or otherwise, including loss or damage to Living Units or personal property, whether such personal property is maintained within a Living Unit or the Community Areas.

(c) The Association shall not be liable for any failure of any services to be obtained by the Association or paid for by Assessments, 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 Community Areas, or from any pipe, drain, conduit or the like. No diminution or abatement of Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Community Areas, or from any action taken by the Association.

Section 16.2 *Enforcement.* Unless otherwise limited, the Declarant, the Association, any Owner and any Mortgagee 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 the Governing Documents. Failure by the Declarant, the Association, any Owner or by any Mortgagee to enforce any provision of the Governing Documents 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 Governing Documents, cannot be adequately remedied by action at law or exclusively by recovery of damages. If the Association, or any Owner or Mortgagee, successfully brings an action to extinguish a violation or otherwise enforce the provisions of the Governing Documents, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner and/or resident committing or responsible for such violation, and such costs shall be collectible in the same manner as any other Assessment under the Governing Documents.

Section 16.3 *Severability*. Invalidation of any one of the covenants, restrictions or other provisions of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 16.4 *Successors of the 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 expressly by an instrument in writing, without notice to the Association.

Section 16.5 *Arbitration*.

(a) Notwithstanding any provision of this Declaration or other Governing documents to the contrary, if, after good faith efforts to negotiate a satisfactory solution have failed, any dispute that cannot be resolved between (i) the Declarant (including any of the Declarant's employees, agents or contractors) and (ii) the Association and/or any Owner or Owners, will be submitted to arbitration in accordance with this Section 16.5 unless an alternative dispute resolution procedure is agreed to by the parties to the dispute. As used in this Section 16.5, the term "**dispute**" includes any controversy or claim, including, without limitation, any claim based on contract, tort, or statute arising out of or relating to (1) the rights or obligations of such parties under this Declaration or other Governing Documents, or (2) the design, construction, or warranty of the Community Property. Upon the request of a party to a dispute, the issue shall be referred to the nearest office of Judicial Arbitration and Mediation Services, Inc. ("**JAMS**"), or its successors, for resolution by final and binding arbitration before a retired judge or justice from the JAMS panel.

(b) Either party may commence the arbitration process called for in this Section by filing a written demand for arbitration with JAMS, with a copy to the other party. The arbitration shall be conducted at a location determined by the arbitrator in the Washington, DC metropolitan area and will be administered in accordance with the provisions of JAMS' Comprehensive Arbitration Rules and Procedures in effect at the time of filing of the demand for arbitration, or such other rules and procedures that are agreed to by all parties. The parties covenant that they will participate in the arbitration in good faith and that they will share equally in the fees and expenses of the arbitrator.

(c) The arbitrator shall determine which is the prevailing party and shall include in the award payment by the non-prevailing party of the prevailing party's reasonable attorneys' fees and expenses. The provisions of this Section 16.5 and any judgment rendered by the arbitrator may be enforced by any court of competent jurisdiction and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.

(d) **EVERY OWNER, MORTGAGEE, AND ALL OTHER PARTIES WITH AN INTEREST IN ANY PORTION OF THE PROPERTY COVENANT AND AGREE TO HAVE ALL DISPUTES DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THIS SECTION 16.5 AND RELINQUISH ANY RIGHTS THAT MAY BE AVAILABLE TO HAVE SUCH MATTERS LITIGATED IN A COURT OR BY JURY TRIAL, INCLUDING JUDICIAL RIGHTS TO DISCOVERY AND APPEAL.**

**THE REFUSAL BY A PARTY TO SUBMIT TO ARBITRATION IN ACCORDANCE WITH THIS SECTION 16.5 MAY RESULT IN THE PARTY BEING COMPELLED TO ARBITRATE UNDER FEDERAL OR STATE LAW.**

Section 16.6 *Taxes and Assessments.* It is the intent of this Declaration that insofar as the interests of each Owner to use and enjoy the Community Property is an interest in real property appurtenant to each Living Unit, the value of the interest of each Owner in the Community Property shall be included in the assessment for each such Living Unit and as a result, any assessment directly against such Community Property should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Living Units.

Section 16.7 *Conservation Easements and Other Restrictions.* The Association shall be responsible for monitoring compliance with the requirements of any conservation easements and other restrictions imposed on the Community Property by the County, and for periodically reminding the Owners of these restrictions.

