



Sedgwick County
Register of Deeds - Bill Meek

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
EASEMENTS AND DISCLOSURES FOR EMERALD BAY ESTATES**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND DISCLOSURES FOR EMERALD BAY ESTATES ("Declaration") is made effective the 29th day of March, 2006, by SNAR, LLC, a Kansas limited liability company (hereinafter referred to as the "Developer").

WITNESSETH, THAT:

WHEREAS, Developer deems it desirable to adopt and establish covenants, conditions and restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (as hereinafter defined); and

WHEREAS, it is desirable to establish binding covenants, conditions and restrictions applicable to the Property for the proper development thereof, adequate maintenance and government of the Common Area (as hereinafter defined), and to specify the rights and obligations of the Developer and the Owners (as hereinafter defined); and

WHEREAS, the Association (as hereinafter defined) will be incorporated for the purpose of exercising certain powers and functions hereunder; and

WHEREAS, Developer will convey title to all of the Lots (as hereinafter defined), subject to the covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, Developer hereby covenants, agrees and declares that the Property shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements, which are hereby declared to be for the benefit of all of the Property described herein and the Owners thereof, their successors and assigns.

164.00
40.00
124.00

AFTER RECORDING, RETURN TO:
Ron H. Harnden
Triplett, Woolf & Garretson, LLC
2959 N. Rock Rd., Suite 300
Wichita, Kansas 67226

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such deeded Common Area shall be considered a “Lot” hereunder; subject to all requirements and obligations applicable to Lots as provided in this Declaration.

1.10 “Member” shall mean and refer to every person or entity who or which is an Owner of a fee or undivided fee interest in any Lot, but not including any Owner who has sold his interest in a Lot under an executory contract and no longer has possession of his Lot. During the time any such executory contract is in force, the contract vendee shall be considered to be the Member rather than the contract seller. When more than one person holds an interest in a Lot, all such persons shall be Members.

1.11 “New Construction DRC” shall mean and refer to the Design Committee responsible for all matters pertaining to the construction of the initial residence and related improvements as referenced in Section 8.1 hereof, together with other responsibilities as provided elsewhere herein.

1.12 “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.13 “Property” shall mean and refer to all of the property described as follows, together with such other land as may be added and excluding land removed hereunder by the terms of this Declaration:

Emerald Bay Estates, Wichita, Sedgwick County, Kansas

1.14 “Structure” shall mean and include any thing or device, the placement of which upon any Lot may affect the drainage or appearance of such Lot, including, by way of illustration and not limitation, any building, garage, gazebo, porch, shed, greenhouse, bathhouse, covered or uncovered patio, screening materials, swimming pool, tennis court, light pole, clothesline, sandbox, radio or television antenna, fence, playground, playhouse, curbing, paving, wall, satellite dish, signboard, mailbox and related structure, or any temporary or permanent improvement to such Lot. “Structure” shall also include any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the flow of surface water from, upon or across any Lot, in accordance with the master drainage and grading plan for the Property as referenced below, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Lot, and any change in the grade of any Lot other than in accordance with drainage guidelines, standards and plans established by the Developer, the applicable Design Committee, the municipality having jurisdiction over the Property or the Lot-specific drainage plan, whichever are most stringent.

1.15 “Wrought Iron Fence Lots” shall mean all of the Lots excluding Lots 1, 2 and 3, Block 2, of the Property.

ARTICLE II

MEMBERSHIP AND VOTING RIGHTS

2.1 Membership. The Association shall have as Members only Owners. All Owners shall, upon acquiring a Lot, be deemed automatically to have become Members (whether or not the Member is occupying a residence on his Lot), and there shall be no other qualification for membership. There shall be only one membership per Lot. If any Lot is owned by more than one person or entity, all co-owners shall share the privileges of such a membership, subject to all provisions hereof, and in the Bylaws. The membership rights of any Member which is not a natural person, may be exercised by any officer, director, partner or trustee, or by individual designated from time to time by the Member in a written instrument provided to the Association. Membership shall be appurtenant to, and shall not be separated from, the ownership of any Lot.

