

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTERN BRANCH PRESERVE**



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**The paragraph headings and captions used herein are intended for convenience of reference only, and do not affect the interpretation or meaning of any provision of this instrument. The numbering of sections or paragraphs is not necessarily strictly sequential and the document as written and numbered contains the entire text of the Declaration.**

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR WESTERN BRANCH PRESERVE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WESTERN BRANCH PRESERVE is made this February 14, 2005, by Western Branch Preserve, LLC, a Virginia limited liability company (the "Declarant");

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain real property located in Lancaster County, Virginia, and more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the community of Western Branch Preserve is planned to evolve into a residential community under the planning ordinances adopted by Lancaster County, Virginia; and

WHEREAS, Declarant deems it to be in the best interest of the community to be developed within the property more particularly described in Exhibit "A", as it exists today and as it shall evolve in the future, to establish Covenants, Conditions and Restrictions to promote efficiencies and to provide a flexible mechanism for the administration and maintenance of community facilities, amenities and services which are for the common use and benefit of all property owners.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property that may be added by subsequent amendment hereto, in accordance with the terms and conditions hereof, is subjected to this Declaration of Covenants, Conditions and Restrictions for Western Branch Preserve, and shall be held, transferred, sold, conveyed, leased, occupied, and used subject to the following easements, restrictions, covenants, charges, liens, and conditions which are for the purpose of protecting the value and desirability of, and which shall touch and concern and run with title to, the real properties subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any portion thereof, and their respective heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1. DEFINITIONS

1.1 Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following words, shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

(a) "Architectural Review Committee" shall mean and refer to the board established herein to approve exterior and structural improvements, additions, and changes within the Development as provided in Articles 3 and 4.

(b) "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Western Branch Preserve Home Owners Association, Inc. as amended from time to time.

(c) "Assessment" shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

(d) "Association" shall mean and refer to Western Branch Preserve Home Owners Association, Inc., a Virginia not-for-profit corporation.

(e) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(f) "By-Laws of the Association" or "By-Laws" shall mean and refer to those By-Laws of Western Branch Preserve Home Owners Association, Inc., which govern the administration and operation of the Association, as may be amended from time to time. An initial copy of the By-Laws is attached hereto as Exhibit B.

(g) "Common Areas" shall mean and refer to all real and personal property now or hereafter deeded or leased to, or which are the subject of a use agreement with, the Association, and wherein the property therein described is specifically denominated to be a part of the Common Areas. Common Areas shall include the Docks, boat ramp, private roads, streets, road shoulders, Conservation Easement Area, walkways, leisure trails, signage, and such maintenance and drainage areas, easements, and shall specifically include water system and facilities located within the Development, other than upon property owned by an Owner, providing for the distribution and transmission of such utility services to the Development as a whole and not maintained by a private or public utility company, and all land excluding individual Lots, and such areas denominated herein or in any license, use agreement, lease or easement agreement as Exclusive Common Area. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use of enjoyment therein. Subject to the reservations to Declarant set forth herein and the limitations upon use and benefit applicable to Exclusive Common Area set forth herein, all Common Areas are to be devoted to and intended for the common use and enjoyment of the Declarant, Owners, and their respective guests, and invitees and subject to any operating rules adopted therefor.

(h) "Conservation Easement Area" shall mean and refer to that area of land encumbered by a conservation easement dated December 20, 2004, recorded in the Clerk's Office Circuit Court of Lancaster County, Virginia as instrument number 050000090.

(i) "Dock(s)" shall mean and refer to any dock(s) planned by Declarant.

(j) "Covenants" shall mean and refer to these Western Branch Preserve Covenants, as amended, from time to time, by any Supplemental Declaration filed Of Record.

(k) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves for the maintenance, repair and management of the Common Areas, and for the maintenance, repair and management of other property, whether owned by the Association or not and set forth in these Covenants or incorporated herein by a Supplemental Declaration, for which the Association has responsibility.

(l) "Declarant" shall mean and refer to Western Branch Preserve, LLC, or any successor-in-title to the entire interest of such person with respect to the Property at the time of such transfer to said successor-in-title, or any party designated Of Record to succeed to the rights of Declarant hereunder as to the matters set forth in such writing.

(m) "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, and Restrictions for Western Branch Preserve and all amendments and supplements hereto filed Of Record.

(n) "Dependent Children" shall mean and refer to any Person's unmarried, dependent children under the age of twenty-five (25) who are either living at home with such Person or attending school on a full time basis.

(o) "Development" shall mean and refer to the Property and all improvements located or constructed thereon, and being a part of the overall plan, from time to time existing hereunder, for the community known as "Western Branch Preserve".

(p) "Exclusive Common Area" shall mean and refer to the portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Owners.

(q) "Exclusive Common Area Expenses" shall mean and refer to the costs and expenses of owning, maintaining, repairing and restoring an Exclusive Common Area, which shall be levied and assessed as an Individual Assessment against the Lots and Owners sharing, exclusively, such Exclusive Common Area.

(r) "Foreclosure" shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

(s) "Institutional Mortgage" shall mean and refer to a Mortgage held by a bank, trust company, insurance company, or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(t) "Living Space" shall mean and refer to enclosed and covered areas within a single-family, residential dwelling, exclusive of garages, carports, porches, terraces, balconies, decks, patios, courtyard, greenhouses, atriums, bulk storage areas, attics, and basements.

(u) "Lot" shall mean and refer to any portion of the Property, whether improved or unimproved, intended for development, use and occupancy as a single-family detached residence. The term shall mean the land as well as any improvements thereon and shall include platted lots which are vacant as well as platted lots upon which single-family detached homes have been constructed.

(v) "Master Plan" shall mean and refer to that plan approved by Lancaster County Board of Supervisors on April 29, 2004 and entitled "WESTERN BRANCH" and all modifications, revisions, and additions thereto.

(w) "Member" shall mean and refer to an Owner who is a Member of the Association.

(x) "Mortgage" shall mean and refer to a mortgage, security deed, deed of trust, installment lands sales contract, or other similar security instrument granting, creating, or conveying a lien upon, a security interest in, or a security title to a Lot.

(y) "Mortgagee" shall mean and refer to the holder of a Mortgage.

(z) "Occupant" shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, or family member of an Owner, occupying or otherwise using a single-family, residential dwelling within the Development.

(aa) "Of Record" shall mean recorded in the Clerk's Office of the Circuit Court of Lancaster County.

(bb) "Owner" shall mean and refer to one or more persons, including Declarant, who or which owns fee simple title to any Lot, excluding, however, those persons having such an interest under a Mortgage.

(cc) "Person" shall mean and refer to a natural person, corporation, partnership, association, trust, limited liability company or other legal entity, or any combination thereof.

(dd) "Property" shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements thereon.

(ee) "Recreational Amenities" shall include such recreational facilities and improvements as are, from time to time, located within and a part of the Common Areas, and as are specifically designated in writing by the Declarant and/or the Association as being Recreational Amenities, including such amenities as parks, open spaces, leisure trails, equestrian trails and pasture lands, garden plots, wildlife observation areas, community docks, boat launch, and such other facilities and services as may be designated by the Declarant and/or the Association from time to time for the use and benefit of the Owners of Lots as set forth in Section 5.3.

(ff) "Subdivision Plat" shall mean and refer collectively to those two certain plats prepared by Bay Design Group, as follows:

- (1) As to Parcels 1,121, 122, 123, and 124, the plat entitled "Plat Showing a Property Line Adjustment And Proposed Conservation Easement on the Land of Western Branch Preserve, L.L.C.," dated March 9, 2004; revised August 16, 2004 and November 1, 2004; revised



November 10, 2004 to show adjustment of property lines on parcels 122 & 124, of record in the Clerk's office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 79D, 80A, & 80B.

- (2) As to Lots 1 through 36, the plat entitled "Plat Showing 'Western Branch' Being a Subdivision of the Land of Western Branch Preserve, L.L.C.", dated October 28, 2004, of record in the Clerk's office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 83C & D, 84A-D, and 85A.

(gg) "Supplemental Declaration" shall mean and refer to any amendment to these Covenants filed Of Record.

(hh) "Tenant" shall mean and refer to a Person holding a lease with an Owner of a Lot of twelve (12) months or more, or with respect to which there is a holding over on a month-to-month basis following the expiration of such minimum twelve (12) -month period.

## ARTICLE 2. THE GENERAL PLAN FOR WESTERN BRANCH PRESERVE

2.1 Plan of Development of The Property. The Property shall initially contain forty-one (41) platted Lots as shown on the Subdivision Plat, and except as set forth in Section 4.8.1, no more than one (1) single-family, residential dwelling may be constructed on each such Lot. An improved Lot with a single-family, residential dwelling constructed thereon, shall constitute a Lot hereunder. The Property shall also include the use of Common Areas, including Recreational Amenities, private roads, utility systems, drainage systems, and other improvements serving the Lots, to the extent the same are from time to time denominated as such by Declarant on the Subdivision Plat or in any deed, lease, use agreement or memorandum thereof filed Of Record, and are installed and existing. The dimensions of the Lots shall be shown on the Subdivision Plat. All Lots within the Development shall be and are hereby restricted exclusively to single-family residential use, except as set forth in Section 4.9, and shall be subject to the standards and restrictions set forth in the Declaration. Without the consent of any person, Declarant shall have the right, but not the obligation, for so long as Declarant has the right to appoint and remove any members or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and to make improvements and changes to all Common Areas, Recreational Amenities, and to all such properties owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, (c) installation and maintenance of any water, sewer, and other utility systems and facilities, and (d) installation of security and/or refuse facilities.

2.2 Conveyances Of Common Areas. All parcels of land referred to herein which are denominated by Declarant as Common Areas shall be deeded, by Declarant to the Association within two (2) years after the Declarant has completed improvements thereon, if such be required. Upon such conveyance, or upon completion of any improvements thereon by the Declarant, if such be required, the Association shall immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors. For purposes of measuring the foregoing two (2) -year period, any such improvements shall be deemed completed the date such improvements may be used in the manner and for the purposes for which they are constructed. It is the purpose of this provision to provide that the Association shall be responsible for all maintenance of Common Areas upon which all improvements required to be made by the Declarant have been completed, notwithstanding the fact that the Declarant is not obligated to deed such properties until two (2) years after such improvements have been completed thereon. Any such conveyance by the Declarant shall be conveyed subject to:

- (a) All restrictive covenants filed Of Record at the time of conveyance; and
- (b) The right of access of the Declarant, its successors and assigns, over and across such property; and
- (c) The right of the Declarant, its successors and assigns to approve all structures, construction, repairs, changes in elevation and topography and the location of any object (including vegetation) within the Common Areas prior to the commencement of such activities or location of any object therein;
- (d) All utilities and drainage easements; and
- (e) All reserved rights set forth in the Declaration.

In consideration of the benefits accruing to the Association and to the Members under this Declaration and in consideration of the covenants and agreements of the Declarant hereunder, the Association hereby agrees to accept

title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed of conveyance Of Record to the Association, title or such other interest in property conveyed shall vest in and to the Association without the necessity of any further act, deed or approval of any person, including the grantor or Association.

### ARTICLE 3. PLAN OF DEVELOPMENT OF WATERFRONT DOCKS AND BOAT RAMP

3.1 Slip Assignments, Dock Locations, and Easements. Each Lot is hereby granted the right to exclusive use of the boat slip indicated as being assigned to that Lot on that certain plat of survey entitled "Plat Showing Location of Proposed Piers and Pier Easements on the Land of Western Branch preserve, L.L.C.", prepared by Bay Design Group, dated February 8, 2005, of record in the Clerk's Office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 85C & D, and 86 A & B.

For access to each of the Docks shared by two waterfront Lots, the Lot on which the Dock is not located is hereby granted an access easement over the Lot on which the Dock is located as shown on the aforesaid plat of survey as "Proposed Pier Easement", as well as a nonexclusive easement over the Dock itself.

3.2 Use of Docks and Slips. The Slips are for use solely by the Owners and occupants of the Lots to which they are assigned, and for occasional use by guests who are visiting such owners or occupants. The slips shall be used solely for the mooring of boats. The Declarant and the Association may adopt rules and regulations governing any and all aspects of the use of slips including, without limitation, installation, use, and maintenance of utilities on Docks, the types of boats or other vessels that may be moored there, limitations on the types of activities that may be conducted on boats that are moored, limitations on noise and other matters that may constitute a nuisance, hours of operation, and requirements for providing evidence of proper registration of and insurance for boats moored in the slips. No owner shall make any use of any slip that violates any applicable legal requirement including, without limitation, the requirements imposed in connection with any Health Department, Virginia Marine Resources Commission or other permits for the slips. Each Owner, Lessees of Owners, their families and guests are liable for any damage to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged property, coastal waters, wetlands, or any other critical area constituting any portion of the common areas. Solid waste must be disposed of properly and trash is not allowed to be thrown or blown overboard. Control of oil in the bilge by use oil absorbent pads or bioremediating bilge booms is required. It is illegal to discharge bilge water with an oil sheen. Use phosphate-free, biodegradable, non-toxic cleaners sparingly when cleaning boats. Never discharge raw sewage overboard.

Owners sharing an adjacent Dock will be responsible for running their own utilities. Owners sharing a community Dock will be responsible for running their own utilities from the landward end of the docks to their slips, including the cost of an electric meter such that the Association is able to allocate electricity charges to the slip owner. The Declarant will run electricity and water lines to the landward end of the docks. All aspects of the installation and maintenance of utilities on the Docks including but not limited to components used and the location of utilities shall be approved by the Architectural Review Committee.

Boats must be kept in "bristol" condition. Custom covers for consoles, outboard motors, electronics, tables, handrails, etc. in usual and customary colors will be allowed. Tarps, plastic, or poorly fitting generic covers will not be allowed. Boat covers must be custom fitted and neutral and muted in color. One standard sized fiberglass dock box will be allowed for each slip. Low profile boat lifts will be allowed. Size and type of boats allowed on lifts will be at sole discretion of the Declarant or the Association.

3.3 VMRC Jurisdiction. Designated Dock(s) shall be built and used on the authority of permit number 04-2132 issued by VMRC on February 3, 2005. No individual private piers other than those allowed under the aforementioned permit shall be built on any waterfront lot within Western Branch Preserve. Each Owner is liable for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning, any submerged property, coastal waters, or any other critical area constituting the whole or any portion of the Common Areas.

3.4 Rules and Regulations. The Declarant and/or the Board of Directors shall be entitled to promulgate reasonable rules and regulations from time to time, which shall be binding on the Association and all Owners and lessees of Owners, their families, invitees and guests, regarding the use and enjoyment of the Designated Dock(s).

3.5 Land Disturbance Restrictions. Lancaster County has adopted an ordinance to comply with the Chesapeake Bay Preservation Act pursuant to Section 10.1-2100 et seq. of the Code of Virginia, 1950 as amended. As of the date hereof, the ordinance requires a one hundred (100) foot buffer zone beginning with the edge of tidal wetlands and permits limited development activities within this zone for Lots 1 through 36. Other federal, state, and local restrictions may apply to and permits may be required for activities on, in and near the waterfront area of each of the Lots and the Common area. All Owners; and occupants' activities shall comply with these restrictions and requirements. Additional information is available from the Lancaster County Planning Commission, the Chesapeake Bay Local Assistance Department, the Virginia Marine Resources Commission, the Virginia Department of Environmental Quality, and the U.S. Army Corps of Engineers. Parcels 1, 121, 122, 123, and 124 are parcels recorded prior to the aforementioned restrictions and have been granted variances to encroach into the one hundred (100) foot buffer zone.

#### ARTICLE 4. ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

4.1 Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Development, the Lots, and all improvements located therein or thereon shall be subject to the restrictions set forth in this Article. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article.

4.2 Architectural Review Committee ("ARC"). The Association shall establish an Architectural Review Committee which shall consist of not more than five (5) nor less than three (3) Members. The regular term of office for each member shall be one year. Any member appointed by the Declarant may be removed with or without cause by the Declarant at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. Notwithstanding the foregoing to the contrary, any member appointed to the Architectural Review Committee by the Board of Directors upon assignment to the Association of the whole or any portion of Architectural Review Committee functions pursuant to the Declaration shall be subject to the prior approval of Declarant until that date which is three (3) years from and after the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and is terminated. The Architectural Review Committee shall elect a chairman and he, or in his absence, the vice chairman, shall be the presiding officer at its meetings. The Architectural Review Committee shall meet upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. A majority of the Architectural Review Committee shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Architectural Review Committee shall constitute the action of the Architectural Review Committee on any matter before it. The Architectural Review Committee is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the Architectural Review Committee in performing its functions set forth herein. Members of the Architectural Review Committee are not required to be Lot owners.

4.2.1 Liability of Architectural Review Committee Members. No member of the Architectural Review Committee shall be liable to any Lot Owner for any decision, action or omission made or performed by such Architectural Review Committee member in the course of his duties.

(a) Indemnification. Members of the Architectural Review Committee shall be indemnified by the Association pursuant to the provisions of the By-Laws.

4.3 Permitted Improvements No improvements of any nature whatsoever shall be constructed, altered, added to, or maintained upon any part of the Development, except (a) improvements which are constructed by Declarant; (b) such improvements as are approved by the Architectural Review Committee in accordance with this Article ; or (c) improvements which pursuant to this Article do not require the consent of the Architectural Review Committee. No manufactured housing shall be permitted on any Lot.

#### 4.4 Construction of Improvements.

4.4.1 Siting of Improvements; Setbacks. Since the establishment of standard, inflexible building setback lines for the location of structures tend to force construction of such buildings both directly behind and directly to the side of each other with detrimental effects on privacy, views, preservation of important trees, etc., building setbacks and buffers are published in section 3d of the Architectural Review Committee's Design Guidelines and Procedures provided that the Architectural Review Committee shall be empowered to grant variances with respect to such setback lines.

4.4.2 Time of Construction Activities. No construction of improvements on any Lots shall be undertaken or conducted on any Sundays or holidays as established by the Architectural Review Committee, except for (a) construction activities of Declarant, (b) emergency situations involving the potential loss, injury, or damage to persons or property, and (c) as otherwise permitted by the Architectural Review Committee.

4.4.3 Temporary Structures. No structure of a temporary character shall be placed upon any property subject to this Declaration at any time, provided, however, that this prohibition shall not apply to Declarant's sales and construction activities pursuant to Section 4.4.6 or to temporary structures used by the contractor during construction of permanent structures, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the subject property after completion of construction. The design and color of structures temporarily placed by a contractor shall be subject to reasonable aesthetic control by the Architectural Review Committee. The provisions of this Section shall not prohibit the erection of temporary structures for social functions as may be permitted by rules and regulations promulgated by the Architectural Review Committee.

4.4.4 Construction Debris. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the property upon which such work is being done in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the property on which such construction has been completed.

4.4.5 Occupancy. Lots may not be temporarily or permanently occupied until proper and suitable provision has been made for the disposal of sewage by connection with sewer drain fields, the construction of improvements to the Lot have been completed, and a certificate of occupancy has been issued by both the Architectural Review Committee and by the political subdivision with jurisdiction thereof.

4.4.6 Sales and Construction Activities of Declarant. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of the whole or any portion of the Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model dwellings provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 4.4.6 will be subject to Declarant's approval. The right of Declarant to maintain and carry on such facilities and activities shall include specifically the right to use dwellings as model residences, and to use any dwelling as an office for the sale of Lots and/or dwellings and for related activities.