Section 16.8 *No Dedication to Public Use.* Nothing herein shall be construed as a dedication to public use or as an acceptance for maintenance of any Community Property by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Community Property.

Section 16.9 *Incorporation by Reference on Resale.* When any Owner sells or otherwise transfers any Living Unit, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, conditions, restrictions, servitudes, easements, charges and liens set forth in this Declaration; however, the failure to do so shall not (i) affect the validity of any such deed, or (ii) the enforceability of the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration against the grantee under the deed or any subsequent Owner of such Living Unit.

Section 16.10 *Reserved Rights of the Declarant.* No supplemental or amendment to the Governing Documents may remove, revoke or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant.

Section 16.11 *Non-Association Disputes.* The Association expressly has no right or obligation to intervene in any disputes between and among Owners or in any other matters that do not directly involve Community Property or other issues for which the Association has been conferred responsibility pursuant to the Governing Documents.

Section 16.12 *Limitation on Opposition to Development.* As long as the Declarant is the Owner of any portion of the Community, the Association may not use its financial resources to defray the costs of opposing any lawful development activities of the Declarant. Nothing in this Section shall be construed to limit the rights of Owners to act in their individual capacities.

Section 16.13 *Conveyance of Community Property by the Declarant.* The Declarant may convey unimproved or improved land to the Association to be held as Community Property, or may construct improvements on any Community Property. The consent of the Association shall not be required for such conveyance or construction. The Declarant shall have the right to permit the Association and its Members to enjoy and utilize the land which has not been conveyed but which is intended to become Community Property. The Association shall have the right to maintain such property and levy Assessments for maintenance costs, notwithstanding that such property has not yet been conveyed to the Association.

Section 16.14 *Captions and Gender.* The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever in this Declaration the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

Section 16.15 *Perpetuities.* If any of the covenants, conditions, easements, restrictions, or other provisions of this Declaration shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the members of the 107<sup>th</sup> United States Congress.

Section 16.16 *Conflicts.* In the event of any conflict between this Declaration and the Articles of Incorporation or the Bylaws, the terms and provisions of this Declaration shall control.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this Declaration to be executed and delivered in its name and on its behalf as of this 20<sup>th</sup> day of July, 2009.

WITNESS:

CUMBERLAND HOUSING ALLIANCE, INC.  
a Maryland corporation

[Signature]

By Ronald L. Sheally  
RONALD L. SHEALLY, President

STATE OF MARYLAND, ALLEGANY COUNTY, TO WIT:

I hereby certify that on this 20<sup>th</sup> day of July, 2009, before me, the undersigned notary public for the aforesaid jurisdiction, personally appeared Ronald L. Sheally known to me (or satisfactorily proven) to be the President of Cumberland Housing Alliance, Inc., a Maryland corporation, and that he, in such capacity and being authorized so to do, executed the foregoing and annexed instrument on behalf of the company for the purpose therein contained.

Jay R Emerick  
NOTARY PUBLIC

My Commission Expires:

12/01/09

[NOTARIAL SEAL]

**ATTORNEY'S CERTIFICATION**

I HEREBY CERTIFY THAT I am an attorney duly licensed to practice before the Court of Appeals of Maryland, and that the foregoing instrument was prepared by me or under my supervision.

[Signature]  
JEFFREYS. GETTY



**CORNERSTONE HILL COMMUNITY ASSOCIATION, INC.**

**AMENDED DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS**

**APPENDIX ONE**

**Definitions of Significant Terms  
Used in the Governing Documents**

**Articles of Incorporation** or **Articles** refers to the Articles of Incorporation for Cornerstone Hill Community Association, Inc., as filed with the Maryland State Department of Assessments and Taxation.

**Assessments** refer to all General Assessments, Special Assessments and all other fees and charges and all installments of any of the foregoing, as may be levied by the Association in accordance with the Governing Documents.

**Association** refers to Cornerstone Hill Community Association, Inc., a Maryland corporation, its successors and assigns, and is the entity which holds title to the Community Property and the entity responsible for carrying out the objectives of the Governing Documents.

**Board of Directors** or **Board** refers to the governing body of the Association as more fully described in the Bylaws and Articles of Incorporation of the Association.

**Bylaws** refer to the Bylaws of Cornerstone Hill Community Association, Inc., as adopted by the Board of Directors, as amended from time to time.