2.2 Voting Rights. All Members, so long as they shall qualify under this Article II, shall be entitled to vote on each matter submitted to a vote at a meeting of the members. There shall be only one (1) vote for each Lot subject to the following exceptions and conditions:

A. When any Lot is owned or held by two Owners, as tenants in common, joint tenancy, or any other manner of undivided, joint or common ownership or interest, such Owners shall collectively be entitled to only one (1) vote relative to such Lot, and if such Owners cannot jointly agree as to how those votes should be cast, no vote shall be allowed with respect to such Lot;

B. Any Owner who is in violation of this Declaration, as determined by the Board, shall not be entitled to vote during any period during which such violation continues. Any Owner who fails to pay any assessments established pursuant to the terms hereof shall not be entitled to vote during the period in which such assessments are due and unpaid. The Board shall be the sole judge of the qualifications of each Owner to vote and the right to participate in meetings and proceedings of the Association;

C. Notwithstanding the foregoing, Developer shall be entitled to ten (10) votes for each single Lot owned by it; and

D. The Board shall adopt such Bylaws, consistent with the terms hereof, the Articles and the laws of the State of Kansas, as it deems advisable for any meeting of Owners with regard to proof of membership in the Association, evidence of right to vote, the appointment and duties of inspectors of votes, registration of Owners for voting purposes, voting by ballot without a meeting, voting by proxy and such other matters concerning the manner in which Association decisions may be determined, with or without meetings as it shall deem proper.

2.3 Initial Operation. Notwithstanding the provisions of this Declaration, the operation of the Association and the Board shall be within the absolute and exclusive control of the Developer until such time as Developer fully and completely transfers its rights pursuant to

Section 6.1 K below, written notice of which transfer shall be given to the Association by Developer. During the initial operation of the Association and the Board by Developer, Developer may perform and exercise any and all rights and obligations hereunder related to the Association and the Board, and shall appoint and remove in its discretion the members of the Board. Each Owner, by acceptance of a deed to a Lot, vests Developer with the authority to fully exercise its rights under this Section 2.3 and in Sections 8.2 and 6.1 K hereof. Further, the appointment of the members of the DRC pursuant to Section 8.2 hereof, shall be made by Developer until such time as Developer specifically assigns such right by written instrument to the Association, separately and apart from the transfer of Developer's rights under Section 6.1 K hereof.

2.4 Board of Directors. Except as referenced in Section 2.3 above, all actions of the Association shall be taken on its behalf by the Board, except for (a) when a vote of the members is specifically required by this Declaration, the Articles or the Bylaws, and (b) the initial operation thereof by Developer as referenced herein.

2.5 Formation. Developer shall form the Association promptly following recordation hereof, and shall convey legal title to the Common Area to the Association. Developer shall convey the Common Area to the Association by special warranty deed, in an "AS IS" condition subject to all easements, rights-of-way, covenants, restrictions, mortgages (including those granted in connection with financing referenced in Section 9.2 below), encumbrances, and liens for non-delinquent ad valorem taxes and special assessments.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON AREA; MAINTENANCE;

3.1 Members' Easements of Enjoyment. Except as otherwise provided in this Article III, every Member shall have a nonexclusive right and easement in and to the Common Area, and such easement shall be appurtenant to and shall pass every Lot, subject to the following provisions and to the other provisions of this Declaration:

A. The right of the Board to establish rules and regulations regarding the activities on or uses of the Common Area and to restrict or eliminate some or all types of activities or uses thereof;

B. The right of the Board to limit the number of guests of Members;

C. In addition to borrowing money and mortgaging the Common Area by the Developer and/or Association pursuant to Section 9.2 below, the right of the Board to borrow money on behalf of the Association for the purpose of improving the Common Area and facilities and to mortgage the Common Area; provided that the rights of such mortgagees shall be subordinate to the rights of the Members;