4.5 Architectural Approval. To preserve the architectural and aesthetic appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by the Association or any Owner, other than Declarant, with respect to the construction of any improvement, structure, single-family, residential dwelling or with respect to any other portion of the Development, including, without limitation, the construction or installation of driveways, mail boxes, decks, patios, courtyards, swimming pools, greenhouses, awnings, walls, fences, exterior lights, garages, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature,

color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Review Committee. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the Architectural Review Committee, and the other copy shall be returned to the Owner marked approved or disapproved. The Architectural Review Committee shall establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designers, inspectors, or attorneys retained in accordance with the terms hereof. The fees initially established for such reviews shall be outlined in the Architectural Review Committee's Design Guidelines and Procedures and the Architectural Review Committee shall have the right to increase this amount from time to time. For purposes of such review, if the Architectural Review Committee determines, in its sole discretion, that an Owner has failed to follow the standards of the Board, it may give notice to the Owner that if the Board is required to take up any additional time following its review to take place after such notice, then such later additional time shall be deemed a new submission requiring payment of another review fee as a condition to its taking such additional time. The Architectural Review Committee shall not be limited in the number of such notices it may give or the number of such additional review fees it may collect as a result of Owner's continued failure to follow the standards. Notwithstanding the foregoing requirement of architectural review, an Owner of any enclosed Lot, or other building or structure may make interior improvements and alterations therein without the necessity of approval or review by the Architectural Review Committee; provided, however, such approval shall be required if such interior improvements are made within any garage, underneath parking area or similar area plainly within view of adjacent properties. The Architectural Review Committee shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association. In connection with approval rights and to prevent excessive drainage or surface water run-off, the Architectural Review Committee shall have the right to establish a maximum percentage of a property which may be covered by buildings, structures, or other improvements, which standards shall be promulgated on the basis of topography, percolation rate of the soil, soil types and conditions, vegetation cover, and other environmental factors. Following approval of any plans and specifications by the Architectural Review Committee, representatives of the Architectural Review Committee shall have the right during reasonable hours to enter upon and inspect any property or improvements with respect to which construction is underway within the Development to determine whether or not the plans and specifications thereof have been approved and are being complied with. In the event the Architectural Review Committee shall determine that such plans and specifications have not been approved or are not being complied with, the Architectural Review Committee shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications. In the event the Architectural Review Committee fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications shall have been submitted, such plans and specifications will be deemed to have been expressly approved. Upon approval of plans and specifications, no further approval under this Article shall be required with respect thereto, unless such construction has not substantially commenced within twelve (12) months of the approval of such plans and specifications (e.g. clearing and grading, pouring of footings, etc.) or unless such plans and specifications are materially altered or changed. Refusal of approval of plans and specifications may be based by the Architectural Review Committee upon any ground which is consistent with the objects and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious.

4.6 Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by the Association or any Owner, other than Declarant, unless and until the plans therefor have been submitted to and approved in writing by the Architectural Review Committee. The provisions of Section 4.5 regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. All of the landscaping within a Lot must be completed within ninety (90) days of occupancy or substantial completion of the Lot, whichever date shall first occur.

4.6.1 Applicable Tree Ordinances. Anything contained herein to the contrary notwithstanding, the limitations herein provided are in addition to, and not substitutions for, the ordinances, rules, regulations, and conditions of any political subdivision of the Commonwealth of Virginia with jurisdiction of the cutting and removal of trees. In the event of any conflict between the limitations and standards herein provided and those provided in any such ordinance or statute, the more restrictive of the two shall take precedence over the other.

4.7 Approval Not a Guarantee. No approval of plans and specifications and no publication of architectural standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Architectural Review Committee shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article, nor any defects in construction undertaken pursuant to such plans and specifications.

4.8 Building Restrictions. Except as may be otherwise set forth in this Declaration, in the Subdivision Plat, in any Supplemental Declaration, in any agreement with Declarant, or by specific deed restriction, the following building restrictions shall apply with respect to the properties subject to this Declaration:

4.8.1 Number of Buildings on Lots. On a Lot, no structure shall be constructed other than one (1) principal or primary detached single-family, residential dwelling and such accessory building as shall be permitted or approved by Lancaster County, and as shall not overcrowd a lot, which may include a detached garage, guest house, or garden shed. In any event, no more than two buildings will be allowed on a lot (the primary dwelling and one accessory building).

4.8.2 Square Footage Requirements. All primary single-family, residential dwellings constructed on Lots shown on the Subdivision Plat shall have a minimum of fifteen hundred (1,500) square feet of Living Space. Owners shall be limited to one (1) primary single-family, residential dwelling per lot in excess of 1,500 square feet of Living Space and one garage which may include guest suite, which may not exceed 1,000 square feet. Building footprints in excess of 3,424 square feet must be approved by Lancaster County as a change to the Master Plan.

4.8.3 Other Requirement of Residences. In addition, all residential structures constructed on a Lot shall be designed and constructed in compliance with the requirements of applicable Building Codes.

4.9 Use of Lots and Dwellings. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Lot as an office, studio, workshop or other such accessory use by an Owner shall not be considered to be a violation of this covenant if such use does not create customer, client, or employee traffic.

4.10 Exterior Appearance. No chain-link fences shall be permitted within the Development, except with regard to maintenance areas within the Common Areas. Also, any unenclosed garages or carports must be adequately screened from street views. Further, no foil or other reflective materials shall be used on any windows for sun screens, blinds, shades, or other purpose, except as specifically permitted by the Architectural Review Committee, nor shall any window-mounted heating or air-conditioning units be permitted. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained, nor shall any clothing, rugs, or other item be hung on any railing, fence, hedge, or wall.

No portion of the Property outside of enclosed structures shall be used, in whole or in part, for the storage of any property or thing that will cause it to appear to be in an unclean or an untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Property that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. Auto courts, patios, porches, and roof decks are to be kept neat and orderly at all times. Patios and porches are for patio and porch furniture, grills etc. (no storage of toys, bicycles, boat equipment, etc.) ARC shall have the right to direct Owners to maintain and or repair the exterior of a residence or other out building to present a neat and well-maintained appearance in keeping with the overall high standards of the community.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including, specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which

might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property.

No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with this Declaration.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Architectural Review Committee.

No overhead utility lines, including lines for electricity, cable, phone, or television, shall be permitted within the property, except for temporary lines as required during construction.

Fencing and landscape planting for screening or privacy may be appropriate in certain circumstances, but will be subject to strict architectural review. Screening or planting shall not substantially block the views of neighbors. In the event any screening is allowed, plans, specifications and materials must be approved by the Architectural Review Committee.

4.11 Signs. No signs or advertising posters of any kind except for those required by legal proceedings, for-sale identification, or security systems, shall be maintained or permitted within any windows or on the exterior of any improvements or on any unimproved portion of property located within the Development. The approval of any signs and posters, including, without limitation, name and address signs, shall be upon such conditions as may be from time to time determined by the Architectural Review Committee and may be arbitrarily withheld. Notwithstanding the foregoing, the restrictions of this Section 4.11 shall not apply to Declarant. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Areas and within easement areas and in accordance with architectural standards adopted therefor by the Architectural Review Committee.

4.12 Lights. The design and location of all exterior lighting fixtures shall be subject to the approval of the Architectural Review Committee. Neither these nor any other illumination devices, including, but not limited to, seasonal, holiday ornaments, located anywhere on the structures or grounds of any of the Property shall be located, directed, or of such intensity to affect adversely, in the sole discretion of the Architectural Review Committee, the night-time environment of any adjoining property.

Seasonal decorative lights may be displayed between Thanksgiving and January 10 only. Seasonal lighting will be limited to white window candles and reasonable front entry lighting. No lights will be allowed on roofs or eaves. No icicle lights will be allowed without prior approval from the ARC.

4.13 Antennas. No television antenna, radio receiver or sender or other similar device may be installed without ARC approval. No transmission of radio, television, or any other form of electromagnetic signal which may unreasonably interfere with the reception of television or radio signals is permitted. Satellite Dishes are permitted, however, they must be placed in either an inconspicuous location, a service yard, or on the ground if they are adequately screened from view from the street and adjacent neighbors. The ultimate location of dishes must be approved by the ARC. Exterior sound devices, with the exception of security alarms, shall be located and controlled so as not to interfere with the peace and privacy of neighbors. This will be strictly enforced.

4.14 Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by any Owner upon any portion of the Development except as herein provided and except for such activity conducted upon Common Areas specifically established by the Board therefor; provided, however, a reasonable number of generally recognized house pets may be kept in Lots, subject to rules and regulations adopted by the Association, through its Board of Directors; provided, however, that such pets are kept or maintained solely for the Owner's personal pleasure and not for breeding, sale or any other commercial purpose. No permitted animal shall be allowed to make an unreasonable amount of noise or to become a nuisance. In addition to the foregoing permitted animals, upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 4.14, a particular animal is a nuisance, and the Board shall have the right to require the owner of a particular animal to remove it from the Development if it is found to be a nuisance or to be in

violation of these restrictions. The Board of Directors shall have the further right to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these restrictions by such Owner or an Occupant of his Lot, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the animal of such Owner or of an Occupant of such Owner's Lot. Any such fine or cost of repair shall be added to and become a part of that portion of any Assessment next coming due to which such Lot and its Owner are subject. Dogs must be under owner control at all times. Invisible fencing will not serve as owner control.

4.15 Nuisances. No rubbish or debris of any kind shall be dumped, placed, or permitted to accumulate upon any portion of the Development, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Development, so as to render any portion thereof unsanitary, unsightly, offensive, or detrimental to persons using or occupying any other portions of the Development. Noxious or offensive activities shall not be carried on in any part of the Development, and the Association and each Owner, his family, Tenants, guests, invitees, servants, and agents shall refrain from any act or use which could cause disorderly, unsightly, or unkempt conditions, or which could cause embarrassment, discomfort, annoyance, or nuisance to the Occupants of other portions of the Development or which could result in a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development, or except as may be permitted pursuant to terms, conditions, rules and regulations adopted therefor by the Architectural Review Committee. Any Owner, or his family, Tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$1,000.00, whichever is greater, and such sum shall be added to and become a part of that portion of any Assessment next becoming due to which such Owner and his property are subject.

4.16 Motor Vehicles, Trailers, Boats, Etc. Each Owner shall provide for parking of automobiles off the streets and roads within the Development. There shall be no outside storage or parking upon any portion of the Development of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other water craft, boat trailer, unlicensed motorcycle, motorized bicycle, motorized go-cart, or any other related forms of transportation devices, other than common storage area provided by Declarant. Furthermore, gas powered vehicles (other than an automobile, pick-up truck, or licensed motorcycle) are expressly prohibited hereby, including, but not limited to, mobile homes, motor homes, campers, trailers of any kind, unlicensed motorcycles, motorized bicycles, motorized go-carts or scooters, all terrain vehicles (ATVs), and other vehicles, or any of them. Such gas powered vehicles are prohibited from entering and/or being kept, placed, stored, maintained, or operated upon any portion of the Development; however they may be hauled by trailer into the Development and stored wholly within a garage or aforementioned common storage area provided by Declarant. It is the intention of Declarant that the Architectural Review Committee shall restrict the type and number of automobiles and pick-up trucks allowed within the Development. The purpose of vehicle restrictions is to minimize the impact of vehicles on the natural environment and roads. No Owners or other Occupants of any portion of the Development shall repair or restore any vehicle of any kind upon or within a property subject to this Declaration except (a) within enclosed garages or workshops, or (b) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

4.17 Multiple Ownership. The Property subject to this Declaration, including any improvements thereon or to be built thereon, shall not be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan.

4.18 Fire Breaks. The Declarant reserves unto itself, its successors and assigns a perpetual, alienable and releasable easement and right on and over and under any property to cut fire breaks and other activities which in the opinion of the Declarant are necessary or desirable to control fires on any property, or any improvements thereon. Entrance upon property pursuant to the provisions of this Section shall not be deemed a trespass.

4.19 Owner's Resubdivision. No Common Area or Lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to any political subdivision with jurisdiction thereof, except with the prior written approval of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and



thereafter except with the prior written approval of the Board of Directors. However, the Declarant reserves the right to so subdivide pursuant to the Declaration, and to take such other steps as are reasonably necessary to make such replatted property suitable and fit as a building site, including, but not limited to, the relocation of easements, walkways, rights-of-way, private roads, bridges, parks, and Common Areas.

4.19.1 Consolidation of Lots. The provisions of Section 4.19 shall not prohibit the combining of two (2) or more contiguous Lots into one (1) larger Lot. Following the combining of two (2) or more Lots into one (1) larger Lot, only the exterior boundary lines of the resulting larger Lot shall be considered in the interpretation of this Declaration. Consolidation of Lots, as described herein, must be approved by the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association said approval to be granted in its sole discretion upon such terms and conditions as may be established by it from time to time, including specific provisions for the payment of Assessments.

4.20 Owner Recording Additional Restrictions on Property. No Owner may impose additional restrictive covenants on any lands within the Property beyond those contained in this Declaration without consent of the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association and thereafter without consent of the Board of Directors. The Declarant may impose additional restrictive covenants on property then owned by the Declarant without the consent of any other Owner or the Association.

4.21 Trespass. Whenever the Declarant, the Association or the Architectural Review Committee is permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on the property of any Owner, or on the easement areas adjacent thereto entering the property and taking such action shall not be deemed a trespass.

4.22 Assignment of Declarant's Rights to the Association. The Declarant reserves the right to assign to the Association, at its sole discretion, its rights reserved in this Declaration, including all rights set forth in this Article. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action shall be required by it.

4.23 Other Rights and Reservations. The omission of any right or reservation in this article shall not limit any other right or reservation by the declarant, which is expressly stated in or implied from any other provisions in this declaration.

4.24 Leasing of Units. Units may be rented only in their entirety; no fraction or portion may be rented. All leases shall be in writing and shall be for an initial term of no less than six (6) months, except with the prior written consent of the Board of Directors. The Owner must make available to the lessee copies of the Declaration, Bylaws, and the rules and regulations. The Board of Directors may adopt reasonable rules regulating leasing and subleasing.

Every owner shall cause all occupants of his or her unit to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the common areas caused by such occupants, notwithstanding the fact that such occupants of a Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto.

## ARTICLE 5. PROPERTY RIGHTS

5.1 General Rights of Owners. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his said property, subject to the provisions of this Declaration, including without limitation, the provisions of this Article. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services or for the provision of support to such a property lie partially within and partially outside of the designated boundaries thereof, any portions thereof which serve only such property shall be deemed to be a part of such property, and any portions thereof which serve more than one such property or any portion the Common Areas shall be deemed to be a part of the Common Areas. The ownership

of each property subject to this Declaration shall include, and there shall pass with each property as an appurtenance thereto, whether or not separately described, all of the right and interest in and to the Common Areas as established hereunder, and the limitations applicable, which shall include, but not be limited to, membership in the Association. Each Owner shall automatically become a Member of the Association and shall remain a Member thereof until such time as his Lot ownership ceases for any reason, at which time his membership in the Association shall automatically pass to his successor-in-title to his or its Lot, and upon such transfer, the successor-in-title shall automatically succeed to membership in the Association.

5.2 Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board of Directors, every Owner, his family, and guests shall have a non-exclusive right, privilege, and easement of use and enjoyment in and to the Common Areas, to the extent so entitled hereunder, such easement to be appurtenant to and to pass and run with title, subject to the rights, restrictions, reservations, covenants, easements and obligations reserved, granted or alienable in accordance with this Declaration, including, but not limited to:

5.2.1 Right Of Association To Borrow Money. The right of the Association to borrow money (a) for the purpose of improving the Development, or any portion thereof, (b) for acquiring additional Common Areas, (c) for constructing, repairing, maintaining or improving any facilities located or to be located within the Development, or (d) for providing the services authorized herein, and, subject to the provisions of Section 10.4, to give as security for the payment of any such loan a mortgage or other security instrument conveying all or any portion of the Common Areas; provided, however, that the lien and encumbrance of any such security instrument given by the Association shall be subject and subordinate to any and all rights, interest, options, licenses, easements, and privileges herein reserved or established for the benefit of Declarant, any Owner, or the holder of any Mortgage, irrespective of when such Mortgage is executed or given.

5.2.2 Declarant's Reserved Rights and Easements. The rights and easements specifically reserved to Declarant in this Declaration, include but are not limited to, the Declarant's rights to grant exclusive drainfield easements and force main easements to Lot Owners within the Common Areas.

5.2.3 Association's Rights to Grant and Accept Easements. The right of the Association to grant and accept easements to dedicate or transfer fee simple title to all or any portion of the Common Areas to any public agency or authority, public service district, public or private utility, or other person, provided that any such transfer of the fee simple title must be approved by a majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale.

5.2.4 Association's Rights and Easements. The rights and easements specifically reserved in this Declaration for the benefit of the Association, its directors, officers, agents, and employees.

### 5.3 Recreational Amenities.

5.3.1 Access and Use of Recreational Amenities. Subject to the terms and provisions of this Declaration and the rules and regulations from time to time established by the Board of Directors, every Owner of a Lot and his family, Tenants, and guests shall have the non-exclusive right, privilege, and easement of access to and the use and enjoyment of the Recreational Amenities.

5.4 Access, Ingress and Egress; Roadways. All Owners, by accepting title to property conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress, and egress to and from such property and acknowledge and agree that such access, ingress, and egress shall be limited to roads, walkways and trails located within the Development from time to time, provided that pedestrian and vehicular access to and from all such property shall be provided at all times. There is reserved unto Declarant, the Association, and their respective successors and assigns the right and privilege, but not the obligation, to maintain gates controlling vehicular access to and from the Development. The Association may adopt reasonable rules and regulations regarding the operation of motorized vehicles within the Property, provided such rules and regulations recognize the character of the Property and the inherent need to provide for the allowed use of farm and maintenance vehicles. The Declarant, or the Association after title to any private roadways has passed to it from the Declarant, may post no

parking signs along such private roadways within the Development where it, in its sole discretion, determines appropriate to do so. Violators of said no parking signs are subject to having their vehicles towed away and shall be required to pay the cost of such towing and storage before their vehicle may be recovered. The act of towing said vehicles shall not be deemed a trespass or a violation of the Owners' property rights, because the Owner shall be deemed to have consented to such action by accepting the right to use the private roads and streets within the Development.

5.5 Easements for Declarant. During the period that Declarant owns any of the Property for sale, Declarant shall have an alienable and transferable right and easement on, over, through, under, and across the Common Areas for the purpose of constructing improvements in and to the Lots and for installing, maintaining, repairing and replacing such other improvements to the Property (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including, without limitation, any improvements or changes permitted and described in the Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided in no event shall Declarant have the obligation to do any of the foregoing.

5.6 Changes in Boundaries; Additions to Common Areas. Declarant expressly reserves for itself and its successors and assigns, the right to change and realign the boundaries of the Common Areas and any Lots between such adjacent properties owned by Declarant, provided that any such change or realignment of boundaries shall not materially decrease the acreage of the Common Areas and shall be evidenced by a revision of or an addition to the Subdivision Plat which shall be filed Of Record.

5.7 Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the alienable, transferable, and perpetual right and easement, as well as the power to grant and accept easements to and from any public authority or agency, public service district, public or private utility, or other person, upon, over, under, and across (a) all of the Common Areas in accordance with this Declaration; (b) all portions of the Recreational Amenities in which improvements are not constructed or erected; (c) those strips of land, twenty (20) feet in width, running adjacent to and parallel with the front lines of Lots, and ten (10) feet in width running five (5) feet on either side of the side lot line of each Lot, not to conflict with any drainage easements thereon, and as further shown on the subdivision plats of the Lots; and (d) such other such easement areas shown on any Subdivision Plat or recited in any Supplemental Declaration for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water, and sewer lines. Such easements may be granted or accepted by Declarant, its successors or assigns, or by the Board of Directors, provided, however, that for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and , the Board of Directors must obtain the written consent of Declarant prior to granting and accepting any such easements. To the extent practical and economical, in its sole discretion, Declarant shall endeavor to locate utility lines and facilities serving the Development underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Development so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes, or shrubbery, (iii) to grade, excavate, or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

5.8 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner directly affected thereby.