**City** refers to the City of Cumberland, Maryland, and any City agency, regulatory authority or department.

**Common Expenses** refers to the actual and estimated expenses of operating the Association, including any reasonable reserves, as determined by the Board of Directors in accordance with the Governing Documents.

**Community** refers to all of the property described on Exhibit A to this Declaration as well as any real property that may be annexed from time to time within the jurisdiction of the Association by the recordation of one or more Declarations of Annexation, in accordance with this Declaration. The term "Community" includes all Living Units and Community Property. The Community is sometimes also referred to as the "**Property**".

**Community Areas** refer to the Community Property, together with any other areas shown on the Community Plan, regardless of whether such areas are owned by the Association or are located within the Property, for which, pursuant to the Community Plan, this Declaration, any Declaration of Annexation, any Community Code, any agreement or otherwise, the Association is intended to assume maintenance or other responsibilities.

**Community Codes** refer to the rules, regulations, standards and guidelines as may be promulgated from time to time in accordance with this Declaration and which, once promulgated, are as binding and enforceable as this Declaration.

**Community Plan** refers to the Declarant's plan for the development of the Property. The Community Plan is subject to change from time to time in the sole discretion of the Declarant in order to address the changing needs of the Community, in response to changes in market conditions or for any other reason deemed necessary or desirable by the Declarant.

**Community Property** refers to all real property owned or leased by the Association, including the improvements thereto, for the common use and enjoyment of the Owners. Community Property shall include Exclusive Community Property.

**County** refers to Allegany County, Maryland, and any County agency, regulatory authority or department.

**Declarant** refers to Cumberland Housing Alliance, Inc., a Maryland corporation, and its successors, transferees and assigns, provided, however, that no successor, transferee or assign of the Declarant shall acquire any of the Declarant's Rights and Obligations unless all or some of the Declarant's Rights and Obligations are specifically set forth in writing and described in the instrument of succession, transfer or assignment.

**Declarant's Rights and Obligations** refers to any and all privileges, powers, easements, exemptions, rights and duties reserved to the Declarant in the Governing Documents, including in Appendix Two of this Declaration.

**Declarant's Rights and Obligations Period** has the meaning set forth in §A-101 of Appendix Two of this Declaration.

**Declaration of Annexation** refers to any instrument including, without limitation, any supplementary declaration of covenants, conditions and restrictions, recorded by the Declarant or the Association in accordance with Article 2 of this Declaration.

**Design Guidelines** refers to the architectural guidelines and procedures, if any, as adopted from time to time in accordance with this Declaration.

**Design Review Committee** refers to the entity which may be established pursuant to Article 7 of this Declaration.

**Development Plan** refers to the approved site plan for the Property, including all amendments, modifications and extensions thereof as may be made from time to time.

**Eligible Mortgagee** shall have the meaning set forth in Section 13.1 of this Declaration.

**Exclusive Community Property** refers to any portions of the Community Property designated as such in accordance with Section 2.4 of this Declaration.

**General Assessments** refer to assessments levied at the uniform rate against all Living Units within the Community to fund Common Expenses.

**Governing Documents** refer to this Declaration, the Articles of Incorporation, the Bylaws and the Community Codes, as each of the same may be amended from time to time.

**Improvements** shall have the meaning set forth in Section 7.1 of this Declaration.

**Initial Contribution** shall have the meaning set forth in Section 5.10 of this Declaration.

**Land Records** refers to the land records of Allegany County, Maryland.

**Living Unit** refers to any portion of the Property, whether improved or unimproved, which contains or is intended to contain a dwelling designed for use and occupancy by a single household. Each single-family attached townhouse shall be deemed to be a separate Living Unit.

**Member** refers to every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, that holds any class of membership in the Association pursuant to this Declaration.

**Mortgage** refers to a mortgage deed of trust, a deed to secure debt or any other form of security instrument affecting title to a Living Unit.

**Mortgagee** refers to an institutional or governmental holder of a Mortgage. In the event any Mortgage is insured by the Federal Housing Administration ("FHA") or guaranteed by the Department of Veterans Affairs ("VA"), then as to such Mortgage the term "Mortgagee" includes the FHA or the VA as the circumstances may require, acting, respectively, through the Federal Housing Commission and the Secretary of Veteran Affairs or through other duly authorized agents.

**Owner** refers to the record title holder of any Living Unit, whether one or more Persons. The term Owner excludes those having an interest in a Living Unit merely as security for the performance of an obligation.