D. The right of the Board to suspend the use of the Common Area and any recreational facilities thereon by a Member and his family for any period during which any assessment against his or her Lot remains unpaid and delinquent, and for a period not exceeding the later of either sixty (60) days, or the date such infraction is corrected, for any single infraction of the rules and regulations of the Association. The Board shall have the right to employ third parties on behalf of the Association and to delegate to such parties the right to determine whether violations of this Declaration or rules or regulations have occurred with regarding to the Common Area;

E. The right of the Board to charge reasonable admission and other fees for the use of any recreational facilities situated on the Common Area;

F. The right of the Board, on behalf of the Association, to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be determined by the Board;

G. The covenants and restrictions contained herein;

H. Owners of Lots become Members of the Association upon acquisition of a Lot whether or not such Owner is occupying the residence on the Lot; and

I. No Owner, occupant or guest thereof shall conduct themselves within the Common Area in a manner which unreasonably interferes with the use and enjoyment thereof by others.

3.2 Extension of Rights. A Member's right of enjoyment in the Common Area shall automatically extend to all Members of his or her immediate family residing on a Lot with such Member. No guests shall be entitled to exercise such right of enjoyment or to any use of the Common Area except as provided in, and subject to, such regulations as may be promulgated by the Board.

3.3 Waiver of Use. No Member may exempt himself or herself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him or her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area and the facilities thereon or by abandonment of his or her Lot.

3.4 Alteration of the Common Area. Notwithstanding anything to the contrary provided herein, the Developer or the Association may convey, eliminate, reduce, alter or reconfigure portions of the Common Area from time to time by replatting, lot split, boundary shift or other subdivision procedures or deeding land, for the purpose of adding land to, or removing land from, the Common Area. Automatically, without the necessity of amending this Declaration, upon the completion of any such conveyance, elimination, reduction, alteration or reconfiguration, any land (a) removed from such area shall cease to be Common Area, and, thereupon, no Member shall have any easement or right of use or access thereto by reason of Section 3.1 above or the plat of the Property and (b) added to the Common Area shall become a

part thereof, and thereupon each Member shall have a nonexclusive easement and right of use or access thereto as provided in Section 3.1 above.

3.5 Common Area and Arterial Street Rights-of-Way, Amenities, Improvements and Maintenance. Developer shall either pay for or finance, as referenced in Section 9.2 below, the cost of constructing or installing the original improvements and amenities to the Common Area and the arterial streets located along perimeter of the Property but not streets within the Property. Developer shall construct or install the improvements or amenities listed on Exhibit "A" attached hereto; provided, Developer and/or the Association may install additional amenities or improvements as either the Developer or the Board, respectively, elects from time to time. Developer, its contractors and any subcontractors, and the employees thereof, shall have a perpetual, non-exclusive easement and right of access upon the Common Area for the inspection, construction, installation, maintenance, repair, replacement and modification of Common Area improvements and amenities.

3.6 Natural Condition of Common Area. Notice is hereby given that the Developer intends to preserve some of the Common Area in a natural state and condition without mowing or trimming such selected areas.

3.7 Wetlands. Notice is hereby given that the lake areas within the Common Area may contain wetlands areas which are regulated by law.

3.8 Water For Irrigation. Developer intends to drill a well or wells for water to irrigate the Common Area. If Developer is unsuccessful in obtaining appropriate permits or authorizations for such well(s) or is unable to complete a satisfactory well or wells, then water from the city in which the Property is located will be used for such irrigation, at a higher cost.