5.9 Maintenance Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement to enter upon any property subject to this Declaration for the purpose of providing, mowing, removing,

clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Development, provided that such easements shall not impose any duty or obligation upon Declarant or the Association to perform any such actions, or to provide garbage or trash removal services. Furthermore, it is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of properties subject to this Declaration which are located within twenty (20) feet from the water's edge of any body of water within the Development for the purpose of (a) mowing such area and keeping the same clear and free from unsightly growth and trash, (b) maintaining such bodies of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards, and (c) installing, constructing, repairing, replacing, and maintaining soil erosion control measures.

5.10 Environmental Easement. There is hereby reserved for the benefit of Declarant, the Association, and their respective agents, employees, successors, and assigns, an alienable, transferable, and perpetual right and easement on, over, and across all unimproved portions of properties subject to this Declaration for the purpose of taking any action necessary to effect compliance with environmental rules, regulations, and procedures from time to time promulgated or instituted by the Board of Directors, the Architectural Review Committee, or by any governmental entity, such easement to include, without limitation, the right to implement erosion control procedures and practices, and the right to drain standing water.

5.11 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any person acquiring any interest in the Development or any part thereof seek any such judicial partition unless the Development has been removed from the provisions of this Declaration.

## ARTICLE 6. MEMBERSHIP

6.1 Membership. Every Owner, including the Declarant, of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot and ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include Mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association.

6.2 Voting Rights. The Association shall have two (2) types of voting memberships which are as follows:

TYPE A: Type A Members shall be Owners (including the Declarant) of Lots. The Type A Member shall be entitled to one (1) vote for each Lot owned.

TYPE B: The Type B Member shall be the Declarant or its designated assign. The Type B Member shall be entitled to one (1) vote for each vote held by Type A Members, plus two (2) votes, until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant's right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant the Declaration is terminated; or (iii) the date the Type B Member relinquishes its voting rights as a Type B Member in a Supplemental Declaration filed Of Record. Thereafter, the Type B Member shall exercise votes only as to its Type A Memberships. Payment of Special Assessments or Emergency Special Assessments shall not entitle Type A Members to additional votes.

6.2.1 Voting By Multiple Owners. When any Lot of a Type A Member of the Association is owned Of Record in the name of two or more persons, other than husband and wife, or entities, in any manner of joint or common ownership, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting; or the vote shall be exercised by such co-Owner, or his duly appointed proxy, as shall be designated in a writing by all co-Owners recorded in the Clerk's

Office of the Circuit Court of Lancaster County, a copy of which shall be delivered to the Secretary of the Association and shall remain effective for all meetings until revoked by the co-Owners in a similar writing or until such designation terminates pursuant to the terms of such writing.

6.3 Governance. The Association shall be governed by a Board of Directors consisting of Three (3), Five (5), Seven (7), or Nine (9) members. Initially, the Board shall consist of Three (3) members, with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the By-laws of the Association.

6.4 Election of the Board of Directors. Each Member of Types A and B membership classes shall be entitled to as many votes as equals the number of votes he is entitled to, based on his ownership of one or more of the various classifications of property or property interests as computed by the formula set out herein above. All votes must be cast in whole numbers and not fractions thereof. Members are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

6.5 Special Meetings of Members. Where specifically provided for herein, or on call of the Board of Directors or the person authorized to do so by the Bylaws, the Association shall hold special meetings of Members to approve or reject such actions proposed to be taken by the Association. The Association shall notify the Members of the date, time and place of such special meeting no fewer than ten (10) not more than sixty (60) days before the meeting date. Such notice shall include a description of the purpose for which the meeting is called and shall provide for voting by proxy.

6.6 Quorum For Meetings. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be as follows:

(a) At any meeting, the presence of Members representing fifty (50%) percent of the votes of all Members, in person or by proxy, shall constitute a quorum for the transaction of business; provided, however, if the required quorum is not present, another meeting may be called, not earlier than sixty (60) days following the first meeting, and the required quorum at the subsequent meeting shall be the Members present, in person or by proxy, and entitled to vote. Unless otherwise provided, any reference hereafter to votes cast at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section, and any other requirements for such duly called meeting which may be established by the Bylaws of the Association. This provision shall not apply when the proposed action is the amendment of this Declaration and the quorum requirement established by Section 13.3 shall govern in that instance.

6.6.1 Notice of Meetings. Notice of any meetings shall be given to the Members by the Secretary. Notice may be given to each Member either personally or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address appearing on the books of the Association. Each Member shall register his address with the Secretary and notices of meetings shall be mailed to such address. Notice of any meeting, regular or special, shall be mailed not more than sixty (60) days, and not fewer than ten (10) days in advance of the meeting and shall set forth the date, time and place of the meeting and in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve and be governed by this Declaration or any action for which other provision is made in the Bylaws, notice of such meeting shall be given or sent as herein or therein provided.

6.7 Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing, and in accordance with the By-Laws. Notwithstanding the foregoing, Members shall irrevocably appoint Declarant as their attorney-in-fact pursuant to the Declaration to vote on those matters reserved to and designated for Declarant, as set forth in the Declaration.

6.8 Voting By Proxy. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote of the Members and a ballot in the form of a proxy on which each Member may, subject to the Declaration, vote for or against the motion. Each proxy which is presented at such meeting shall be counted in calculating the quorum requirements set out in the Declaration. Provided, however, such proxies shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the proxy.

## ARTICLE 7. MAINTENANCE

7.1 Responsibilities of Owners. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots, or the marsh and waterfront property adjacent to any such property, together with all other improvements thereon or therein and all lawns, landscaping, grounds trees and shrubs on and within such property shall be the responsibility of the Owner thereof. Each Owner shall be responsible for maintaining his or its property in a neat, clean, and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of the improvements to all Lots and other structures and all lawns, trees, shrubs, hedges, grass, and other landscaping. As provided in the Declaration, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner, but which responsibility such Owner fails or refuses to discharge. No Owner shall do any work which, in the reasonable opinion of the Architectural Review Committee, would jeopardize the soundness and safety of the Development, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Committee and the Owners, and the Mortgagees of property directly affected thereby or benefiting from such easement or hereditament. The Association may have the lawns mowed on individual Lots with a surcharge to the Lot Owner. Owners who elect to maintain their own lawn mowing must do so on a schedule with the Association mowing or Lots will be mowed by the Association at Owner's expense.

### 7.2 Association's Responsibility.

7.2.1 General. Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas and any easement area encumbering properties of Owners for which the Association is responsible under this Declaration, including responsibility prior to transfer to the Association in accordance with the Declaration, or any Supplemental Declaration, which responsibility shall include the maintenance, repair, and replacement of (a) the Recreational Amenities, (b) all drainage, walking, ingress and egress easements shown and noted on the Subdivision Plat, (c) all private roads, road shoulders, walks, trails, lots, landscaped areas, and other improvements situated within the Common Areas or easements, (d) security systems and utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of its said properties and which are not maintained by a public authority, public service district, public or private utility, or other person, and (e) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon its said properties. The Association shall not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of its properties, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of its properties or any other portion of the Property. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant on the part of each Owner.

7.2.2 Work In Behalf of Owners. In the event that Declarant or the Board of Directors determines that: (a) any Owner has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair, or replacement of items for which he or it is responsible hereunder, or (b) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, Tenant, guests, or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice in accordance with Section 13.17 of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15)

days within which to complete the same in a good, workmanlike and timely manner, or in the event that such maintenance, cleaning, repair, or replacement is not capable of completion within said fifteen (15)-day period, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, Declarant or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and said cost shall be added to and become a part of the Assessment to which such Owner and his property are subject and shall become a lien against such property. In the event that Declarant undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse Declarant for Declarant's costs and expenses.

## ARTICLE 8. INSURANCE AND CASUALTY LOSSES

### 8.1 Insurance.

8.1.1 Association's Property Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism, and malicious mischief, such coverage to be in an amount sufficient to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of any repair or reconstruction in the event of damage or destruction from any such hazard.

8.1.2 Association's Liability Insurance. The Board or its duly authorized agents shall have the authority to and shall obtain and continue in effect a public liability policy covering all the Common Areas and all damage or injury caused by the negligence of the Association, its Members, its directors and officers, or any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

8.1.3 Association's Other Insurance. The Board or its duly authorized agents shall have the authority and may obtain (a) worker's compensation insurance to the extent necessary to comply with any applicable laws and (b) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable.

8.1.4 Association's Policies. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Development shall be vested in the Board of Directors; provided, however, that no mortgagee or other security holder of the Common Areas having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in the Commonwealth of Virginia and holding a rating of A-IX or better in such financial categories as established by Best's Insurance Reports, if such a company is available or, if not available, its equivalent rating or the best rating possible.

(b) All property insurance policies shall be for the benefit of the Owners and their Mortgagees as their interests may appear.

(c) All policies shall contain a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees, and all policies shall contain a provision that the "other insurance" clauses in such policies exclude from consideration policies obtained by individual Owners or their Mortgagees.

(e) All policies shall contain a waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners, and their respective families, servants, agents, Tenants, guests, and invitees, including, without limitation, the Association's manager.

(f) All policies shall contain a provision that no policy may be canceled, invalidated, or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, Tenants, guests, and invitees, or on account of the acts of any director, officer, employee, or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured.

(g) All liability insurance shall contain cross-liability endorsements to cover liability of the Association to an individual Owner.

8.1.5 Owner's Insurance. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, title, and other insurance with respect to his or its own property. The Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective properties and to furnish copies or certificates thereof to the Association.

8.2 Damage or Destruction to Common Areas. Immediately after the damage or destruction by storm, fire or other casualty to all or any part of the Common Areas covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and, in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the storm, fire or other casualty. Unless within sixty (60) days following any damage or destruction to all or a part of the Common Areas, Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale, and the Board acting on the vote of at least seventy-five percent (75%) of the vote of the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members, shall otherwise agree, the Association shall restore or replace such damaged improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, the Board of Directors may levy a Special Assessment against all Owners, without the necessity of a vote pursuant to the Declaration, such Special Assessment to be in an amount sufficient to provide funds to pay such excess cost or repair or reconstruction. Such a Special Assessment shall be levied against the Owners equally in the same manner as Annual Assessments are levied, and additional Assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such Assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and Assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the ruins of the Common Areas damaged or destroyed by storm, fire or other casualty shall be cleared and the Common Areas left in a clean, orderly, safe, and slightly condition.

8.3 Damage or Destruction to Owners' Properties. In the event of damage or destruction by storm, fire or other casualty to any Lot subject to this Declaration, or the improvements thereon, and in the further event that the Owner responsible for the repair and replacement of such property elects not to repair or rebuild, such Owner shall promptly clear away the ruins and debris of any damaged improvements or vegetation and leave such property in a clean, orderly, safe, and slightly condition. Should such Owner elect to repair or rebuild such property or other improvements thereon, such Owner shall repair or rebuild to substantially the same condition as existed prior to such storm, fire or other casualty and in accordance with all applicable standards, restrictions, and provision of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. All such work



or repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

## ARTICLE 9. CONDEMNATION

9.1 Condemnation of Common Areas. Whenever all or any part of the Common Areas of the Development shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the approval in writing by Members present, in person or by proxy, at a duly called meeting, representing seventy-five percent (75%) of the Members, and of Declarant, for so long as Declarant owns any of the Property primarily for the purpose of sale or any portion thereof to the Development, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association.

## ARTICLE 10. FUNCTIONS OF THE ASSOCIATION

10.1 Board of Directors and Officers. The Association, subject to the rights of Declarant and the rights and duties of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in a good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions thereof. Except to the extent otherwise required by the provisions of this Declaration, the By-Laws, or the Articles of Incorporation, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors, acting through the officers of the Association, without any further consent or action on the part of the Owners. As provided in the Declaration and notwithstanding any other provision to the contrary contained in any instruments evidencing or establishing the Development, Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant one hundred (100%) percent of the Lots developed within the Property or (iii) the date the Declarant surrenders the authority to appoint and remove directors and officers of the Association by an express amendment to this Declaration executed and filed Of Record by Declarant. Each Owner, by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided by this Section.

10.2 Duties and Powers. The duties and powers of the Association shall be those set forth in the provision of this Declaration, the By-Laws, and the Articles of Incorporation, together with those reasonably implied to effect the purposes of the Association; provided; however, that if there are conflicts or inconsistencies between the this Declaration, the By-Laws, or the Articles of Incorporation, the provisions of this Declaration, the Articles of Incorporation, and the By-Laws, in that order, shall prevail, and each Owner of a property within the Development, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such powers of the Association shall include, but shall not be limited to, the power to purchase one or more properties subject to this Declaration and to hold, lease, mortgage, sell, and convey the same. Such duties may include, but shall not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a Common Expense or by billing directly to the Owners, to furnish trash collections, water, sewer, and/or security service for the properties subject to this Declaration. Notwithstanding the foregoing provision of this Section or any other provision of this Declaration to the contrary, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, the Association shall not, without the consent of Declarant, borrow money or pledge, mortgage, or hypothecate all or any portion of the Common Areas.

10.2.1 Ownership of Properties. The Association shall be authorized to own, purchase, lease, use under any use agreement, and maintain (subject to the requirements of any Federal, State or Local Governing body of Virginia) Common Areas, equipment, furnishings, and improvements devoted to the uses and purposes expressed and implied in this Declaration, including, but not limited to, the following uses:

- (a) For walking paths or trails, and bicycle paths throughout the Property;
- (b) For security services including security stations, maintenance building and/or guardhouses;
- (c) For providing any of the services which the Association is authorized to offer;
- (d) For purposes set out in deeds or long-term leases or use agreements by which Common Areas are conveyed or leased by which use rights are granted to the Association;
- (e) For lakes, play fields, drainage areas and easements, wildlife areas, fishing facilities;
- (f) For water and sewage facilities and any other utilities, if not adequately provided by a private utility or public body; and
- (g) For renourishment and installation and/or maintenance of any shore protection device, including, but not limited to, shore revetments and groins.

10.2.2 Services. The Association shall be authorized (unless prohibited by the requirements of any Federal, State or Local governing body) to provide such services as shall be required or would promote the uses and purposes for which the Association is formed as expressed or implied in this Declaration, including, but not limited to, the following services:

- (a) Cleanup and maintenance of all private roads, roadways, road shoulders, roadway medians, waterways, drainage areas and easements, marshes and Common Areas within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (b) Landscaping and lighting of walking paths and any other Common Areas;
- (c) Security provisions including, but not limited to, the employment of security personnel, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Property and assistance to the local police and sheriff departments in the apprehension and prosecution of persons who violate the laws of the Commonwealth of Virginia within the Property;
- (d) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;
- (e) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration and to collect regular Annual Assessments, Special Assessments, Emergency Special Assessment, and other fees and charges collectable from the Owners hereunder;
- (f) To take any and all actions necessary to enforce these and all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;
- (g) To operate an Architectural Review Committee;
- (h) To conduct recreation, sport, craft, fishing, farming, husbandry and cultural programs of interest to Members, their children and guests;
- (i) To construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this Section or as the Board shall elect pursuant to its authority under other provisions of this Declaration;

- (j) To provide administrative services including but not limited to legal, accounting and financial; and communications services informing Members of activities, notice of Meetings, Referendums, etc., incident to the above listed services;
- (k) To provide liability and hazard insurance covering improvements and activities on Common Areas; and
- (l) To provide for hearings and appeal process for violations of rules and regulations.

10.3 Agreements. Subject to the prior approval of Declarant for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association, all agreements and determinations lawfully authorized by the Board of Directors shall be binding upon the Association and all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Development or the privilege of possession and enjoyment of any part of the Development shall comply with and be subject to the authorized actions of the Board of Directors; and in performing its responsibilities hereunder, the Association, through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all of the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers, or Members of the Association by this Declaration or the By-Laws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and may be bonded in such a manner as the Board of Directors may require, with the cost of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Development or the enforcement of this Declaration, the By-Laws, or the rules and regulations of the Association.

10.4 Mortgage or Pledge. Subject to the provisions of Section 5.2.1, the Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

10.5 Personal Property and Real Property for Common Use. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible personal property and real property and may dispose of the same by sale or otherwise. All funds received and title to all properties acquired by the Association and the proceeds thereof, after deducting therefrom the costs incurred by the Association in acquiring or selling the same, shall be held by and for the benefit of the Association. The shares of the Owners in the funds and assets of the Association cannot be individually assigned, hypothecated, or transferred in any manner, except to the extent that a transfer of the ownership of a Lot also transfers the membership in the Association which is an appurtenance to such Lot.

10.6 Rules and Regulations. As provided in Article 10 hereof, the Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Lots and Common Areas, which rules and regulations shall be consistent with the rights and duties established by this Declaration.

10.7 Reduction in Services. During the calendar year of 2005, the Board of Directors of the Association shall define and list a minimum level of services which shall be furnished by the Association. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association shall not reduce the level of services it furnishes below such minimum level. Such minimum level of service shall expressly include an obligation of the Association to maintain the Common Areas and pay the costs and expenses set forth in any lease or use agreement therefor.

10.8 Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified the Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. Special Assessments shall be submitted for approval as herein provided. Subject to the provisions of Section 10.2 above, and for so long as Declarant retains its voting rights as a Type B Member, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of a majority of the votes cast by Members present, in person or by proxy, and entitled to vote at a duly called special meeting of the Members. At such time as Declarant no longer has voting rights as a Type B Member, the functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of two-thirds (2/3) of the votes cast by the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Members.

## ARTICLE 11. ASSESSMENTS

11.1 Purpose of Assessments. The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of the Development, and maintaining the Development and improvements therein, all as may be more specifically authorized from time to time by the Board of Directors.

11.2 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) Annual Assessments, such Assessments to be established and collected as provided in this Section, (b) Special Assessments, such Assessments to be established and collected as provided in the Declaration (c) Emergency Special Assessments, such Assessments to be established and collected as provided in the Declaration, and (d) individual or specific Assessments against any particular property which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed against a property in accordance with the Declaration. Any such Assessments, together with late charges, simple interest at the rate of fifteen percent (15%) per annum, and court costs and attorneys' fees incurred to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon the Lot of the Owner thereof which is responsible for payment. Each Owner shall be personally liable for Assessments coming due while he is the Owner of a Lot, and his grantee shall take title to such property subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor; provided, however, the lien for unpaid Assessments shall be subordinate to the lien of any unpaid taxes and any Institutional Mortgage, and their respective successors and assigns. Sale or transfer of any Lot shall not affect the lien of the Assessments; however, the sale or transfer of any Lot, which is subject to any Institutional Mortgage, pursuant to a decree of foreclosure or any proceeding or conveyance in lieu of foreclosure thereof, shall extinguish the lien of the Assessments as to payment thereof which became due prior to such sale or transfer. In the event of co-ownership of any property subject to this Declaration, all of such co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors provided that unless otherwise provided by the Board, the Annual Assessments shall be paid in equal quarterly installments.

11.3 Establishment of Annual Assessment. It shall be the duty of the Board of Directors at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the Annual Assessments to be levied against properties subject to this Declaration for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total Annual Assessments shall be divided among the said Lots equally.

11.3.1 Approval of Annual Assessments. The annual budget and Annual Assessments, as determined by the Board of Directors, as herein above provided, shall become effective unless disapproved (a) by the Declarant, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, or (b), following termination Declarant's right to appoint and remove a member of the Board or an officer, by a majority of the votes cast, in person or by proxy, by Members entitled to vote at a duly called meeting. Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are not approved or the Board of Directors fails for any reason to determine the budget for the succeeding year and to set the Assessments, then and until such time as a budget and Annual Assessment shall have been determined as provided herein, the budget and Annual Assessments for the succeeding year shall be the Maximum Budget and Maximum Annual Assessments calculated in accordance with Section 11.4.