**Person** shall refer to a natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

**Property** refers to all of the property described on Exhibit A to this Declaration as well as any real property that may be annexed from time to time within the jurisdiction of the Association by the recordation of one or more Declarations of Annexation, in accordance with this Declaration. The term "Property" includes all Living Units and Community Property. The Property is sometimes also referred to as the "**Community**".

**Regulatory Plans** refer to all project plans, preliminary plans, and/or site plans, as amended, for the Property reviewed and approved by the City of Cumberland Planning and Zoning Commission.

**Special Assessments** refer to assessments levied in accordance with Section 5.5 of this Declaration.

**CORNERSTONE HILL COMMUNITY ASSOCIATION, INC.****AMENDED DECLARATION OF COVENANTS,  
CONDITIONS, EASEMENTS AND RESTRICTIONS****APPENDIX TWO****Declarant's Reserved Rights and Obligations**

To secure the Declarant's interests related to the development of the Community, including the pursuit and furtherance of the missions and goals of the Community established and modified from time to time by the Declarant, the Declarant shall have, in addition to the rights set forth elsewhere in the Governing Documents, the benefit of certain rights and be encumbered with certain obligations, as set forth herein.

**§A-101 Duration of the Declarant's Rights and Obligations**

The Declarant's Rights and Obligations shall extend until the sooner to occur of (i) the conveyance of all Living Units contained or to be contained within the Community to Owners other than the Declarant, or (ii) five (5) years after the recordation of this Declaration, except that some specific rights and obligations may expire by virtue of their being tied to the occurrence of certain events arising prior to conveyance of all Living Units. The Declarant, however, may elect to voluntarily terminate all or any portion of the Declarant's Rights and Obligations by expressing such election in writing to the Association. The term during which the Declarant's Rights and Obligations may continue shall sometimes be referred to as the "**Declarant's Rights and Obligations Period**".

**§A-102 Declarant's Right to Complete the Community Plan**

(a) **Development Activities.** The Declarant shall have the right to conduct all lawful activities required or related to the completion of the Community Plan, as such may be amended from time to time. The Association shall not, as an entity, take any position of opposition against provisions of the Community Plan, as such may be amended from time to time, in a public setting, except that such prohibition shall not apply if the Declarant is seeking an amendment or modification to any existing regulatory approval which has an adverse and material impact on the affairs of the Association. Neither shall the Association utilize any of its material or financial resources to oppose the lawful development activities of the Declarant. Given the evolving nature of the Community Plan which is applicable to the Property, it will be necessary for the Declarant to make changes and modifications to the Community Plan from time to time.

This provision is not intended to diminish the right of any individual to express opinions nor of the Association to pursue claims arising out of any actual adverse and material breaches of agreements or representations by the Declarant.

(b) **Additional Associations.** The Declarant shall have the right to establish one or more additional associations with respect to the Property, which associations may, without limitation, be responsible for providing amenities, facilities and/or services which are intended for the benefit of some or all of the Owners within the Community as well as owners of property adjoining and/or contiguous to the Community.

#### **§A-103 Amendments and Other Actions Affecting the Declarant**

(a) **Governing Documents.** The Association shall make no amendments to the Governing Documents nor take any action that may adversely affect the Declarant's interests, including, without limitation, the Declarant's Rights and Obligations, without the prior written consent of the Declarant.

(b) **Easements.** The Association shall take no action seeking to alter easements established in the Governing Documents for the benefit of the Declarant, nor to prevent establishment of easements necessary to complete the Community Plan.

#### **§A-104 Association Related Rights and Obligations**

(a) **The Declarant's Responsibilities for Affairs of Association.** The Declarant shall be exclusively responsible for conducting the affairs of the Association until at least one Owner, other than the Declarant, has been elected to a seat on the Board of Directors.

(b) **The Declarant's Representation of the Board of Directors.** All members of the initial Board of Directors shall be appointed by the Declarant and shall serve until replaced with Directors appointed by the Declarant and/or by Directors elected by non-Declarant Owners as provided in the Bylaws.

**EXHIBIT A**

ALL those lots or parcels of ground located along James Day Drive in Cumberland, Allegany County, Maryland, that were conveyed to Cornerstone Enterprises by deed of the Mayor and Council of Cumberland (i) dated June 15, 2005 and recorded among the Allegany County Land Records in Book 1169, folio 174, and (ii) dated September 26, 2006 and recorded in Book 1314, folio 401.