ARTICLE IV

COVENANTS CONCERNING ASSESSMENTS AND LIENS

4.1 General Assessments. For the purpose of providing funds for the operation of the Association, and for the operating, maintaining, caring, insuring, improving and conducting such other activities and taking such other actions pertaining to the Common Area as the Association shall deem appropriate, and to afford the Association the means and resources necessary to carry out its rights, duties and functions, the Board shall have the right, in each year, but subject to the exemptions provided below, to assess against each Lot and each Owner thereof, a general assessment, which general assessment shall subject each Lot to a lien to secure payment thereof. The general assessment may be paid annually, quarterly or monthly as specified by the Board from time to time. Initially, the general assessment shall be in the amount of Sixty-Five Dollars (\$65.00) per month to be paid on the first day of each calendar month commencing upon at least sixty (60) days advance notice from the Developer; assessments for any partial year shall be prorated. Subject to the exemptions specified herein, the obligation of each Owner to pay assessments hereunder shall commence on the date title is conveyed to such Owner and is not dependent upon there being a residence erected thereon.

4.2 Basis of Assessment; Exemption; Transfer Assessment; Proration.

A. All general assessments shall be made against the Owners on an equal basis for each Lot or fraction thereof owned by the Owner or Owners, except that in view of the substantial expenditures incurred by Developer in connection with the Common Area, Developer, and any properly licensed general contractor owning a Lot for the purpose of constructing a residence thereon and offering the same for sale, shall be exempt from imposition of any assessment, whether general or special, with respect to any Lot so long as Developer or such contractor holds legal title thereto (provided, the assessment exemption for such general contractors shall not extend beyond twelve (12) months from the date an applicable Lot is conveyed to such contractor and shall cease if the contractor occupies the same as a residence).

B. At any time legal title to a Lot transfers, the transferee shall pay at the time of the closing of such transfer to the working capital of the Association a fee equal to Two Hundred Fifty Dollars (\$250.00); provided the requirement to pay such a fee shall not apply to either:

i. the transfer by Developer to an affiliated entity, or the transfer of Developer's interest as developer of the Property; or

ii the transfer of title to any Lot to a properly licensed general contractor for purposes of constructing a residence thereon for the purpose of offering the same for sale.

4.3 Limitations on General Assessments.

A. The maximum general assessment for any year may not be increased for any subsequent year by the Association, to an amount which is more than twenty percent (20%) compounded above the annual assessment for the previous year, without a vote of the membership of the Association.

B. The general assessment for any year may be increased to an amount greater than that permitted by subparagraph A of this Section only upon the affirmative vote of the Members holding more than sixty percent (60%) of the total authorized votes represented at a duly called meeting who are voting in person or by proxy.

4.4 Special Assessments. In addition to general assessments, the Association may, from time to time, at a regular meeting or a special meeting called upon notice for such purpose, establish a special assessment to be levied equally against each Lot for the purpose of providing additional funds (not available through general assessments) to carry out its duties and other functions and purposes contemplated hereunder. No such special assessment shall be valid except upon the approval of Members holding at least sixty percent (60%) of the total votes represented in person or by proxy, at the meeting duly called for the purpose of approving the same. Further, the Board shall have the authority to establish and fix a special assessment on any Lot to secure the liability of the Owner of such Lot to the Association for any breach by such

Owner of any of the provisions of this Declaration, which breach results in an expenditure by the Association for repair or remedy of such breach. Any special assessments shall be payable in full (unless a schedule for payment in installments is specified) on the first day of the second calendar month next following the date that the same shall be established by the Association.

4.5 Collection and Expenditures. The Association shall have the sole authority to collect and enforce the collection of all general and special assessments provided for in this Declaration, and may, in addition to such assessments, charge and assess costs and expenses, including reasonable attorneys' fees, and penalties and interest for the late payment or nonpayment thereof. The Association shall have the authority to expend all monies collected from such assessments, costs, penalties and interest for the payment of expenses and costs in carrying out the duties, rights and powers of the Association as provided for in this Declaration and the Articles and Bylaws. However, the Association shall not be obligated to spend in any year all the sums collected in such year by way of general assessments, or otherwise, and may carry forward, as surplus or in reserves, any balances remaining; nor shall the Association be obligated to apply any such surpluses or reserves to the reduction of the amount of the assessments in the succeeding year, but may carry forward from year to year such surplus as the Board, in its absolute discretion, may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.6 Assessments and Liens; Delinquency. Thirty (30) days after any general or special assessment shall be due and payable, and unpaid or otherwise not satisfied, the same shall be and become delinquent and shall automatically constitute a lien on the applicable Lot and shall so continue until the amount of said charge and assessment, together with all costs, late fees, fines, penalties and interest as herein provided, has been fully paid or otherwise satisfied. The Association may cease to provide all and any of the services provided by or through the Association with respect to any Lot during any period that an Owner is delinquent in the payment of any sum due under this Declaration, or due to any other default hereunder, and no such cessation of services shall result in reduction of any amount due from the Owner before, during or after such cessation. No claim of the Association for assessments or other charges due hereunder shall be subject to setoffs or counterclaims made by any Owner.