11.3.2 Special Meeting to Increase. If the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Annual Assessment herein provided, it may call a special meeting of the Members in accordance with the provisions of the Declaration requesting approval of a specified increase in such Assessment. The proposed increased Assessment shall be levied upon the affirmative vote of two-thirds (2/3) of the votes cast by Members present, in person or by proxy, and entitled to vote at the special meeting. An increase in Annual Assessments in any year pursuant to a special meeting taken as aforesaid shall in no way affect Annual Assessments for subsequent years.

11.3.3 Initial Annual Assessments. The initial Association budget and Annual Assessment for all Owners shall be established within ninety (90) days of this Declaration being filed Of Record.

11.3.4 Billing of Annual Assessments. The Annual Assessments may, in the sole discretion of the Board of Directors, be billed monthly, quarterly, semiannually or annually, and bills therefor shall be due and payable thirty (30) days from the date of mailing of same.

11.3.5 Rounding. All Annual Assessments charged by the Association shall be rounded off to the nearest dollar.

11.3.6 For Common Expenses. The Common Expenses to be funded by the Annual Assessments may include, but shall not necessarily be limited to, the following:

- (a) management fees and expenses of administration, including legal and accounting fees;
- (b) utility charges for utilities serving the Common Areas and charges for other common services for the Development, including trash collection and security services, if any such services or charges are provided or paid by the Association;
- (c) the cost of any policies of insurance purchased for the benefit of all the Owners and the Association as required or permitted by this Declaration, including fire, flood, and other hazard coverage, public liability coverage, and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners;
- (d) the expenses of maintenance, operation, and repair of those portions of the Common Areas which are the responsibility of the Association under the provisions of this Declaration;
- (e) the expenses of maintenance, operation, and repair of other amenities and facilities serving the Development, the maintenance, operation, and repair of which the Board from time to time determines to be in the best interest of the Association;
- (f) the expenses of the Architectural Review Committee, which are not defrayed by plan review charges;

(g) ad valorem real and personal property taxes assessed and levied against the Common Areas;

(i) such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including, without limitation, taxes and governmental charges not separately assessed against Lots; and

(j) the establishment and maintenance of a reasonable reserve fund or funds, which shall be held in an interest-bearing account (i) for maintenance, repair, and replacement of those portions of the Common Areas which are the responsibility of the Association and which must be maintained, repaired, or replaced on a periodic basis, (ii) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, and (iii) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

11.4 Determination of Maximum Budget and Maximum Annual Assessment. The Maximum Budget and Maximum Annual Assessments shall be the greater of:

(a) The budget and Annual Assessments for the then current year, increased in proportion to the percentage increase, if any, for the then current year, in the "CPI-U", as hereinafter defined, from December of the preceding year to November of the then current year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent, whichever is greater; or

b) The budget and Annual Assessments for the year in which this Declaration is filed Of Record increased, to the year in which the said maximum budget and Annual Assessment is being determined in proportion to the percentage increase, if any, in the "CPI-U" as hereinafter defined, from December of the year preceding the year in which this Declaration is filed Of Record to November of the year in which the said maximum budget and Annual Assessment is being determined, or by five (5%) percent per annum, compounded, whichever is greater. The "CPI-U" shall mean the Consumer Price Index for All Urban Consumers (1982-84=100), or, if such index is discontinued or revised, by reference to such other government index or computation with which it is replaced or which would produce substantially the same measure as would be obtained if such index had not been discontinued or revised.

11.5 Special Assessments for Improvements and Additions. In addition to the regular, Annual Assessments, the Association may levy Special Assessments, for the following purposes:

(a) Construction or reconstruction, repair or replacement of capital improvements upon the Common Areas, including the necessary fixtures and personal property related thereto;

(b) To provide for the necessary facilities and equipment to offer the services authorized herein;

(c) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

11.5.1 Approval of Special Assessments. Except as otherwise permitted, any Special Assessment shall be approved by (i) Declarant, for so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association pursuant to the Declaration and , and (ii) thereafter by two-thirds (2/3) of the votes cast by Members in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose in accordance with the provisions of the Declaration. The notice of such special meeting shall include one statement from the Directors favoring the Special Assessment and one statement from those Directors opposing the Special Assessment containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five pages in length.

11.5.2 Apportionment. The proportion of each Special Assessment to be paid by the Owners shall be equal to the proportion of the regular Annual Assessments made for the Assessment year during which such Special Assessments are approved by the Members.

11.6 Emergency Special Assessments. In addition to the Annual Assessments and the Special Assessment, the Association may levy Assessments for repairs, reconstruction, alterations or improvements due to emergencies of any type, as determined by the Declarant and/or the Board of Directors, in their sole discretion ("Emergency Special Assessment"). Any Emergency Special Assessment may be imposed without a vote of the Members.

11.7 Declarant's Properties. Anything contained herein to the contrary notwithstanding, Declarant shall be exempt from the payment of any Annual Assessments, Special Assessments and Emergency Special Assessments with respect to unimproved and unoccupied properties owned by the Declarant and subject to this Declaration. The Declarant hereby covenants and agrees, however, that, so long as Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, it shall pay to the Association, at the end of the annual accounting period, a sum of money equal to any operating deficit experienced by the Association; provided, however, the Declarant shall not pay more than a sum equal to the amount of the Assessment for said year, or portion thereof owned, which the Declarant would have paid if the exempted property were not exempt. Any such payment by Declarant may be made in-kind.

11.8 Individual Assessments. Any expenses of the Association or the Declarant occasioned by the conduct of less than all of the Owners or by the family, Tenants, agents, guests, or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual Assessments provided for in this Section shall be levied by the Board of Directors and the amount and due date of such Assessment so levied by the Board shall be as specified by the Board.

11.9 Effect of Nonpayment; Remedies of the Association. Any Assessments of an Owner or any portions thereof which are not paid when due shall be delinquent. Any Assessment delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount as may be determined by the Board from time to time and, upon adoption of a policy therefor by the Board of Directors, shall also commence to accrue simple interest at the rate of fifteen percent (15%) per annum. A lien and equitable charge as herein provided for each Assessment shall attach simultaneously as the same shall become due and payable, and if an Assessment has not been paid within thirty (30) days of its due date, the entire unpaid balance of the Assessment may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment shall include the late charge established by the Board of Directors, and, upon adoption of a policy therefor by the Board of Directors, interest on the principal amount due at the rate of fifteen percent (15%) per annum, all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment remains unpaid after sixty (60) days from the original due date, the Association may, as the Board shall determine, institute suite to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this shall be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Lot, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments and as a debt and/or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Lot, and an Owner shall remain personally liable for Assessments, interest, and late charges which accrue prior to a sale, transfer, or other conveyance of his Lot.

11.10 Certificate. The Treasurer, any Assistant Treasurer, or the manager of the Association shall, within ten (10) days of a written request and upon payment of such fee as is from time to time determined by the Board of Directors, furnish to any Owner or such Owner's Mortgagee which requests the same, a certificate in writing signed by said Treasurer, Assistant Treasurer, or manager setting forth whether the Assessments for which such Owner is responsible have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest, and other penalty charges. Such certificate shall be conclusive evidence against all but such Owner of payment of any Assessments stated therein to have been paid.

11.11 Date of Commencement of Assessments. The Assessments provided for herein shall commence as to property subject to this Declaration on the date on which such property is conveyed to a person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments, Special Assessments and Emergency Special Assessments shall be adjusted for such property according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such property is first conveyed.

11.11.1 Working Capital And Long-Term Road Maintenance Funds Collected At Closing. Each Owner of a property subject to this Declaration, other than Declarant, shall pay to the Association a sum equal to two (2) months of the Annual Assessment for working capital, which cost, when paid, can be recovered from the grantee of an Owner upon conveyance of said property by the Owner. Each Owner of a property subject to this Declaration, other than Declarant, shall also pay to the Association a sum equal to Five Hundred Dollars (\$500.00) for long-term road maintenance reserve, which cost, when paid, can be recovered from the grantee of an Owner upon conveyance of said property by the Owner. Such sums are and shall remain separate and distinct from Annual Assessments and shall not be considered advance payments of Annual Assessments. Each such Owner's share of working capital, as aforesaid, shall be collected from such Owner upon his purchase of property subject to this Declaration, and must be transferred to the Association at the time of closing the conveyance from the Declarant to the Owner.

## ARTICLE 12. RULE MAKING

12.1 Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots and the Common Areas, and facilities located thereon, including, without limitation, the Recreational Amenities. In particular but without limitation, the Board of Directors may promulgate from time to time rules and regulations which shall govern activities which may, in the judgment of the Board of Directors, be environmentally hazardous, such as application of fertilizers, pesticides, and other chemicals. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, Tenants, guests, invitees, servants, and agents, until and unless any such rule or regulation be specifically overruled, canceled, or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the votes cast, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant has the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association.

12.2 Authority and Enforcement. Subject to the provisions of this Declaration, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board shall have the power (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot, the Owners, Occupants, or guests of which are guilty of such violation, (ii) to suspend an Owner's right to vote in the Association, or (iii) to suspend an Owner's right (and the right of such Owner's family, guests, and Tenants of the co-Owners of such Owner and their respective families, guests and Tenants) to use any of the Common Areas and Recreational Amenities, and the Board shall have the power to impose all or any combination of these sanctions; provided, however, an Owner's access to its property over the private roads and streets constituting Common Areas will not be terminated hereunder. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or Tenants or by his co-Owners or the family, guests or Tenants of his co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

12.3 Procedure. Except with respect to the failure of to pay Assessments, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other Occupant of the Development for violations of the Declaration, By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

12.3.1 Demand to Cease and Desist. Written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violation specifying:



- (a) The alleged violation;
- (b) The action required to abate the violation; and
- (c) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

12.3.2 Notice of Hearing. Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

- (a) The nature of the alleged violation;
- (b) The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- (c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (d) The proposed sanction to be imposed.

12.3.3 Hearing. The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and matter of delivery is entered by the officer, director, or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

## ARTICLE 13. GENERAL PROVISIONS

13.1 Control of Declarant. Notwithstanding any other language or provision to the contrary in this declaration, in the articles of incorporation, or in the by-laws of the Association, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association as provided by and for the term set forth in the Declaration. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section and the provisions of the Declaration. The provisions of this Section are supplemental to, and not in substitution of, the rights retained by Declarant pursuant to this Declaration.

13.1.1 Voting Agreement and Proxy. By acceptance of a deed or other conveyance of an interest, all Members do hereby grant, and if further required, do agree to vote in a manner to provide, to Declarant all voting rights and other corporate powers specifically reserved to and designated for Declarant under this Declaration. IN CONNECTION WITH THIS VOTING AGREEMENT, EACH MEMBER APPOINTS DECLARANT AS PROXY FOR SUCH MEMBER WITH FULL POWER OF SUBSTITUTION TO VOTE FOR THE MEMBER ON ALL SUCH MATTERS ON WHICH THE MEMBER MAY BE ENTITLED TO VOTE, AND WITH RESPECT TO WHICH THERE IS A RESERVATION OR DESIGNATION OF VOTING RIGHTS IN DECLARANT UNDER THIS DECLARATION, AND WITH ALL POWERS WHICH THE MEMBER WOULD POSSESS IF PERSONALLY PRESENT AT ANY MEETING OF MEMBERS. SUCH APPOINTMENT SHALL BE, UPON ACCEPTANCE OF A DEED OR OTHER CONVEYANCE BY THE MEMBER AND WITHOUT THE NECESSITY OF FURTHER ACTION BY THE DECLARANT OR THE MEMBER, A POWER COUPLED WITH AN INTEREST AND SHALL BE IRREVOCABLE. Such appointment shall be effective as of the date on which a deed or other conveyance of an interest to the Member is filed Of Record. This irrevocable proxy shall automatically terminate on the date Declarant's voting rights as a Type B Member terminate. The within voting agreement and proxy are in addition to, and not in substitution of, all rights of Declarant herein provided, which shall run with the Property.

13.1.2 Creation of New Board. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of the Declaration, such right shall pass to the Owners, including Declarant if Declarant then owns one or more properties subject to this Declaration, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board of Directors, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

13.2 Amendments by Declarant. During any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed Of Record without the approval of any Owner or Mortgagee; provided, however, that, (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Lot or the Common Areas as set forth in this Declaration or adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; (ii) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and by such Owners and Mortgagees if required, and shall be effective only upon it being filed Of Record or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance of a Lot, agrees to be bound by such amendments as are permitted by this Section and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (b) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule, or regulation or any judicial determination which shall be in conflict therewith, (c) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any properties subject to this Declaration, (d) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any properties subject to this Declaration, or (e) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the properties or other improvements subject to this Declaration.

13.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 13.2 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association. Such amendment must be approved by the affirmative vote of Members present, in person or by proxy, entitled to vote and holding at least two-thirds (2/3) of the total votes in the Association, which percentage shall also constitute the quorum required for any such meeting; provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; (ii) during any period in which Declarant has the right to appoint and remove any member or members of the Board of Directors or any officer or officers of the Association, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and, where required, Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when filed Of Record or at such later date as may be specified in the amendment itself. Anything contained in this Section to the contrary notwithstanding, no

amendment under this Declaration shall be made, or any vote therefor effective, if the result or effect thereof would have a material adverse effect upon Declarant without the prior written consent of the Declarant.

13.4 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed or other instrument of conveyance of his Lot, if any. Failure to comply with any of the same shall be grounds for imposing fines, for suspending voting rights or rights of use in and to the Recreational Amenities, or for instituting an action to recover sums due, for damages, and/or for injunctive relief, such actions to be maintainable by Declarant, the Board of Directors on behalf of the Association, or, in a proper case, by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws, and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that Declarant, the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure, or omission on the part of Declarant, the Association, or any aggrieved Owner in exercising any right, power, or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, shall bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association for or on account of any failure to bring any action on account of any violation or breach, of the provisions of this Declaration, the By-Laws, or any rules and regulations of the Association by any person, however long continued.

13.5 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect for a period of thirty (30) years from and after the date this Declaration is filed Of Record, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon the expiration of said thirty (30)-year period, this Declaration shall be automatically renewed for successive ten (10)-year periods. The number of ten (10)-year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10)-year renewal period for an additional ten (10)-year period; provided, however, that there shall be no renewal or extension of this Declaration, if, during the last year of an initial thirty (30)-year period or the last year of any ten (10)-year renewal period, seventy-five percent (75%) votes in the Association, by Members present, in person or by proxy and entitled to vote at a duly called meeting of the Members in favor of terminating this Declaration at the end of the then current term. In the event that the Association votes to terminate this Declaration, an instrument evidencing such termination shall be filed of Record, such instrument to contain a certificate wherein the President of the Association swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in any Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

13.6 Litigation. No judicial or administrative proceeding shall be commenced or proposed by the Association unless approved in writing by Members present, in person or by proxy, at a duly called meeting, representing seventy-five percent (75%) of the Members. This Section shall not apply, however, to actions brought by the Association to enforce the provisions of this Declaration, including the foreclosure of liens and the imposition and collection of Assessment and other charges, or to proceedings involving ad valorem taxes, or to counterclaims by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes necessary to institute proceedings as provided herein.

13.7 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing Of Record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the Commonwealth of Virginia.

13.8 No Affirmative Obligation Unless Stated. ANY RESERVATION OR RIGHT OF THE DECLARANT WHICH IS STATED IN OR IMPLIED FROM THESE COVENANTS SHALL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT UNLESS EXPRESSLY STATED IN THIS DECLARATION.

13.9 No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.

13.10 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

13.11 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

13.12 Rights of Third Parties. This Declaration shall be filed Of Record for the benefit of Declarant, the Owners, and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Declarant and Mortgagees as herein provided, the Owners shall have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

13.13 Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee.

13.14 No Trespass. Whenever the Association, Declarant, the Architectural Review Committee, and their respective successors, assigns, agents, or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve, or do any other action within any portion of the Development, the entering thereon and the taking of such action shall not deem to be trespass.

13.15 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States Mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots. All notices to the Association shall be delivered to Western Branch Preserve Home Owner's Association, Inc., 400 South Main Street Kilmarnock, Virginia 22482 or to such other address as the Association may from time to time notify the Owners. All notices to Declarant shall be delivered or sent to Declarant's main office, c/o Western Branch Preserve, LLC P.O. Box 520 Lancaster, Virginia 22503., or to such other address as Declarant may from time to time notify the Association. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association. Notices to any other person or persons entitled to same hereunder shall be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as shall be, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

IN WITNESS WHEREOF, duly authorized officers of the undersigned Declarant have executed this Declaration under seal, the day and year above written.

DECLARANT

WESTERN BRANCH PRESERVE LLC

ASSOCIATION ACKNOWLEDGMENT

The undersigned Officer of Western Branch Preserve Property Owners Association in behalf of itself and its existing and future Members of the Association, does hereby acknowledge the foregoing Covenants, Conditions And Restrictions For Western Branch Preserve, consenting to all the terms and conditions thereof and agreeing to be bound thereby.

WESTERN BRANCH PRESERVE  
PROPERTY OWNERS ASSOCIATION

By: \_\_\_\_\_

\_\_\_\_\_  
Title

STATE OF VIRGINIA  
COUNTY OF LANCASTER, to-wit:

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by \_\_\_\_\_, Managing Member of Western Branch Preserve LLC

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

STATE OF VIRGINIA  
COUNTY OF LANCASTER, to-wit:

The foregoing Declaration of Covenants, Conditions and Restrictions was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by \_\_\_\_\_, Managing Member of Western Branch Preserve Property Owners Association LLC

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

EXHIBIT A  
Legal Description of Property

EXHIBIT B  
BY-LAWS  
OF  
WESTERN BRANCH PRESERVE  
HOME OWNERS ASSOCIATION, INC.

ARTICLE I  
NAME AND LOCATION

The name of the Corporation is Western Branch Preserve Home Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located c/o 400 South Main Street Kilmarnock, Virginia 22482 but meetings of Members and Directors may be held at such places within the Commonwealth of Virginia as may be designated by the Board of Directors.

ARTICLE II  
GENERAL

As supplemented herein, the regulation of the business and affairs of the Association shall be governed by certain provisions of the Declaration of Covenants, Conditions and Restrictions for Western Branch Preserve ("Declaration"), as amended from time to time, which are incorporated herein by reference as if set forth verbatim.

ARTICLE III  
DEFINITIONS

To the extent applicable, the Definitions set forth in the Declaration are hereby incorporated herein as if set forth verbatim.

ARTICLE IV  
MEMBERSHIP

Section 1. General. Membership in the Association shall be as set forth in the Declaration.

Section 2. Suspension Of Rights. The membership rights of any person whose interest in the Property is subject to Assessments under the Declaration whether or not he be personally obligated to pay such Assessments, may be suspended by action of the Directors during the period when the Assessments remain unpaid; but, upon payment of such Assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of any person thereon, as provided in the Declaration, they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations as set forth therein.

ARTICLE V  
VOTING RIGHTS

Voting rights in the Association shall be as provided in the Declaration.

ARTICLE VI  
PROPERTY RIGHTS AND RIGHTS OF  
ENJOYMENT OF COMMON AREAS

Section 1. Use of Common Areas. Each Member shall be entitled to the use and enjoyment of the Common Areas as provided in the Declaration.

Section 2. Delegation of Rights. Except as otherwise provided in the Declaration, any Member may delegate his rights of enjoyment in the Common Areas and, with respect to an Owner of a Lot or Recreational Amenities, to the members of his Family who reside upon the Property or to any of his tenants or renters who lease or rent from him. Such Member shall notify the Secretary in writing of the name of any such person or persons and of the relationship of the Member to such person or person. The rights and privileges of such person or persons are subject to suspension under Article IV hereof to the same extent as those of the Member.