4.7 Notice of Delinquency. At any time after any general or special assessment against any Lot has become a lien and delinquent, the Association may record in the office of the Register of Deeds, Sedgwick County, Kansas, a Notice of Delinquency as to such Lot, which Notice shall state therein the amount of such delinquency and that it is a lien, and the interest, costs (including attorneys' fees and expenses) fines and late fees, which have accrued thereon, a description of the Lot against which the same has been assessed, and the name of the Owner thereof, and such Notice shall be signed by an officer of the Association. Upon payment or other satisfaction of said assessment, interest, late fees, fines and costs and expenses in connection with which notice has been recorded, the Association shall record a further notice stating the satisfaction and the release of the lien thereof.

4.8 Right of Association to Enforce Payment of Assessment. By the acceptance of title to a Lot, each Owner shall be held to vest in the Association the right and power to prosecute all suits, legal, equitable, or otherwise, which may be necessary or advisable for the collection of

assessments, charges or fines, and the Association shall have the right to sue for and collect a reasonable sum to reimburse it for its attorneys' fees and any other expenses reasonably incurred in enforcing its rights hereunder. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration or documentation associated therewith (whether such liens are now in existence or are created at any time in the future) the benefit of any redemption, homestead or exemption laws of the State of Kansas now in effect, or in effect from time to time hereafter.

4.9 Enforcement of Liens. Each lien established pursuant to the provisions of this Declaration and which is specified in a Notice of Delinquency as hereinabove provided, may be foreclosed in like manner as a mortgage on real property as provided by the laws of Kansas. Each current and future Owner hereby consents to the foreclosure procedures specified in this Article. In any action to foreclose any such lien, the Association shall be entitled to its costs and expenses, including reasonable attorneys' fees, and expenses, and such late fees, fines and accrued interest for delinquent charges and assessments as shall have been established by the Association. The Developer and/or the Association shall have the right to bid on a Lot at the foreclosure sale. The foreclosure proceedings with respect to liens established pursuant to this Declaration, may be foreclosed at anytime within fifteen (15) years following the filing of the Notice of Delinquency; provided, if at the expiration of such fifteen (15) year period suit shall have been instituted for collection of the assessment, the lien shall continue until payment in full or termination of the suit and sale of the applicable Lot.

4.10 Subordination to Mortgages. Each and every assessment and lien, together with any costs, penalties and interest reserved under this Declaration, shall be subordinate to the lien of any valid bona fide mortgage which has been, or may hereafter be, given in good faith and for value by any bank, savings and loan or other institution in the business of providing residential lending, on any interest of any Owner covered by this Declaration. Any subsequent Owner of any Lot purchased at foreclosure shall be bound by the restrictions, assessments and liens set out in this Declaration, not including, however, any assessment or lien arising prior to the foreclosure sale.

4.11 Personal Liability. In addition to the covenants and agreements heretofore set forth herein, each Owner of each Lot, by the acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to have agreed to be personally liable for the payment of each general and special assessment, late fee, interest and fine levied against such Lot during the period of ownership and for all other payment obligations specified in this Declaration.