ARTICLE VII  
ASSOCIATION PURPOSES AND POWERS

Section 1. Association's Purposes. The Association has been organized for the purposes set forth in the Declaration including, without limitation, the following:

- (a) to own, acquire, build, operate and maintain the Common Areas, including but not limited to Recreational Amenities, parking areas, buildings, structures and personal property incident thereto;
- (b) to clean, clear, trim, remove weeds, limbs, and debris from, and to provide general grounds maintenance for both the Property and the Common Areas;
- (c) to fix Assessments (or charges) to be levied against the Property in the subdivision;
- (d) to enforce any and all covenants and restrictions and agreements applicable to the Property; and
- (e) to pay taxes and insurance, if any, on the Common Areas.

Section 2. Mergers and Consolidations. Subject to the provisions of the Declaration, and to the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall be approved in writing by Members present, in person or by proxy, at a duly called meeting, representing two-thirds (2/3) of the Members.

Section 3. Mortgages; Other Indebtedness. The Association shall have the power to mortgage the Common Areas as set forth in the Declaration.

Section 4. Dedication of Property or Transfer of Function to Public Agency or Utility. The Association shall have the power to dispose of its real property or dedicate same only as authorized under the Declaration.

ARTICLE VIII  
BOARD OF DIRECTORS

Section 1. Board of Directors; Selection; Terms of Office. The affairs of the Association shall be managed by a Board of Directors. The initial Board of Directors shall consist of three (3) Directors who shall be selected by the Declarant. The Declarant shall have the sole right to appoint and remove any member or members of the Board of Directors of the Association pursuant to the Declaration until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant property representing one hundred percent



(100%) of the total number of Lots intended for development on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed Of Record by Declarant. At the first annual meeting of Members after the occurrence of the first of such events, the Members shall elect five (5) Directors, one of whom must be the President. The Members shall elect two (2) Directors for a term of one (1) year, two (2) Directors for a term of two (2) years and one (1) Director for a term of three (3) years. Notwithstanding the foregoing, in the event that the President is removed from such office pursuant to Article XII below, his term as a Director shall expire upon the effective date of such removal.

Section 2. Vacancies in the Board of Directors. Vacancies in the Board of Directors shall be filled by Declarant until Declarant has no authority to appoint Directors and thereafter by the majority of the remaining Directors, or by a sole remaining Director, and any such appointed Director shall serve for the remaining term of his predecessor. In the event that any member of the Board of Directors of this Association shall be absent from three (3) consecutive regular meetings of the Board of Directors without excuse, the Board may, by action taken at the meeting during which said third absence occurs, declare the office of said Director to be vacant.

#### ARTICLE IX ELECTION OF DIRECTORS

Election to the Board of Directors shall be as provided in Article VIII above. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration applicable to the Property. The names receiving the largest number of votes shall be elected.

#### ARTICLE X POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Board of Directors. Powers. The Board of Directors shall have power:

- (a) to call special meetings of the Members;
- (b) subject to Article XII herein, to appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these Bylaws shall be construed to prohibit the employment of any Member, Officer or Director of the Association in any capacity whatsoever;
- (c) to establish, levy and assess, and collect the Assessments;
- (d) to adopt and publish rules and regulations governing the use of the Common Areas and Recreational Amenities, and the personal conduct of the Members and their guests thereon;
- (e) To exercise for the Association all powers, duties and authority vested in or delegated to this Association, except those reserved to the members in the Charter of the Corporation, these Bylaws or the Declaration;
- (f) to fill vacancies on the Board of Directors pursuant to Article VIII above;
- (g) to appoint an Executive Committee of three (3) Directors and delegate all or any portion of the powers of the Board of Directors to this Executive Committee, subject to the limitations on the authority of the Executive Committee imposed by law; and
- (h) to take such other action as provided in the Declaration.

Section 2. Board of Directors. Duties. It shall be the duty of the Board of Directors:

- (a) to cause to be kept a complete record of all its acts and corporate affairs;
- (b) to supervise all officers, agents and employees of this Association and to see that their duties are properly performed;
- (c) to fix the amount of Assessments in accordance with the Declaration;
- (d) to prepare a roster of the Property and Assessments applicable thereto which shall be kept in the Office of the Association and shall be open to inspection by any Member;
- (e) to send written notice of each Assessment to each Property Owner subject thereto; and
- (f) to issue upon demand by any Owner or mortgage lender a certificate setting forth whether any Assessment has been paid. Such certificate shall be conclusive evidence of any Assessment therein stated to have been paid.

Section 3. Resignation. A Director of the Association may resign at any time by giving a written notice to the Board of Directors or the President of the Association. The resignation of any Director shall take effect upon delivery of the notice thereof or at such later time as shall be specified in such notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 4. Removal. Except as otherwise provided in the Declaration and in Article VIII herein, any Director may be removed, with or without cause, by a vote of the holders of a majority of the votes of the Members present, in person or by proxy, and entitled to vote at a special meeting of the Members called for that purpose.

## ARTICLE XI DIRECTORS' MEETINGS

Section 1. Directors' Annual Meeting. The annual meeting of the Board of Directors shall be held at the discretion of the Board of Directors with ample notice given to each member.

Section 2. Notice. Ten (10) days written notice of such annual meeting shall be given to each Director.

Section 3. Special Meetings. Special meetings of the Board of Directors shall be held when called by any officer of the Association or by any two (2) Directors after not less than three (3) days notice to each Director.

Section 4. Waiver of Notice; Action Without a Meeting. A Director may waive notice of a meeting of the Directors before or after the date and time stated in the notice. Except as otherwise provided in this Section 4, the waiver must be in writing, signed by the Director entitled to the notice and filed with the minutes or corporate records. Attendance of a Director at any meeting shall constitute waiver of notice of such meeting, except where the Director attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened and does not thereafter vote for or assent to action taken at the meeting. If a meeting otherwise valid of the Board of Directors is held without notice where such is required, any action taken at such meeting shall be deemed ratified by a Director who did not attend, unless after learning of the action taken and of the impropriety of the meeting, he makes prompt objection thereto. Objection by a Director shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association. Action taken without a meeting shall be deemed the action of the Board of Directors if all Directors execute, either before or after the action is taken, a written consent thereto and the consent is filed with the records of the Corporation.

Section 5. Board Quorum. The Majority of the Board of Directors shall constitute a quorum thereof.

ARTICLE XII  
OFFICERS

Section 1. Association Officers. The Officers shall be a President, a Vice-President, a Secretary and a Treasurer. The President shall be a member of the Board of Directors; all other officers may be, but shall not be required to be, members of the Board of Directors.

Section 2. Election of Officers. The Declarant shall have the sole right to appoint and remove any officer of the Association pursuant to the Declaration until the first of the following dates: (i) December 31, 2014; (ii) ninety (90) days after the date on which Declarant has conveyed to Owners other than Declarant property representing one hundred (100%) percent of the total number of Lots intended for development on all of the Property as set forth in a Supplemental Declaration; or (iii) the date the Declarant surrenders the authority to appoint and remove Directors of the Association by an express amendment to the Declaration executed and filed Of Record by Declarant. Thereafter, all officers shall hold office at the pleasure of the Board of Directors.

Section 3. President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments.

Section 4. Vice President. The Vice President shall perform all the duties in the absence of the President.

Section 5. Secretary. The Secretary shall be the ex officio Secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for such purpose. He shall sign all certificates of membership. He shall keep the record of the Association. He shall record in a book kept for that purpose the names of all Members of the Association, together with their addresses as registered by such Members.

Section 6. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business. The Treasurer shall sign all checks and notes of the Association, provided that such notes and checks shall also be signed by the President or Vice President.

ARTICLE XIII  
LIABILITY AND INDEMNIFICATION

Section 1. Liability of Board Member. No Board Member or Officer of the Association shall be liable to any Property Owner for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-laws.

Section 2. Indemnification. The Association shall, by the full extent permitted by law, indemnify all persons specifically designated from time to time by the board of directors whom it may indemnify pursuant to law.

ARTICLE XIV  
MEETINGS OF MEMBERS

Section 1. Membership Annual Meeting. Meetings of the Members shall be held at Western Branch Preserve, Lancaster County, Virginia or at such other location within the Commonwealth of Virginia as the Board of Directors shall determine, and shall occur at least once a year. An annual meeting of the Members shall be held on a day and time to be designated in the notice of the meeting.

Section 2. Membership Special Meetings. Special Meetings of the Members for any purpose may be called at any time by the President, Vice President, Secretary or Treasurer, or by a majority of the Board of Directors, or upon written request of one-fourth (1/4) of the total vote of the Members.

Section 3. Notice. Notice of any meetings shall be given to the Members by the Secretary in accordance with the Declaration.

Section 4. Voting Requirements. Any action which may be taken by a vote of the Members may also be taken by written consent to such action signed by all Members in person or by proxy.

Section 5. Waiver of Notice. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to the Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall of itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating his objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of the Association.

Section 6. Quorum. The quorum required for any meeting of Members shall be as set forth in the Declaration.

## ARTICLE XV PROXIES

Section 1. Voting by Proxy. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association.

Section 2. Proxies. All of the provisions of this Section 2 are subject to the Declaration. To the extent that a provision set forth in this Section is inconsistent with the Declaration, the provisions of the Declaration shall control. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary. Unless a proxy otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless otherwise specified therein. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date; and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Any proxy shall automatically cease upon sale by the Member of the Member's property.

## ARTICLE XVI INSURANCE

The Board of Directors or its duly authorized agent shall obtain hazard insurance for its improvements and Common Area and a broad form public liability policy covering all common area and all damage or

injury caused by negligence of the Association or any of its agents as more fully describe in the Declaration.

ARTICLE XVII  
CORPORATE SEAL

The Secretary may have a seal in circular form having within its circumference the name of the Association, the year of its organization and the words: Corporate Seal, Virginia.

ARTICLE XVIII  
AMENDMENTS

These Bylaws may be amended or repealed and new Bylaws adopted by the Directors so long as Declarant has the authority to appoint the Directors and thereafter by a two-thirds (2/3) vote of the Members present, in person or by proxy, and entitled to vote at a regular or special meeting of the Members; provided that any matter which is in fact governed by the Declaration may not be amended except as provided in the Declaration.

ARTICLE XIX  
FISCAL YEAR

The fiscal year of the Association shall be determined by the Board of Directors.

ARTICLE XX  
GENERAL

Section 1. Conflicts. It is intended that the provisions of the Declaration which apply to the governance of the Association, as supplemented by the provisions in these Bylaws which are not contained in the Declaration, shall operate as the Bylaws of the Association. In the case of any conflict between such provisions set forth in the Declaration and these Bylaws, the Declaration shall control.

Section 2. Waiver. No provision of these Bylaws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 3. Severability. The provisions of these By-laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.

Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-laws or the intent of any provision.

Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall include the plural and vice versa, whenever the context requires or permits.

Section 6. Roberts Rules. All meetings of the membership of the Board of Directors shall be conducted in accordance with Roberts Rules of Orders Revised.

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Western Branch Preserve Home Owners Association, Inc.  
\_\_\_\_\_, 2005

# **Western Branch Preserve**

*A Conservation Minded Waterfront Community*



**ARCHITECTURAL REVIEW COMMITTEE**

**Design Guidelines & Procedures**

**July 2004**

# WESTERN BRANCH PRESERVE ARCHITECTURAL GUIDELINES

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# **The Architectural Review Committee Guidelines For WESTERN BRANCH PRESERVE**

## **I. Introduction**

The WESTERN BRANCH PRESERVE Architectural Review Committee (ARC) is dedicated to creating a unique and ecologically sensitive community. To achieve these objectives, the ARC has established certain architectural design and construction philosophies. For instance, a building should be unobtrusive in form and color, traditional in character, and fit appropriately into the existing landscape. A specific architectural style has been established by the ARC consistent with those found in coastal, tidewater, and low country villages. Variety in form and detailing should vary from house to house while still maintaining a cohesive neighborhood scale. It is important that the community be free from discordant or competing architectural shapes and design statements which vie for attention or attempt to create a greater visual impact than neighboring shapes and designs. The ARC expects that the common elements of a project be quality of design and material.

These philosophies suggest that each building is part of a total neighborhood and not an individual creation or architectural entity arbitrarily placed on the site or in the neighborhood. The various designs should complement and enhance the neighboring properties through consistency of scale, quality of material and coordination of colors.

The Architectural Review Committee, consisting of approved members and professional advisors, has been established to administer these philosophies. To that end, the ARC has the responsibility to preserve the natural beauty of WESTERN BRANCH PRESERVE while protecting the property investments made by its members.

Each project submitted to the ARC will be reviewed toward:

1. Ensuring that any development, structure, or landscaping complies with the Covenants and Guidelines of WESTERN BRANCH PRESERVE.
2. Preventing excessive or unsightly grading, indiscriminate clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms.
3. Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the residential lot and their surroundings.
4. Ensuring that the landscaping plans provide visually pleasing settings for structures on the lot and blend harmoniously with the landscaping on adjacent lots.

Important initial considerations:

1. We strongly recommend that you obtain professional design assistance in planning for your new home and that both you and your professional read and understand these guidelines. Owners will be required to sign a statement acknowledging their receipt and understanding of the ARC's guidelines and procedures.

2. Your home must be completed within twelve months after you receive final approval of your plans. Time extensions may be granted.
3. No clearing of your lot or commencement of vertical construction can take place without written ARC approval.
4. Any changes to your plans after final approval has been obtained, must be submitted for approval before the work is begun.

## **II. Review Process**

### **A. ARC Meeting Schedule**

The WESTERN BRANCH PRESERVE ARC meets on the 2nd Thursday of each month, provided there are current applications to review.

### **B. Review Procedure**

The ARC requires a phased process in which Preliminary and Final Plans are reviewed for approval. This is done to avoid unnecessary expense or time delays for the owner. It is a requirement that the architect who has prepared the drawings be present for the Preliminary review of the plans. This is to establish communication between the ARC and the design professional, and to eliminate misunderstandings that could ultimately delay the project. We also strongly recommend that the owner attend the Preliminary review.

### **C. Submission Requirements**

1. Two sets of Plans must be submitted to the ARC administrator along with the appropriate application and fees at least 3 days prior to the scheduled meeting.
2. The plans should be blueprint formatted. (Penciled in comments will not be considered in the review process). Plan size and scale should be 24" x 36" and 1/8"=1" for the site plan and 1/4"=1" for the building plan unless the size of the house requires a smaller scale.
3. Building plans must comply with all current national, regional and local building codes.

### **D. Plan Reviews**

#### **1. Preliminary Review**

The Preliminary submission must include: a site plan showing the proposed footprint of the structure and all exterior elevations of the proposed structure. An approval, at this stage, is an expression of conditional acceptability by the ARC of the plan/design. The ARC, however, reserves the right to disapprove all or part of the plan upon final application in the event that the plan or design is significantly altered from the preliminary submission or in the event that significantly new information is brought to light during the Final review.

At the discretion of the applicant, an artist's rendition of the proposed structure may be included in order to help determine the suitability of a particular style or design for construction in WESTERN BRANCH PRESERVE.

At this juncture of the review process, the ARC's opinion will be strictly non-binding and will be offered only in an effort to save the applicant time and expense in pursuing a design that might ultimately be disapproved.

## 2. Final Review

This submission demands the greatest level of detail. Upon approval, it will mean construction can begin. All changes made to the Preliminary Plan and responses to the ARC's Preliminary Approval Letter, must be submitted in writing to the ARC Administrator. Also, a final stakeout of the house and property must be completed prior to this Review. If the submission fails to include all of the following required items, it will not be placed on the meeting agenda.

### **Required Items:**

#### **a. Site Plan at 1/8" equals 1' scale showing:**

Location and type of trees over 6" diameter at breast height (DBH) that are to be removed. Tree protection for all significant specimens must be indicated.

Property lines and buffer/building setback lines.

Perimeter of all vertical construction, dimensioned perpendicular to the property line at the closest point.

Roof plan accurately showing the extent of overhangs including roofs for covered decks and pools.

All horizontal construction including driveways, parking areas, paths, walkways, pools, patios, etc.

Location of any service yard used to house meters, HVAC, and/or pool equipment, waste water grinder pump systems.

Finished Floor elevations for all floors, garages, patios, and decks.

Planned location of port-a-lets, dumpsters, and material staging areas.

#### **b. Architectural Plan at 1/4" equals 1' scale showing:**

Fully dimensioned floor plans, including decks, terraces, porches, pools, patios, etc.

Computations of heated floor space for each floor and total heated area.

Elevation drawings for all sides of the house. (Non-rectangular designs may require more than four elevations.)

Typical construction details, wall section, corner detail, privacy fence/wall detail, service court fence/wall detail, chimney cap detail, exterior steps and handrail details and all other details necessary to explain the materials and finishes to be used on the exterior of the building. All details must be properly keyed to the elevation.

**c. Landscape Plan at 1/8" equals 1' scale**

The Landscape Plan must include an overlay of proposed plant materials for the entire site with particular focus on key elevations of the house (i.e. side entry garages, blank walls, high foundations, etc).

The ARC in its sole judgment, will determine at final inspection if the landscape plan is adequate, or if additional trees and/or plants are required. This holds particularly true for landscaping that is used to screen highly sensitive areas such as swimming pools, garages, service yards and driveways.

**d. Samples of Exterior Colors and Materials**

Samples of the color and finish for all significant exterior materials must be provided. These must include siding, trim, and roofing materials.

**e. Variance Requests**

If the proposed construction includes any variances from the design guidelines stated herein, they must be requested specifically on the application form. If a variance is discovered that was not requested on the application, the application may need to be resubmitted reflecting the appropriate resolution.

**E. Pre-Construction Final Site Inspection**

Prior to the commencement of any construction, a final site inspection by the ARC Inspector is required.

All proposed vertical and horizontal construction must be staked out in accordance with the final plan. Where property lines are adjacent to wetlands or existing homes, a silt fence must be erected and maintained to keep construction debris within the job site.

All regulated trees proposed for removal must be flagged in red with no other trees flagged except for the elevation benchmark tree. The appropriate tree protection barriers noted on the Site Plan must be in place

The Contractor should notify the ARC Administrator once the stakeout is complete. The Contractor will be notified by phone when the ARC inspector has completed the final site inspection.

## F. Project Approval

If the project is approved, the ARC will send the owner, within 5 business days, an Approval Agreement Letter. Upon its return, together with a copy of the Lancaster County Building Permit and the Owner/Builder's compliance deposit, a Certificate of Plan Acceptance will be issued and construction will commence. Construction must be completed within 12 months from the date of this letter unless the ARC has approved a written request for an extension.

It is important to note that the Certificate of Plan Acceptance is not a building permit. Plans that have been approved may not be transferred to another owner or used on another lot without ARC approval.

If the project is disapproved, a letter stating the reasons for disapproval will be sent to the Owner. Revised plans may be resubmitted with a letter explaining any corrections/modifications. If the resubmitted plans are again disapproved the owner may continue the process or appeal to the Board of Directors as provided for in the Covenants.

## G. Compliance Assurance

Although the ARC has no responsibility to monitor the Builder and assure the Owner that his plans are being executed properly, the ARC from time to time will review the progress of construction to best assure the Community that its Guidelines are being followed. To facilitate this process, the ARC requires that a copy of the approved plans be maintained at all times in the ARC office.

It is the **Builder's** responsibility to make sure that all trenches for Utility lines are dug according to the approved Site Plan. Errors in location resulting in damage to significant tree specimens will result in forfeiture of the Builder's deposit.