4.12 Late Fee and Interest on Delinquent Assessments. In the event assessment charges (general or special), fine or other sums due under this Declaration shall remain due and unpaid thirty (30) days after the same are due the Owner shall be charged a late fee of five percent (5%) of the unpaid amount and the unpaid amount shall bear interest at the rate of fifteen percent (15%) per annum, or such other rate as may be established from time to time by the Board; provided, however, that such interest rate shall never exceed the maximum allowed by law.

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4.13 Fines. The Board shall have the authority to assess fines for any violation of this Declaration by an Owner, which fines shall be determined in the sole discretion of the Board; provided, a fine may not exceed fifty dollars (\$50.00) per day of violation unless unanimously approved by all members of the Board. Prior to assessing such fine, the Board shall mail written notice to the last address known to the Board concerning the noncompliant Owner, specifying the violation. If the noncompliant Owner fails to cure the violation within twenty (20) days following the mailing of such notice by the Board, or if there is a reoccurrence of the violation during such twenty (20) day period, then in addition to any other liability or obligation arising under the Declaration, the Board may assess a fine against the noncompliant Owner and his Lot in an amount determined by the Board to be appropriate in its discretion, which shall be paid within ten (10) days following the date notice thereof is given to such Owner by written notice deposited in the mail to the Owner's address last known to the Board, or personal delivery thereof to the residence of such Owner. Until paid in full, the amount of such fine shall constitute a lien on the noncompliant Owner's Lot, and shall be subject to enforcement and foreclosure in the same manner as an assessment under this Article IV.

ARTICLE V

USE, OCCUPANCY AND CONDUCT RESTRICTIONS

5.1 General. The Property is subject to the conditions, covenants, restrictions, reservations and easements hereby declared to ensure the best use and the most appropriate development and improvement of each Lot; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Property; to preserve, so far as practicable, the natural beauty of the Property; to guard against the erection thereon of poorly designed or proportioned improvements and improvements built of improper or unsuitable materials; to ensure the best development of the Property; to encourage and secure the erection of attractive homes of appropriate size and appearance thereon, with appropriate locations thereof on building sites; to secure and maintain proper setback from streets and adequate free spaces between Structures; and, in general, to provide adequately for proper drainage from each Lot onto adjacent Lots and Common Area.

5.2 Construction Requirements. Unless approval is otherwise approved by the New Construction DRC, the following construction guidelines shall be complied with:

A. Materials; Size; Basement and Roof. As to all Lots, but subject to such waivers or modifications as are permitted by the New Construction DRC, the applicable construction requirements shall be as follows:

Exterior walls and facings of all buildings, Structures and appurtenances thereto constructed on any Lot shall be of brick, stone, stucco, wood siding, wood paneling, glass, glass blocks, vinyl or steel siding, or any combination thereof. The size and total number of square feet of finished floor area to be contained in each residence must be approved by the Design Committee and meet the requirements set forth by the Design Committee from time to time in its sole discretion. All roofs on all building improvements on any Lot

shall be wood, tile or Approved Composition. As used in this Declaration, "Approved Composition" shall mean Heritage II Weatherwood or such other equivalent composition roofing materials as are approved in writing by the New Construction DRC from time to time.

B. Flat Roofs and Windows. No flat roof shall be permitted, except with the written permission of the New Construction DRC. Window frames shall be wood, metal or vinyl or other composition materials as approved from time to time by the New Construction DRC.

C. Initial Policy Guidelines. The following initial policy guidelines have been established for the Lots, and the same may be waived, changed or revoked from time to time by the appropriate Design Committee but without the necessity of filing any formal amendment to this Declaration. Accordingly, inquiry should be made of the appropriate Design Committee to determine current policy guidelines.

i. Front yard areas, exclusive of improvements, shall be at least eighty percent (80%) grass.

ii. In the event of the construction of any retaining walls the plan and materials utilized must be previously approved in writing by the appropriate Design Committee.

iii. All basketball backboards shall be either white or glass and shall be placed or installed only in the rear yard, unless otherwise approved by the Association DRC. All basketball backboards and supports shall be approved by the Association DRC prior to installation. *No temporary or moveable basketball pole/backboard/goals shall be placed or allowed to the front of the residence, whether on the driveway, street, or patio area or in the yard.*

iv. All recreation and play equipment shall be located in the rear yard of a Lot.