Ultimately the Completed Project Inspection will mitigate issues of non-compliance. However, to prevent a catastrophic error in the location of the home, the ARC will perform a physical inspection of the foundation prior to commencement of framing.

The Builder is responsible for unsightly conditions, proper tree protection, and maintenance of barrier fences. Owners and/or Builders will be notified of any violations. If a violation is not corrected in a reasonable and timely manner, (24 to 48 hours), the Owner and/or Builder will be subject to the forfeiture of all or part of their deposits. Repeat violations could result in the shut down of the project.

## H. External Changes and Additions

No external changes to the approved project will be allowed without ARC approval. No work on such changes shall be performed until the ARC renders its decision on the proposed changes. Interior changes that do not affect the exterior of the building do not require approval.

## I. Inspection of Completed Project

When the construction project is completed, the owner should submit a letter of certification stating that all construction has been completed in accordance with the plans approved by the ARC at which the ARC will initiate point a final inspection.

All building materials, port-a-lets, dumpsters, and construction signs must be removed from the site prior to inspection.

If the ARC determines, through its inspection, that the construction and landscaping are in accordance with the approved plans, the ARB will issue a Letter of Construction Acceptance and return the compliance deposit.

If the ARC finds that the construction and/or landscaping has not been completed in accordance with the approved plans, the owner will be notified in writing as to the reasons for non-compliance. The Owner must then correct the deficiencies and resubmit a new letter of certification together with a revised set of plans reflecting the changes that were made. If in its sole judgment, the ARC feels that the owner has failed to satisfactorily rectify an issue of non-compliance, some, or all of the deposit monies may be forfeited.

## III. Design Guidelines

The architectural design guidelines based below provide the owner/builder specific requirements for Western Branch Preserve.

### A. Architectural Design Guidelines

#### 1. General Overview

a. Building Form: The eventual building form of every residence should be carefully planned so as to be compatible with the natural setting of its site. Low-key traditional-oriented designs are encouraged. Large homes can be made to appear smaller and smaller homes to appear larger by the manipulation of shapes and forms, and by the effective use of decks, screened porches, and roof lines.

b. Articulation: The aesthetic appearance of a home depends greatly upon the articulation of the siding, roof, fascia detail, fenestration, walls and fences. Windows should be selected and located to provide for natural lighting, ventilation and views. Walls, and fences should be used to provide privacy, enclose service areas and reduce the scale of larger masses. Detail at the soffit, fascia, base, corners, window and decks should have common elements that help to unify the appearance. The ARC will carefully review the size and form of these elements.

2. Foundations: High foundation walls will require careful treatment such as accents, indentations, or landscaping to help reduce their apparent height and massiveness. Pier foundations are considered too minimal and lacking in design. Louvered or lattice

openings in a foundation wall are a preferred alternative. Acceptable foundation materials include stucco, brick, and stone. No unfinished concrete block will be allowed.

3. Exterior Walls: Exterior walls should be of brick, wood siding or shakes, cementuous board or shakes, or stucco. Plywood composite materials, fiberboard, vinyl or metal siding is not appropriate. Architectural treatment and detailing of the exterior is required to breakup the massiveness of wall designs.

4. Windows: Various styles and functions of window are encouraged. Large areas of glass without any division are discouraged. Double hungs, casements, and awnings are permitted if appropriate for the style of the house. Mullion patterns should be consistent on all elevations. No more than 30% of the wall surface on the street side of the house should be glass. The view side of the house may have a greater percentage of glass. Large glass areas should carefully integrate into the total design. Clear or low-e glass is permitted. Glass with a mirror effect will not be allowed.

Skylights are discouraged on street side elevations.

Large expanses of exterior glass block is considered out of character for Western Branch Preserve.

5. Shutters: Shutters must be sized to fit over the window when closed and should be mounted on operable hardware.

Hurricane Shutters require ARC approval. They may be used only when storm warnings are issued and be removed as soon as is practical once the storm has passed. Hurricane Shutters may not be used for long-term enclosure of the House.

6. Roofs: Architectural roofing materials such as slate, tile, copper, wood, and terne metal are encouraged. Forty-year, architectural, fiberglass shingles are also acceptable. Colors and configurations should be chosen which do not call attention to the roof. Exaggerated roof slopes, both high and low, should be avoided. Plumbing vents, gutters, skylights or any other roof-mounted features must be finished so as to blend in with the roof's appearance and should not be located on the street side of the house.

7. Fireplaces and Chimneys: Two types of fireplaces are permitted. If the intent is to burn combustible material that requires ventilation outside of the house, then a fireplace and chimney composed entirely of brick, concrete block, stone or other solid masonry material may be constructed. If the intent is to use a gas log appliance that does not require outside ventilation then no masonry chimney is required. In either case, the exterior portion of all chimneys protruding through a roofline must be of a masonry, stone or stucco construction. The ARC must approve fabricated metal chimney caps.

8. Garages and Detached Structures: Where possible, garages should be located in the front half of the property; garage doors should not face the street. Side entry garages facing the interior of the lot are preferred. If however, the entry doors must face adjacent lots or the street, additional landscape screening and/or enhanced garage door detail will be required. Detached garages are permitted and may be connected to the house by a covered passageway. They must be compatible in style, material and color with the main house.



Propane tanks must be buried underground.

9. Walls, Fences and Gateposts: Walls, fences and gateposts are permitted for the following purposes:

- Enclose and screen a service yard
- Define an entrance space or courtyard
- Provide privacy to rear patios, decks and pools.

Owners should be aware, when selecting plant material for their landscaping, that deer are a common element in Western Branch Preserve. Owners are strongly encouraged to use indigenous plants in landscaping plans.

All walls, fences, and gateposts must be located within the setbacks and be constructed using materials and colors that are architecturally compatible with the house. (Walls, fences and gateposts will be reviewed on a case-by-case basis. No wire or chain link fences will be allowed)

10. Decks, Terraces and Patios: The scale, detail and material of the decks, terraces, and patios should be consistent with the architecture of the house. They should be considered an extension of interior space, while providing a transition from the building to the landscape.

## B. Building Sizes

1. Primary Dwelling: All primary single-family residential dwellings shall have a minimum of 1,800 square feet of enclosed living space. Primary homes larger than 3,600 square feet are discouraged.

2. Building Heights: The overall building height shall not exceed 35 feet. All homes will be limited to 1.5 stories except for ARC pre-approved wooded home-sites.

## C. Building Orientation

Homes should be oriented to best take advantage of views and open space. Care must be taken to locate each structure, whenever possible, so as not to infringe upon view corridors of adjacent homes as well as the natural amenities of the area.

Homes should be placed square with the street or setback lines where possible. Minor variations in building setbacks from roadways can be incorporated in order to avoid a regimented and monotonous streetscape. Staggering the facades of the roadway elevation will also achieve a similar effect.

A single home may be placed in the center of two adjacent lots that have been combined and replatted with the county and Western Branch Preserve so long as the home maintains a similar scale as outlined herein.

D. Building Setbacks/Buffers (Setback/buffers as outlined are to remain undisturbed except for reasonable maintenance as permitted by the ARC).

1. Front: The minimum setback from the front property line for any vertical construction is: 40 Feet. The ARC may grant variances in certain situations.
2. Side: The minimum setback from the side property lines for any vertical construction is: 15 Feet. The ARC may grant variances in certain situations.
3. Rear: The minimum setback from the rear property line is the 100ft RPA. Variances have been granted for lots A1 – A5.

E. Parking/Driveways

Garage parking should be designed to accommodate all vehicles (including golf carts) that are operated by the owner. Two enclosed parking spaces are required. In addition, 2 off street guest parking spaces are required. Long term outside parking of any type of vehicle is discouraged.

Long driveways should be curved. Brick pavers, divided concrete, and pervious materials such as gravel, shell, sandshell aggregate are very acceptable, however, when using pervious materials substantial edging will be required to maintain the driveway dimensions visible to the street.

Driveways and guest parking spaces that are located close to the minimum setback will be required to have sufficient landscape screening to minimize visibility from the street and adjacent property.

F. Swimming Pools

All pool equipment must be placed within an enclosed area that is located inside the setback lines and preferably, attached to the house.

Landscaping will be required around pools and pool decks to screen adjacent properties.

G. Tennis Courts

Tennis Courts are not permitted on individual lots.

H. Docks and Bulkheads

No docks other than the shared and commons docks approved by the ARC will be permitted. Regulations concerning specific use of docks will be outlined within the Declaration of Covenants, Conditions, and Restrictions for Western Branch Preserve.

I. Antennas, Satellite Dishes and Sound Devices

1. No television antenna, radio receiver or sender or other similar device may be installed without ARC approval. No transmission of radio, television, or any other form

of electromagnetic signal which may unreasonably interfere with the reception of television or radio signals is permitted.

2. Satellite Dishes are permitted, however, they must be placed in either an inconspicuous location, a service yard, or on the ground if they are adequately screened from view from the street and adjacent neighbors. The ultimate location of dishes must be approved by the ARC.

3. Exterior sound devices, with the exception of security alarms, shall be located and controlled so as not to interfere with the peace and privacy of neighbors. This will be strictly enforced.

#### J. Utilities

All water, sewer, electrical, telephone, and cable TV lines must be underground.

#### K. Exterior Lighting

1. All exterior lighting including landscape lighting must be approved by the ARC prior to installation.

2. Driveway and walkway illumination must be subdued (low wattage), directed downward, and where possible, concealed into steps, walls, bollards, or handrails.

3. Landscape lighting should also be subdued (low voltage and low wattage) uplighting is not allowed. Downlighting should be focused on specific landscape objects and not used for general illumination purposes. Landscape lighting shall not adversely affect the adjoining neighbors. High intensity lights and streetlights are prohibited. Traditional Christmas lighting such as window candles and subdued front door lighting will be allowed during the month of December.

4. Colored lighting is not acceptable.

#### L. Landscaping

The intent of the landscape plan is:

- To beautify the home site
- To soften the visual impact of vertical structures
- To screen specific areas from street and neighboring views
- To restore the site from disturbances which occur during construction

A successful landscape design will complement the house and site. The ARC must approve plans for all landscaping, grading, excavation or filling of lots.

##### 1. Grading and Drainage

Site grading should be kept to a minimum in order to maintain existing drainage patterns of the land. In general, the areas of the lot that may be filled are limited to the area immediately under and around the house and the driveway. This fill

area should transition down to existing grade as soon as possible once beyond the building line.

Grading and drainage should be designed to ensure no storm water or roof water runoff is directed toward adjacent home sites. Runoff should be directed into existing natural or created swales.

Cuts and fills should be designed to complement the natural topography. Grading should produce graceful contours, not sharp angles. A smooth transition should be provided at the crest and base of the slope.

## 2. Design

A simple massing of the plant materials is the most effective method of creating a successful planting scheme. Lawns are allowed in open areas around homes where sunlight is available for a good portion of the day. Wooded areas should be preserved and enhanced by the selective introduction of ground cover and edge plantings. Particular focus should be paid to areas requiring visual screening, such as pools, service yards, utility boxes, side entry garages, and foundation walls. When screening these areas, plant materials must be of sufficient size, when planted, to cover at least 50% of the height of the object to be screened. In general, proposed plant material should be natural to the region, drought resistant, cold hardy, and unappealing to deer.

Owners will be required to plant at least two street trees with a minimum caliper of three inches measured one foot above ground level and two flowering trees with a two-inch diameter. The ARC will specify specific species of trees. This requirement will be waived for wooded lots.

## 3. Tree Protection

Tree preservation is ultimately the owner's responsibility, however during the term of the construction project a joint effort must be made by all parties to protect trees and vegetation.

Trees and vegetation along marshes, wetlands and ponds are critical to the ecological stability of these sensitive areas. Minor trimming and pruning will be allowed with ARC approval. Any significant clearing is prohibited and will cause restoration work to be initiated at the owner's expense.

## 4. Irrigation

Irrigation systems should be designed to minimize water usage. Rain sensors are required. All fixtures as well as their field of spray must be kept within the property lines and buffers.

## 5. Accessory Structures

Tool sheds and playhouses or any other similar type structure require screening and must be approved by the ARC. No metal or prefabricated storage buildings

will be allowed. Any accessory building must adhere to the architectural style of the home.

Basketball nets may be placed in driveway or garage areas with ARC approval; however significant screening will be required.

Statuary elements require ARC approval and must be located within the Setbacks. Bright or glimmering objects are not allowed.

Flag poles no greater than 30 feet in height are permitted, however they must be located within the property setback lines/buffers.

Exposed clotheslines are not permitted.

#### M. Miscellaneous

1. Mailboxes: The standard Western Branch Preserve mailbox must be used. The ARC Administrator will provide details on obtaining one.

2. House Numbers: House numbers are only permitted on the mailbox assembly, along with the owner's last name.

3. Construction Signs: The standard Western Branch Preserve construction sign must be used. The sign will be limited to the names of the owners, two design professionals, and the primary contractor. (see exhibit D for sign specifications).

4. Undeveloped Lots: It is the owner's responsibility to keep undeveloped lots free of excessive debris, such as fallen trees, limbs and underbrush. If the lot becomes too unsightly, or unsafe, the ARC will take the necessary action to have it cleaned up at the owner's expense.

#### IV. Existing Home Guideline

Although the primary purpose of the ARC is to assure the Community that all new building construction is in accordance with the Covenants and Guidelines, it has a secondary responsibility to assure the community that all changes to existing homes adhere to the Covenants and Guidelines as well. This oversight includes the monitoring of the visual appearance of homes and lots.

##### A. Repainting, Restaining, or Changing Exterior Materials

Repainting, restaining, or changing exterior material requires ARC approval.

##### B. Improvements

No building addition or alteration to the exterior, or significant modification of landscape screening that would affect the purpose thereof may take place without ARC approval. Requests for such improvements must follow the procedures outlined previously for new construction.

### C. Landscaping

Every owner is responsible for the upkeep and maintenance of his/her property. Landscaped areas must be kept tidy. Plant materials must be pruned and watered. Lawns must be mowed regularly. Natural areas must be kept free of weeds and debris. The Western Branch Preserve Property Owners Association will maintain all common areas. Property owners may opt to have their lawn mowed by the Property Owners Association for a fee. The ARC has the right to mow the grass on any lot once the grass exceeds the height of eight inches and to bill the homeowner for the cost.

### D. Signage

The use of any sign except for the purpose of identification, selling property or installation of a security system is prohibited. Homes shall be identified only by the address and last name painted on the standard Western Branch preserve mailbox.

### E. Rebuilding Destroyed or Damaged Structures

In the event that a structure is damaged or destroyed, it can be rebuilt as previously approved by following the current ARC process and fee schedule. Certain changes/modifications may be required to bring the rebuilt structure in line with the current guidelines as well as compliance with state or local laws. These changes could include but are not limited to: landscaping, lighting, window specifications, fireplace construction, etc. etc.

## **V. Exhibits**

- A. Fee Schedule
- B. Application for Approval of Residential Construction
- C. Approval- Agreement Letter
- D. Sign Construction Specifications
- E. Construction Modification Form

## EXHIBIT A

### **WESTERN BRANCH PRESERVE ARCHITECTURAL REVIEW COMMITTEE FEE SCHEDULE**

Plans must be submitted to the Architectural Review Committee Administrator, together with the appropriate fees in accordance with the following schedule.

NEW HOME APPLICATION FEE Due at Preliminary Submission	\$500.00
OWNER/BUILDER'S COMPLIANCE FEE- Due at the time Final Approval is granted and Certificate of Plan Acceptance is issued: Refundable upon approved final inspection of home and landscaping.	\$1,500.00
MAJOR ADDITIONS, i.e. POOL, GARAGE, SCREEN PORCH, DECK, GAZEBO, OR ADDITIONS THAT CHANGE ROOF LINES, ETC. . APPLICATION FEE	\$300.00
MAJOR ADDITION COMPLIANCE DEPOSIT . Due after final approval is granted . Refundable upon approved inspection by ARC.	\$1,500.00
MINOR ADDITIONS THAT AFFECT THE EXTERIOR APPEARANCE . DRIVEWAY, PATIO, BAYS UNDER EXISTING EAVES, RESTAINING/REPAINTING (No Compliance Deposit required)	No Charge

\* Make check(s) payable to Western Branch Preserve ARC

**EXHIBIT B**

**APPLICATION FOR APPROVAL OF RESIDENTIAL  
CONSTRUCTION FOR WESTERN BRANCH PRESERVE**

**SUBMIT TO:**

WESTERN BRANCH PRESERVE ARC  
P. O. Box 520  
Lancaster, VA 22507  
(804) 435 1085  
(804) 435 2299

**DATE:** \_\_\_\_\_

Address of Construction: \_\_\_\_\_

\_\_\_\_\_  
Lot # - Street Name  
(Use Legal Plat Lot#)

1) Preliminary Approval Request: \_\_\_\_\_

2) Final Approval Request \_\_\_\_\_

New House: \_\_\_\_\_

Addition, Porch Enclosure, Deck \_\_\_\_\_

\_\_\_\_\_  
Mailing Address

Owner Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

**ARCHITECT:**

**CONTRACTOR/BUILDER**

License #: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Fax #: \_\_\_\_\_

Phone No. \_\_\_\_\_

1st Floor Elevation above MSL \_\_\_\_\_

Submitted By: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

Enclosed Dwelling Area (Sq. Footage) 1st Floor \_\_\_\_\_ 2nd Floor \_\_\_\_\_

\*\*\*\*\*

**For ARC USE ONLY**

**Preliminary Approval** \_\_\_\_\_

**Final Approval** \_\_\_\_\_

**Submittal Fee Paid** \_\_\_\_\_

**Compliance Fee Paid** \_\_\_\_\_

Builder Compliance Fee Paid

CRP CERTIFICATD OF PLAN ACCEPTANCE PERMIT # \_\_\_\_\_

DATE PERMIT ISSUED \_\_\_\_\_



**WESTERN BRANCH PRESERVE ARC APPLICATION**

**Page 2**

<u>ITEM</u>	<u>MATERIAL</u>	<u>COLOR</u>
Siding (Wood)	_____	_____
Siding (Cementious)	_____	_____
Siding (Stucco)	_____	_____
Roofing	_____	_____
Fascia, Trim	_____	_____
Shutters	_____	_____
Railings, Pickets	_____	_____
Columns	_____	_____
Front Door	_____	_____
Exterior Door	_____	_____
Garage Door	_____	_____
Windows	_____	_____
Window Trim	_____	_____
Chimney/Fireplace	_____	_____
Driveway Paving	_____	_____
Walk(s) Paving	_____	_____
Other	_____	_____
Exterior Lighting	_____	_____
Landscape Lighting	_____	_____

Pool/Spa (Size): \_\_\_\_\_ Type: \_\_\_\_\_ Equipment: \_\_\_\_\_

Variances  
Requested: \_\_\_\_\_

Variance  
Justification: \_\_\_\_\_

I certify that I have read the current Western Branch Preserve Architectural Review Committee Design Guideline Procedures, and that I have complied with all applicable parts of those Guidelines, and that the information presented above is true to the best of my knowledge.

DATE: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF ARCHITECT

**EXHIBIT C**

**WESTERN BRANCH PRESERVE ARC  
APPROVAL - AGREEMENT LETTER**

DATE: \_\_\_\_\_ RECORDED LOT # \_\_\_\_\_

STREET #: \_\_\_\_\_

OWNER: \_\_\_\_\_

ARCHITECT/DESIGNER: \_\_\_\_\_

CONTACTOR/BUILDER: \_\_\_\_\_

Approval is granted, as per certain recorded covenants, for the construction of a \_\_\_\_\_ (residence, addition, pool, exterior alterations) subject to the acceptance by the Owner and Builder of the following conditions:

1. The construction, in all aspects, will be in accordance with the drawings dated \_\_\_\_\_ and approved by the Western Branch Preserve ARC on date) \_\_\_\_\_ with the exception of the following items:

- A) \_\_\_\_\_
- B) \_\_\_\_\_
- C) \_\_\_\_\_
- D) \_\_\_\_\_

2. The construction will be situated upon the lot in accordance with the approved sit plan dated \_\_\_\_\_.

3. Drainage swales, culverts, etc. will be installed whenever construction adversely affects the drainage of the natural water shed or causes excessive runoff to adjacent properties. The Contractor agrees to immediately repair any damage to improved adjacent properties caused by unnatural runoff from the construction site.