v. All vegetable gardens shall be in the back yards only.

vi. Dog runs must be screened from view from neighboring homes with fencing or other appropriate material approved by the Design Committee.

vii. All exterior wood surfaces on homes (excluding decking) must be painted, or stained and sealed.

viii. Any temporary covering of a swimming pool, tennis court, patio, or otherwise, of a rigid or "bubble" type shall be deemed a Structure that is subject hereto.

ix. No window shall contain any reflective material such as aluminum foil.

x. All firewood stacks in excess of two cords of wood shall be screened from view from neighboring Lots, and no stack shall exceed six feet (6') in height.

xi. All forms of sculpture or "yard art" must first be approved by the Association DRC.

xii. As soon as practicable, but in any event, no later than the planting season immediately following completion of a dwelling on a Lot, the Owner thereof shall plant a lawn and at least twelve (12) perennial shrubs and/or bushes and trees on the Lot, with a minimum of four (4) trees being planted in the front yard of the Lots and the trunk of each tree being a minimum of two inches (2") inches in diameter.

xiii. Pad elevations and all exterior drainage shall be verified by Developer's engineering firm at the cost of Owner and any deviation therefrom and any resulting liability, damage, or costs incurred as a result thereof, shall be the responsibility of the Owner.

xiv. Mail box Structures, other than cluster mail boxes installed by the postal service, shall be approved by the Design Committee prior to construction.

xv. Trash and refuse container storage areas shall be installed at a location approved by the Design Committee and shall be screened in a manner approved by the Design Committee.

D. Prohibition of Sheds and Other Outbuildings. Except upon the prior approval of the Design Committee, no building improvements may be erected, constructed, placed or installed on a Lot other than the residence and attached garage approved as required by the Declaration. The prior sentence shall prohibit, without limitation, the following without such prior approval: pool buildings, gazebos, any shed, storage facility, playhouse or other improvement which may obstruct the views from other Lots.

5.3 Rules and Regulations. Each Owner shall obey and comply with all applicable public laws, ordinances, rules and regulations, and all rules and regulations now or hereafter promulgated, as provided for in this Declaration. No activity which may be or become a nuisance to the neighborhood shall be carried on upon the Property.

5.4 Damage to Common Area, Etc., Prohibited. No Owner shall do or allow to be done any act which causes or threatens to cause any damage, encroachment or disrepair to the Common Area, street rights-of-way, the residence or Lot of any other Owner. Specifically, each Owner shall repair any damage sustained to any other Lot, Common Area or street right-of-way in connection with the construction of Structures on such Owners' Lot, including, but not limited to, damage to lawn areas, landscaping and sprinkler systems as a result of the installation of sanitary sewer or heat pump lines or other construction or excavation activities. Owners are

hereby advised that DIG SAFE (a service which may be consulted in advance of excavation to locate existing utility lines) does not identify sprinkler system lines or other underground electrical or plumbing lines which have been installed.

5.5 Residences. No building shall be erected, altered, placed or permitted to remain on any Lot, other than one new single-family residence for private use, with a private garage and other Structures incidental to residential use, which are approved by the appropriate Design Committee as specified herein. No prefabricated or modular buildings will be permitted to be constructed or installed on any Lot without the prior written approval of the New Construction DRC.

5.6 No Excavations. No excavations, except such as are necessary for the construction of a residence or improvements, shall be permitted on any Lot without written permission of the New Construction DRC.

5.7 No Storage; Trash. No trash, ashes, dirt, rock or other refuse may be thrown or dumped on any Lot or building site. No building materials of any kind or character shall be placed or stored upon any building site more than thirty (30) days before the commencement of construction of a residence or improvements, and then such materials shall be placed within the property lines of the building site upon which they are to be erected and shall not be placed in the street or between the curb and property line.