4. All changes from the approved plans, including materials or colors must be pre-approved in writing by the ARC before the change is made.

5. Construction may only take place during the hours of 7:00 a.m. to 6:00 p.m. Monday . Saturday. No work will be allowed on Sunday or on the following holidays: New Year's Day, Memorial day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

6. No water usage will be permitted until the appropriate tap fees are paid and meters are installed.

7. No construction trash burning will be permitted on the site.

8. The General Contractor is responsible for enforcing the following work rules for all construction workers and suppliers to the job site:

Workers are not permitted to use any Western Branch Preserve facilities.

Workers are not permitted to fish from any boat dock.

The possession and/or consumption of alcohol or drugs is strictly prohibited on Western Branch Preserve property.

Workers should refrain from using inappropriate language, honking horns and playing loud music.

Workers are prohibited from bringing firearms or other weapons into the property.  
Workers are prohibited from bringing their dogs, cats; or other pets into the property.  
Workers must obey all posted speed limits when driving on community roads.

9. Trash containers and Port-a-lets (door facing inward to the property) must be located as per the approved site plan.

10. Vacant, adjacent properties may not be used for access, parking or storage of material and equipment without written permission of the owner. (A copy of this permission must be filed with the ARC Administrator). The Contractor/owner will be responsible for repairing any damage done to adjacent property before their deposits will be returned.

11. All landscaping as approved on the Landscape Plan dated \_\_\_\_\_ must be in place no later than 60 days after the completion of the home. The Owner further agrees that the ARC in its sole determination, has the right to require additional landscaping should the approved landscape plan prove to be insufficient upon completion.

12. The Contractor is responsible for maintaining a clean and orderly job site, proper tree protection and protective screening for marshes, and adjacent homes. The Contractor further agrees that following verbal notification that any of the above stated responsibilities have not been followed, the ARC, in its sole determination may deduct an appropriate amount of money from the Builder's deposit for each day that the violation goes uncorrected. At such time as the Builder's deposit has been exhausted, the Builder will be required to make an additional deposit in order to continue any work in the community.

Owner and Contractor acknowledge that no approval of plans, location, specifications, or publication of architectural standards or guidelines by the ARC shall ever be construed as representing or implying that such plans, specification or standards will, if followed, result in a properly designed building or that such standards comply with building codes.

Owner and Contractor acknowledge that their respective deposits will be deposited in an interest bearing account with interest accruing to the benefit of the ARC.

Owner and Contractor acknowledge that this agreement will expire in 6 months if construction has not been started. In such case, all protection barriers and stringing must be removed until a new agreement has been obtained.

This agreement is not transferable to a new Owner without written approval by the ARC .

ARC ADMINISTRATOR

OWNER

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

DATE: \_\_\_\_\_

CONTRACTOR/BUILDER

\_\_\_\_\_  
Signature

**EXHIBIT D**

**SIGNAGE**

**EXHIBIT E**

CONSTRUCTION MODIFICATION FORM

During the construction of a home in process if modifications are to be made, i.e., replacing window for a door, adding a skylight, adding or deleting a dormer, etc. this form must be completed and submitted with a plan showing the modification to the ARC Administrator. Our guidelines state that every change (MAJOR OR MION) must be submitted for approval by the ARC Committee prior to the modification being made. This will also make it easier at the time the final compliance inspection is completed. Thank your for your cooperation and consideration in this ARC process.

OWNER NAME:

\_\_\_\_\_

LOT#: \_\_\_\_\_ STREET ADDRESS:

\_\_\_\_\_

BUILDER/CONTRACTOR

\_\_\_\_\_

PHONE # \_\_\_\_\_

REQUESTD MODIFICAITON/CHANGE:

FRONT ELEVATION

\_\_\_\_\_  
\_\_\_\_\_

REAR ELEVATION

\_\_\_\_\_  
\_\_\_\_\_

LEFT SIDE ELEVATION

\_\_\_\_\_  
\_\_\_\_\_

RIGHT SIDE ELEVATION

\_\_\_\_\_  
\_\_\_\_\_

DRIVEWAY REVISIONS

\_\_\_\_\_  
\_\_\_\_\_

LANDSCAPING REVISIONS

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_  
Contractor or Architect

**AGREEMENT REGARDING SEWAGE DISPOSAL SYSTEMS,  
WATER SYSTEM, ROADS, PIERS, RIP RAP; COMMON AREAS AND  
CONSERVATION EASEMENT FOR  
PARCELS 1, 121, 122, 123 & 124, AND LOTS 1 THROUGH 36,  
WESTERN BRANCH PRESERVE**

THIS AGREEMENT, dated February 11, 2005, is made by **WESTERN BRANCH PRESERVE, LLC**, a Virginia Limited Liability Company (herein “Western Branch”).

WITNESSETH:

WHEREAS, Western Branch is the developer of Western Branch Preserve, Mantua Magisterial District, Lancaster County, Virginia; and

WHEREAS, Western Branch desires to bind itself to certain actions concerning the development.

NOW, THEREFORE, for and in consideration of One Dollar (\$1.00) cash in hand paid and of purchasers closing on the purchase of lots within Western Branch Preserve, Western Branch agrees as follows:

**A. SEWAGE DISPOSAL SYSTEMS:**

1. The Commonwealth of Virginia, Three Rivers Health District, (the “Health Department”) has issued Certification Letters, which are on file in its office, allowing for individual remote sewage disposal systems for Parcels 1, 121, 122, 123 & 124 and Lots 1 through 36, Western Branch Preserve, LLC, Lancaster County, Virginia as shown on that certain plat of survey made by Bay Design Group, entitled “Plat Showing ‘Western Branch Preserve’ Being a Subdivision of the Land of Western Branch Preserve, L.L.C.”, dated October 28, 2004, of record in the Clerk’s Office of the Circuit Court of Lancaster County, Virginia in Plat Cabinet 7, Slides 83C and D, 84 A through D, and 85A.

2. Western Branch, at its expense, will install a drainfield on each remote site shown on the aforesaid plat and will install force mains from the corner of each lot to its designated remote drainfield, all per the requirements of the Health Department permits, no later than October 1, 2005. Western Branch hereby reserves unto itself and its agents and/or assigns the right to enter onto the remote drainfield easement lots for purposes of installing such drainfields and force mains.

3. Upon approval by the Health Department of the installation of the drainfield and force main for each individual lot, the owner of any lot that has been sold by Western Branch prior to such installation, shall, within 5 business days of receipt of a copy of the Health Department approval of the installation of the drainfield and force main for their lot, pay to

Western Branch the Septic Drainfield and Force Main fees agreed to by the lot owner at closing. No lot owner may hook up to the force main for their lot until such fee has been paid.

4. The respective lot owners are responsible for the installation of all tanks, pumps and force main sewer lines within the boundaries of their respective lots and the connection thereof to the force main for their respective drainfields.

#### **B. COMMUNITY WATER SYSTEM:**

1. Western Branch shall construct a community well on the "Proposed Well Lot" shown on the aforesaid plat of survey in accordance with a Health Department permit, and shall install all pumps, storage tanks, controls and water mains to supply potable water to each lot.

2. The water mains will have a valve located at each lot. Each lot owner will be responsible for installing water pipes from that valve to any improvements on the lot.

3. Western Branch will complete the installation by October 1, 2005, and will thereupon deed the well lot to the Western Branch Preserve Home Owners Association, Inc.

4. Upon approval by the Health Department of the installation of the water system, the owner of any lot that has been sold by Western Branch prior to installation, shall, within 5 business days of receipt of a copy of the Health Department approval of the water system, pay to Western Branch the Water Hookup Fee that was agreed to by the lot owner at closing. No lot owner may hook up to the water main for their lot until such fee has been paid.

#### **C. ROADS:**

1. Western Branch shall at its expense construct all weather hard surfaced roads within the areas shown as easements of right of way for roads on the aforesaid plat of survey by October 1, 2005. Such surface shall consist of three coats of tar and gravel.

2. The minimum width of the hard surface on the primary roads located within the 50 foot easements of right of way shall be 18 feet.

3. The minimum width of the hard surface on the secondary roads located within the other easements of right of way shall be 14 feet, except for the easement crossing Parcel 123 to Parcel 124, on which the surface may be narrower..

4. Western Branch shall not be responsible for constructing roads within the 20 foot easement of right of ways crossing Lot 18

5. Western Branch shall convey the areas within the road easements, which are not easements over individual lots, to the Western Branch Preserve Home Owners Association, Inc. by October 1, 2005.

#### **D. PIERS:**

1. The Virginia Marine Resources Commission (“VMRC”) has issued Permit No. 04-2132, dated February 3, 2005, which permit is expressly incorporated herein by reference, allowing the following piers on the subject property:

eight (8) 150-foot long, dual slip, community piers; two (2), 175-foot long, community piers with 6 slips; and one (1), 170-foot long, community pier with 8 slips (a total of 11 piers and 36 slips); and a 16-foot wide, concrete, community boatramp which will extend 45 feet channelward of mean low water.

2. Western Branch shall at its expense construct said piers to the length allowed by said Permit or to a shorter length if 4 feet of mean low water can be attained in each slip at this reduced length. Western Branch shall at its expense construct said boat ramp to a shorter length if reasonable water depth for launching trailered boats can be attained.

3. Pursuant to the terms of the aforesaid VMRC Permit, the deeds for all water front lots shall contain the following restriction:

No individual private piers other than those allowed under VMRC Permit Number 04-2132, issued on February 3, 2005, shall be built on any waterfront lot within Western Branch Preserve.

4. Western Branch shall construct each pier within 6 months of the first closing on a lot which is assigned a slip on that pier. Slip assignments are as specified in the Declaration of Covenants, Conditions and Restrictions for Western Branch Preserve (“Declaration”) which is recorded simultaneously herewith and preceding these presents.

5. On the shared dual slip piers, the two lot owners sharing the pier shall be responsible for running their own utilities to their pier.

6. On the community piers, individual slip assignees shall be responsible for running their own utilities to their slips as set forth in said Declaration.

#### **E. RIPRAP:**

1. The Virginia Marine Resources Commission (“VMRC”) has issued Permit No. 1503, dated July 7, 2004, which permit is expressly incorporated herein by reference, allowing the installation of six sections of riprap totaling 1,075 linear feet.

2. Western Branch shall, at its expense, install said riprap in accordance with said Permit by October 1, 2005.

#### **F. COMMON AREAS AND CONSERVATION EASEMENT:**



1. Western Branch shall deed the Common Areas and Conservation Easement to Western Branch Preserve Home Owners Association, Inc. by October 1, 2005.

2. Western Branch shall not conduct any logging or forestry activities within the Conservation Easement area.

**G. MISCELLANEOUS PROVISIONS:**

1. Western Branch will use all reasonable efforts and due diligence to meet the deadlines set forth in this Agreement, but if Western Branch is delayed by weather, acts of God, war, acts of terrorism, or other matters beyond its control, the deadlines shall be extended a reasonable time to allow for such delay.

2. This Agreement shall run with the land and shall be binding upon and inure to the benefit of Western Branch and any owners of the lots within Western Branch Preserve. It is not intended to and shall not benefit any third parties who are not successors in title to Western Branch.

Witness the following signature and seal:

Western Branch Preserve, L.L.C.

By: \_\_\_\_\_ (SEAL)  
Robert B. Bragg, III, Co-Manager

050000090

**Prepared by: J. Rawleigh Simmons, Esq., Dunton, Simmons & Dunton, LLP, P.O. Box 5, White Stone, Virginia 22578.**

TAX MAP NOS.: 15-118

Exempted from recordation tax  
under the Code of Virginia (1950), as amended,  
Sections 58.1-811 (A) (3), 58.1-811 (D) and 10.1-1803  
and from Circuit Court Clerk's fee under Section 17.1-266

THIS DEED OF GIFT OF EASEMENT, made this 20<sup>th</sup> day of December, 2004, between **WESTERN BRANCH PRESERVE, LLC**, a Virginia limited liability company, herein called (together or collectively) the "Grantor", the **NORTHERN NECK OF VIRGINIA CHAPTER OF THE NATIONAL AUDUBON SOCIETY**, the ("Grantee"), whose address is P. O. Box 991 Kilmarnock, Virginia 22482 and, **CHESAPEAKE BANK**, "the Bank," and **JEFFREY M. SZYPERSKI** and **JOHN K. O'SHAUGNESSY**, Trustees, herein called Trustees.

WITNESSETH:

WHEREAS, the Open Space Land Act of 1966, Chapter 461 of the 1966 Acts of the Assembly, (Chapter 17, Title 10.1, §§10.1-1700 through 10.1-1705 of the Code of Virginia, as amended) declares that the preservation of open-space land serves a public purpose by promoting the health and welfare of the citizens of the Commonwealth by curbing urban sprawl and encouraging more desirable and economical development of natural resources, and authorizes the use of easements in gross to maintain the character of open-space land; and

WHEREAS, Chapter 18, Title 10.1 of the Code of Virginia (§§ 10.1-1800 through 10.1-1804, as amended) declares it to be the public policy of the Commonwealth to encourage preservation of open-space land for the purpose of preserving the natural, scenic, historic, scientific, open-space and recreational lands of the Commonwealth; and

WHEREAS, the Grantor is the owner in fee simple of the real property hereinafter described (the "Property"); and

WHEREAS, the Property possesses significant natural, scenic, historic, scientific, open-space and recreational values the preservation of which will benefit the citizens of the Commonwealth; and

WHEREAS, the hereinafter described property contains agricultural land and forest land; and

WHEREAS, the hereinafter described property contains shoreline and tidal wetlands of the western branch of the Corrotoman river, a tributary of the Chesapeake Bay; and

WHEREAS, the Comprehensive Plan for Lancaster County adopted by the Board of Supervisors sets as goals the preservation of farmland and open space in order to "protect the quality of groundwater supplies" and for the "preservation of the natural beauty and rural character of the area"; and

WHEREAS, the Grantor and the Grantee desire to protect in perpetuity the open-space values herein specified; and

WHEREAS, the General Assembly of the Commonwealth of Virginia enacted the Chesapeake Bay Preservation Act. Subsequently, the Chesapeake Bay Local Assistance Board adopted regulations concerning the use and development of certain lands within Tidewater Virginia called Chesapeake bay Preservation Areas, which, if improperly developed, may result in substantial damage to the water quality of the Chesapeake bay and its tributaries such as the western branch of the Corrotoman. Subsequently, Lancaster County has designated all such land within the County as Chesapeake Bay Preservation Area; and

WHEREAS, the Grantor and the Grantee intend to accomplish such protection by restricting the use of the Property as hereinafter set forth; and

WHEREAS, the Grantee has determined that the restrictions hereinafter set forth (the "Restrictions") will preserve and protect in perpetuity the open-space values (the "Open Space Values") of the Property, which values are reflected in the preceding paragraphs, the Grantee's evaluation, and the documentation of the condition of the Property as contained in its files and records; and

WHEREAS, the conservation purpose of this easement is to preserve and protect in perpetuity the Open-Space Values of the Property; and

WHEREAS the Grantee has determined that the Restrictions will limit the uses of the Property to those uses consistent with, and not adversely affecting the Open Space Values of the Property, the scenic values enjoyed by the general public, or the governmental conservation policies furthered by this easement;

NOW, THEREFORE, in recognition of the foregoing and in consideration of the mutual covenants herein and the acceptance hereof by the Grantee, the Grantor does hereby give, grant and convey to the Grantee an open-space easement in gross over, and the right in perpetuity to restrict the use of, the real estate consisting of 161.13 acres described in SCHEDULE "A", located in Mantua Magisterial District, Lancaster County, Virginia, near Lancaster Courthouse, fronting on State Route 3, and hereinafter referred to as the "Property:"

See Schedule A attached hereto and recorded herewith for a complete and accurate description of the easement area herein conveyed.

The above-described tract are shown as a part of parcel 118 on Tax Map 15 among the land records of Lancaster County and totals 161.13 acres in the aggregate. The easement shall only be upon that area of the property shown on the plat of survey attached hereto as "EXISTING CONSERVATION EASEMENT AREA = 161.1300 AC." and shall not affect the balance of the Grantor's property.

AND SUBJECT, HOWEVER, to the restriction that the Grantee may not transfer or convey the open-space easement herein conveyed to the Grantee unless the Grantee conditions

such transfer or conveyance on the requirement that (1) all restrictions and conservation purposes set forth in the conveyance accomplished by this deed are to be continued in perpetuity, and (2) the transferee is an organization then qualifying as an eligible donee as defined by section 170(h)(3) of the Internal Revenue Code of 1986, as amended, and the applicable Treasury Regulations promulgated there under.

Restrictions are hereby imposed on use of the Property pursuant to the public policies set forth above. The acts that the Grantor covenants to do and not to do upon the Property, and the Restrictions that the Grantee is hereby entitled to enforce, are and shall be as follows:

1. **TRASH.** Accumulation or dumping of trash, refuse, or junk is not permitted on the Property. This restriction shall not prevent generally accepted agricultural or wildlife management practices, such as creation of brush piles, composting, or the storage of farm machinery, organic matter, agricultural products or agricultural byproducts on the Property, as long as such practices are conducted in accordance with applicable laws and regulations, nor shall it prevent the disposal of natural debris, including, but not limited to, tress, branches, leaves, etc. originating from the whole property owned by the Grantor as shown on the attached plat of survey.
2. **SIGNS.** Display of billboards, signs, or other advertisements that are visible from outside the Property is not permitted on or over the Property except to state the name and/or address of the owners or Property, to advertise the sale or lease of the Property, to advertise the sale of goods or services produced incidentally to a permitted use of the Property, to provide notice necessary for the protection of the Property or to give directions to visitors. No such sign shall exceed nine square feet in size. Nothing in this section shall prohibit the Grantors, their successors and assigns from erecting, maintaining, or replacing gate posts, a sign or signs announcing the name of the development, fencing or other architectural details or improvements signifying the entrance to the property on its northeastern corner where the 50 foot easement for ingress and egress begins.
3. **DIVISION.** Division or subdivision of the Property in any manner is prohibited.
4. **MANAGEMENT OF FOREST.** Management of the forest for the purpose of timber harvest (including timber stand improvement) or intensive wildlife habitat improvement shall be in accord with Best Management Practices, as defined by the Virginia Department of Forestry, which BMP's shall be used to control erosion and protect water quality during any intensive forest management activity. The primary objectives of the forest stewardship plan shall be to (a) maintain the health of the forest, and (b) conserve soil and water.
- 4a. **RIPARIAN BUFFER.** A forested buffer extending 300 feet from the wetlands along the southeastern property line shall be maintained on the Property. This buffer shall be protected from degradation by livestock. Removal of non-native invasive species is permitted, provided that the function of the buffer to protect water quality is not impaired.

- 5. GRADING, BLASTING, MINING.** Grading, blasting or earth removal shall not materially alter the topography of the Property except for the construction of the 50 foot ingress/egress road and associated drainage ditches, drainfields within a 10 acre area in the northwest quadrant of the easement area as shown on the plat described in Schedule A, hiking paths, dam construction to create private ponds, or as required in the construction of permitted buildings, structures, connecting private roads, and utilities as described in Paragraph 6. Generally accepted agricultural activities shall not constitute any such material alteration. Best Management Practices, in accordance with the Virginia Erosion and Sediment Control Law, shall be used to control erosion and protect water quality in the construction of permitted buildings and private roads. Notwithstanding the foregoing, no grading, blasting, or earth removal is permitted on the Property if it will materially diminish or impair the Open-Space Values of the Property. Mining on the Property by surface mining or any other method is prohibited, except that the Grantor shall be permitted to use fill or roadbed material taken from within the easement area to construct the 50 foot ingress/egress road, provided that any areas from which it is removed are recontoured and seeded in grass to prevent erosion.
- 6. BUILDINGS AND STRUCTURES.** No permanent or temporary building or structure may be built or maintained on the Property other than:
- (i) farm buildings or structures, except that a farm building or structure exceeding 4,500 square feet in ground area may not be constructed on the Property unless prior written approval for the building or structure is obtained from the Grantee, which approval shall be limited to consideration of the impact of the size, height and siting of the proposed structure on the Open-Space Values of the Property; for the purposes of this subparagraph a farm building or structure shall mean a building or structure originally constructed and used for the activities specified in paragraph 7(i);
  - (ii) the 50 foot ingress/egress road shown on the attached plat of survey, private roads and utilities that serve permitted buildings or structures may be constructed; and
  - (iii) a graveled boat storage area of no more than 43,000 square feet in approximately the area shown on the attached plat of survey as "EXISTING BOAT STORAGE AREA"; and
  - (iv) hiking paths for use by the homeowners of Western Branch Preserve and their guests.
  - (v) remote drainfields for the balance of the Grantors property located within an area of less than 10 acres in the northwest quadrant of the easement area.
- 7. INDUSTRIAL OR COMMERCIAL ACTIVITIES.** Industrial or commercial activities other than the following are prohibited: (i) agriculture, viticulture, aquaculture, silviculture, horticulture, and equine activities, (ii) temporary or seasonal outdoor activities that do not permanently alter the physical appearance of the Property, and that do not diminish the conservation values herein protected, (iii) activities that can be and in fact are conducted within permitted buildings without

material alteration to the external appearance thereof. Temporary outdoor activities involving 100 or more people shall not exceed seven days in duration unless approved by the Grantee in advance in writing

8. **ENFORCEMENT.** Representatives of the Grantee may enter the Property from time to time for purposes of inspection and enforcement of the terms of this easement after permission from or reasonable notice to the owner or the owner's representative. The Grantee has the right to bring an action at law or in equity to enforce the Restrictions contained herein. This right specifically includes the right to require restoration of the Property to a condition of compliance with the terms of this easement as existed on the date of the gift of the easement except to the extent such condition thereafter changed in a manner consistent with the Restrictions; to recover any damages arising from non-compliance, and to enjoin non-compliance by ex parte temporary or permanent injunction. If the court determines that the Grantor failed to comply with this easement, the Grantor shall reimburse the Grantee for any reasonable costs of enforcement, including costs of restoration, court costs and reasonable attorney's fees, in addition to any other payments ordered by such court. The Grantee does not waive or forfeit the right to take action as may be necessary to insure compliance with this easement by any prior failure to act and the Grantor hereby waives any defenses of waiver, estoppel or laches with respect to any failure to act by the Grantee.

9. **NOTICES TO GRANTEE** The Grantor shall notify the Grantee in writing within 60 days following any inter vivos transfer or sale of the Property or any part thereof. The Property may not be conveyed by deed unless this deed of easement is referenced by Deed Book and page number or other appropriate reference.

10. **EXTINGUISHMENT.** The Grantor and the Grantee intend that this easement be perpetual and not be extinguished, and extinguishment of this easement is not permitted under the Open-Space Land Act, Virginia Code Section 10.1-1700 *et seq.* Restrictions set forth in the easement can be extinguished only by judicial proceeding and only if such extinguishment also complies with the requirements of section 10.1-1704 of the Virginia Code. In any sale or exchange of the Property subsequent to such extinguishment, the Grantee shall be entitled to a portion of the proceeds at least equal to the proportionate value of the perpetual conservation restriction computed as set forth below, but not to be less than the proportionate value that the perpetual conservation restriction at the time of the extinguishment bears to the then value of the Property as a whole. The Grantor agrees that the donation of the perpetual conservation restriction in this easement gives rise to a property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that the perpetual conservation restriction at the time of the gift bears to the value of the Property as a whole at that time. The Grantee shall use all its share of the proceeds from the sale of the Property in a manner consistent with the conservation purposes of this easement and of the Open-Space Land Act. No part of the Property may be converted or diverted from open-space uses as herein defined except in accordance with Virginia Code Section 10.1-1704.

11. **DOCUMENTATION:** Documentation retained in the offices of the Grantee describes the condition and character of the Property at the time of the gift. The Documentation may be used to determine

6.

compliance with and enforcement of the terms of the easement; however, the parties are not precluded from using other relevant evidence or information to assist in that determination.

**12.SUCCESSORS IN INTEREST:** The covenants, terms, conditions and restrictions contained in this easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

If any provision of this deed or its application to any person or circumstance is determined by a court of competent jurisdiction to be invalid, the remaining provisions of this easement shall not be affected thereby.

Chesapeake Bank, herein, the Bank, is the Noteholder under a certain Deed of Trust dated May 7, 2004 and recorded in the Clerk's Office of the Circuit Court of Lancaster County, Virginia as Instrument Number 040001376, which subjects the Property to the Bank's lien. The Bank hereby consents to the terms and intent of this easement, and agrees that the lien represented by said Deed of Trust shall be held subject to this Deed of Gift of Easement and joins in the Deed to reflect its direction to the Trustee to execute this Deed to give effect to the subordination of such Deed of Trust to this Deed of Easement.

Although this easement in gross will benefit the public as described above, nothing herein shall be construed to convey to the public a right of access to, or use of the Property. The Grantor retains the exclusive right to such access and use, subject to the terms hereof.

The parties hereto agree and understand that any value of this easement claimed for tax purposes as a charitable gift must be fully and accurately substantiated by an appraisal from a qualified appraiser as defined in IRS regulations (see section 1.170A-13(c)(5)), and that the appraisal is subject to review, audit and challenge by all appropriate tax authorities. The Northern Neck of Virginia Chapter of the National Audubon Society makes no express or implied warranties regarding whether any tax benefits will be available to Grantor from donation of this easement, nor whether any such tax benefits might be transferable, nor whether there will be any market for any tax benefits that might be transferable. The parties hereto intend that the easement conveyed herein shall be a qualified conservation contribution within the meaning of Section 170(h) of the Internal Revenue Code of 1986, as amended, and the restrictions and other provisions of this instrument shall be construed and applied in a manner that will not prevent this easement from being a qualified conservation contribution. By its execution hereof, the Grantee acknowledges and confirms receipt of the Easement and further acknowledges that the Grantee has not provided any goods or services to the Grantor in consideration of the grant of the Easement.

WITNESS the following signatures and seals.

Western Branch Preserve, L.L.C.

By:  (SEAL)  
Robert B. Bragg, III, Co-Manager

By: Warren Jeffery Brown (SEAL)  
Warren Jeffery Brown, Co-Manager

Chesapeake Bank:

By: John K. O'Shaughnessy (SEAL)

By: Jeffrey M. Szyperski (SEAL)  
Jeffrey M. Szyperski, Trustee

By: John K. O'Shaughnessy (SEAL)  
John K. O'Shaughnessy, Trustee

Accepted:

NORTHERN NECK OF VIRGINIA CHAPTER  
OF THE NATIONAL AUDUBON SOCIETY

By: Paul Servis, President  
Paul Servis, President

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF LANCASTER, TO WIT:

I, J. Raleigh Simmons, a Notary Public for the Commonwealth aforesaid, hereby certify that Robert B. Bragg, III and Warren Jeffery Brown, Co-Managers of Western Branch Preserve, L.L.C., Grantor, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 20th day of December, 2004.

[Signature]  
Notary Public



8.

My commission expires: 3/31/09

(SEAL)

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Lancaster, TO WIT:

I, Brook W Penick, a Notary Public for the Commonwealth aforesaid, hereby certify that John K. O'Shaughnessy, Sr. Vice Pres. of Chesapeake Bank, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 6th day of January 2005

Brook W Penick  
Notary Public  
commissioned as Brook W Penick

My commission expires: 5.31.09

(SEAL)

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Lancaster, TO WIT:

I, Brook W Penick, a Notary Public for the Commonwealth aforesaid, hereby certify that Jeffrey M. Szyperski, Trustee, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 6th day of January, 2005

Brook W Penick  
Notary Public  
commissioned as Brook W Penick

My commission expires: 5.31.09

(SEAL)

COMMONWEALTH OF VIRGINIA,  
CITY/COUNTY OF Lancaster, TO WIT:

I, Brook N Penick, a Notary Public for the Commonwealth aforesaid, hereby certify that John K. O'Shaugnessy, Trustee, personally appeared before me this day and acknowledged the foregoing instrument.

WITNESS my hand and official seal this 6th day of January, 2005

Brook N Penick  
Notary Public

My commission expires: 5.31.06

*commissioned as Brook  
N Penick*

(SEAL)

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Lancaster, TO WIT:

I, Bonita J. Rosser, a Notary Public for the Commonwealth aforesaid, hereby certify that Paul Servis, President of the Northern Neck of Virginia Chapter of the National Audubon Society, personally appeared before me this day and acknowledged the foregoing instrument on behalf of the Virginia Outdoors Foundation.

WITNESS my hand and official seal this 20th day of December, 2004.

Bonita J. Rosser  
Notary Public

My commission expires: March 31, 2006

(SEAL)



SCHEDULE A

All of that certain area, situate, lying and being in Mantua Magisterial District, Lancaster County, Virginia, shown as "Existing Conservation Easement Area = 161.13Ac." on that certain plat of survey entitled "Plat showing "WESTERN BRANCH" being a subdivision of the Land of Western Branch Preserve, L.L.C.", dated October 28, 2004, prepared by C.F. Dawson, land Surveyor, a copy of which plat of survey is attached hereto and recorded herewith for a complete and accurate description of the easement area hereby conveyed.

This conveyance is made expressly subject to and together with all restrictions, reservations, easements, conditions and covenants of record to the extent they may lawfully affect the subject property, including, but not limited to the 50' ingress and egress easements of right of way from VSR 3 to the subject property, granted in part in Deed Book 383, at Page 820 and in Deed Book 150, at Page 215. Further together with all rights reserved by the Grantors in the Deed of Dedication, dated May 4, 2004 to the Board of Supervisors of Lancaster County, Virginia, which Deed is recorded simultaneously herewith and immediately preceding these presents.

Being a portion of the identical property conveyed unto the Grantors by Deed of John H. Morris, IV and Bonnie Y. Morris, husband and wife, dated May 7, 2004 and recorded in the Clerk's Office of the Circuit Court of Lancaster County, Virginia as Instrument Number 040001375.

See Plat Cabinet #7 Page 83C, 83D  
84A, 84B, 84C, 84D  
85A

INSTRUMENT #050000090  
RECORDED IN THE CLERK'S OFFICE OF  
COUNTY OF LANCASTER ON  
JANUARY 10, 2005 AT 03:00PM  
CONSTANCE L. KENNEDY, CLERK

RECORDED BY: DNF

**Western Branch Preserve Home Owners Association Inc.**  
**Budget Comparison Report**  
**6/1/2022 - 6/30/2022**

	6/1/2022 - 6/30/2022			1/1/2022 - 6/30/2022			Annual Budget
	Actual	Budget	Variance	Actual	Budget	Variance	
<b>Income</b>							
<u>Association Income</u>							
4006 - Association Fees	\$406.60	\$2,275.00	(\$1,868.40)	\$27,706.60	\$13,650.00	\$14,056.60	\$27,300.00
<u>Total Association Income</u>	\$406.60	\$2,275.00	(\$1,868.40)	\$27,706.60	\$13,650.00	\$14,056.60	\$27,300.00
<u>Other Income</u>							
4070 - Other Income	\$0.00	\$250.00	(\$250.00)	\$783.42	\$1,500.00	(\$716.58)	\$3,000.00
4320 - Interest Income	\$0.95	\$0.00	\$0.95	\$5.09	\$0.00	\$5.09	\$0.00
<u>Total Other Income</u>	\$0.95	\$250.00	(\$249.05)	\$788.51	\$1,500.00	(\$711.49)	\$3,000.00
<b>Total Income</b>	\$407.55	\$2,525.00	(\$2,117.45)	\$28,495.11	\$15,150.00	\$13,345.11	\$30,300.00
<b>Expense</b>							
<u>Administrative</u>							
5006 - Auditing/Acctg	\$0.00	\$25.00	\$25.00	\$0.00	\$150.00	\$150.00	\$300.00
5020 - Management Fees	\$297.67	\$291.67	(\$6.00)	\$1,762.02	\$1,750.02	(\$12.00)	\$3,500.00
5025 - Legal Fees	\$0.00	\$41.67	\$41.67	\$0.00	\$250.02	\$250.02	\$500.00
5040 - Postage	\$0.00	\$6.67	\$6.67	\$39.22	\$40.02	\$0.80	\$80.00
5050 - Misc. Administrative	\$0.00	\$10.42	\$10.42	\$117.06	\$62.52	(\$54.54)	\$125.00
<u>Total Administrative</u>	\$297.67	\$375.43	\$77.76	\$1,918.30	\$2,252.58	\$334.28	\$4,505.00
<u>Maintenance</u>							
5420 - Snow and Ice Removal	(\$1,200.00)	\$16.67	\$1,216.67	\$0.00	\$100.02	\$100.02	\$200.00
5425 - Grounds Maintenance	(\$3,428.55)	\$1,550.00	\$4,978.55	\$2,292.85	\$9,300.00	\$7,007.15	\$18,600.00
5425-01 - Grounds - Reimb	\$0.00	\$0.00	\$0.00	\$0.00	(\$4,628.72)	(\$4,628.72)	\$0.00
5427 - Misc. Landscaping	\$0.00	\$20.83	\$20.83	\$0.00	\$124.98	\$124.98	\$250.00
5526 - General Repairs	\$2,056.87	\$250.00	(\$1,806.87)	\$2,056.87	\$1,500.00	(\$556.87)	\$3,000.00
<u>Total Maintenance</u>	(\$2,571.68)	\$1,837.50	\$4,409.18	\$4,349.72	\$6,396.28	\$2,046.56	\$22,050.00
<u>Other</u>							
5700 - Insurance Expense	\$1,623.15	\$105.17	(\$1,517.98)	\$1,623.15	\$631.02	(\$992.13)	\$1,262.00
5730 - Other Taxes, Fees	\$0.00	\$10.83	\$10.83	\$0.00	\$64.98	\$64.98	\$130.00
<u>Total Other</u>	\$1,623.15	\$116.00	(\$1,507.15)	\$1,623.15	\$696.00	(\$927.15)	\$1,392.00
<u>Utilities</u>							
5210 - Electricity	\$34.02	\$37.08	\$3.06	\$219.98	\$222.48	\$2.50	\$445.00
<u>Total Utilities</u>	\$34.02	\$37.08	\$3.06	\$219.98	\$222.48	\$2.50	\$445.00
<b>Total Expense</b>	(\$616.84)	\$2,366.01	\$2,982.85	\$8,111.15	\$9,567.34	\$1,456.19	\$28,392.00
Operating Net Income	\$1,024.39	\$158.99	\$865.40	\$20,383.96	\$5,582.66	\$14,801.30	\$1,908.00
<b>Reserve Income</b>							
<u>Reserve Income</u>							
4321 - Int - Escrow Accts	\$7.10	\$0.00	\$7.10	\$41.69	\$0.00	\$41.69	\$0.00
<u>Total Reserve Income</u>	\$7.10	\$0.00	\$7.10	\$41.69	\$0.00	\$41.69	\$0.00
<b>Total Reserve Income</b>	\$7.10	\$0.00	\$7.10	\$41.69	\$0.00	\$41.69	\$0.00

**Western Branch Preserve Home Owners Association Inc.**  
**Budget Comparison Report**  
**6/1/2022 - 6/30/2022**

	6/1/2022 - 6/30/2022			1/1/2022 - 6/30/2022			Annual Budget
	Actual	Budget	Variance	Actual	Budget	Variance	
<b>Reserve Expense</b>							
<u>Reserve Other</u>							
6024 - Professional Fees	\$0.00	\$0.00	\$0.00	\$965.62	\$0.00	(\$965.62)	\$0.00
<u>Total Reserve Other</u>	\$0.00	\$0.00	\$0.00	\$965.62	\$0.00	(\$965.62)	\$0.00
<b>Total Reserve Expense</b>	\$0.00	\$0.00	\$0.00	\$965.62	\$0.00	(\$965.62)	\$0.00
Reserve Net Income	\$7.10	\$0.00	\$7.10	(\$923.93)	\$0.00	(\$923.93)	\$0.00
Net Income	\$1,031.49	\$158.99	\$872.50	\$19,460.03	\$5,582.66	\$13,877.37	\$1,908.00

**Western Branch Preserve Home Owners Association Inc.**  
**Balance Sheet Comparison Report**  
**As Of 5/31/2022**

	<u>Balance</u> <u>5/31/2022</u>	<u>Balance</u> <u>12/31/2021</u>	<u>Change</u>
<b>Assets</b>			
<u>Cash - Operating</u>			
1010 - Cash	\$43,297.55	\$24,228.05	\$19,069.50
<u>Cash - Operating Total</u>	\$43,297.55	\$24,228.05	\$19,069.50
<u>Accounts Receivable</u>			
1015 - Tenant A/R	\$0.00	\$0.00	\$0.00
<u>Accounts Receivable Total</u>	\$0.00	\$0.00	\$0.00
<u>Other Accounts Receivable</u>			
1110 - Accounts Receivable	\$0.00	\$0.00	\$0.00
<u>Other Accounts Receivable Total</u>	\$0.00	\$0.00	\$0.00
<u>Cash - Reserve</u>			
1114 - Reserve Cash	\$51,857.51	\$52,788.54	(\$931.03)
<u>Cash - Reserve Total</u>	\$51,857.51	\$52,788.54	(\$931.03)
 <i>Assets Total</i>	 \$95,155.06	 \$77,016.59	 \$18,138.47
<b>Liabilities and Equity</b>			
<u>Other Current Liability</u>			
2005 - Tenant Prepaid	\$440.00	\$730.07	(\$290.07)
<u>Other Current Liability Total</u>	\$440.00	\$730.07	(\$290.07)
 <u>Operating Retained Earnings</u>	 \$23,497.98	 \$6,459.12	 \$17,038.86
<u>Reserve Retained Earnings</u>	\$52,788.54	\$37,768.36	\$15,020.18
 <u>Operating Net Income</u>	 \$19,359.57	 \$17,038.86	 \$2,320.71
<u>Reserve Net Income</u>	(\$931.03)	\$15,020.18	(\$15,951.21)
 <i>Liabilities &amp; Equity Total</i>	 \$95,155.06	 \$77,016.59	 \$18,138.47

<b>Western Banch Preserve</b>								
<b>Property Owners Association</b>								
2012 Capital Reserve Fund Analysis								
<b>Pier Deck Board Replacement</b>								
In Service				2006				
Useful Life in Years				20				
Current cost to replace				\$30,000.00				
Annual Allocation to Reserve Fund				\$1,500.00				
Years since Service Date				16				
Allocation through 2022				\$24,000.00				
<b>Road Paving (one coat)</b>								
In Service				2006				
Useful Life in Years				16				
Current cost to repave one coat				\$16,000.00				
Annual Allocation to Reserve Fund				\$1,000.00				
Years since Service Date				16				
Allocation through 2022				\$16,000.00				
<b>Total Required Allocation in Reserve Fund</b>				<b>\$40,000.00</b>				