5.8 No Businesses Allowed. Except as otherwise specified in this Declaration or as authorized herein or by the Board, no retail, wholesale, manufacturing or repair business of any kind, shall be permitted on any Lot or in any residence or appurtenant Structure erected thereon, even though such activity does not include the employment of any additional person or persons in the performance of such services. The following home occupations are hereby approved: Amway, Avon and similar sales representatives; child care; and realtors, so long as insubstantial traffic (that is, except in circumstances otherwise determined by the Board to be appropriate due to applicable parking limitations, no more than four vehicles parked at the residence by visitors in relation to such business activity at any one time) is associated with such activities. The renting or leasing of a residence shall not be construed as a business prohibited hereunder. This Section shall not apply to any activity conducted by the Developer, builder or contractor within the Property.

5.9 Temporary Buildings. Except as authorized by the Board, no basement of a partially completed residence, tent, shack, garage, barn or outbuilding erected on a Lot covered by this Declaration shall at any time be used for human habitation, temporarily or permanently, nor shall any Structure of a temporary character be used for human habitation.

5.10 Used Houses; Trailers. No used, secondhand or previously erected house or building of any kind can be moved or placed, either in sections or as a whole, upon the Property, nor shall any trailer be moved, placed or permitted to remain upon a Lot subject to this Declaration; provided that Developer may install for construction, administrative and sales purposes a trailer or trailers upon a Lot(s).

5.11 Animals. No birds, animals or insects, except dogs, cats or other household pets, shall be kept, bred or maintained on any Lot except a reasonable number of commonly accepted household pets approved from time to time by the Board. Under no circumstances shall any commercial or agricultural business enterprise involving the use or breeding of animals be conducted on the Property without the express written consent of the Board. The Board may, from time to time, publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot, and the Owners shall strictly comply therewith. Dogs, cats and all other pets or animals shall be confined at all times to the Lot and must be kept on a leash when outside the Lot. No dogs or other animals shall be continually or regularly staked or chained on any Lot. All domestic pets must be properly immunized as required by applicable ordinances, codes and laws. Owners must prevent such animals from barking or making other noises at any time which the Board determines are annoying or a nuisance to neighbors or those using the Common Area.

5.12 Signs. Except as authorized by the Board, and except for those installed by Developer, its marketing representatives or builders or contractors as authorized by Developer, no signs, advertisements, billboards or advertising Structures of any kind may be erected or maintained on any of the Lots; provided, however, that permission is hereby granted for the erection of unlighted, temporary, standard sized signs by real estate firms for the sole and exclusive purpose of advertising for sale or lease the Lot and residence upon which it is erected and improvements thereon, if any, and during the one hundred twenty (120) day period prior to any election, political signs may be placed in yards.

5.13 Sight Lines. No fence, masonry wall, hedge or mass planting shall be permitted to extend beyond the minimum front building setback lines established on the plat of the Property. No hedge, shrub, mass planting or tree shall be allowed by the Owner to obstruct sight lines at any Lot corner. Trees, shrubs and other plants which die shall be promptly removed from the Property.

5.14 Antennas. Except as authorized by the Association DRC, there shall not be erected any external television or radio antennas or permanent clothesline structures, and no Owner shall erect any Structures, either permanently or temporarily, upon the Lots; provided, notwithstanding the foregoing, an Owner may install within his or her Lot a television satellite dish having a diameter of not more than twenty-four inches (24"), so long as the location of such dish is satisfactory to the Association DRC. Should any part or all of the restrictions set forth in this Section be unenforceable because the same violate a statute or the First Amendment or any other provision of the United States Constitution, the Association DRC shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections within the Property and any such rules and regulations shall be binding upon all of the Lots and the Owners thereof.

5.15 Vehicles and Trailers. Except as authorized by the Board, no automobile, truck, motorcycle, motorbike, boat, house trailer, boat trailer or trailer or any other vehicle of any type or description may be stored upon any of the Common Area, nor may any boat, boat trailer,

house trailer, camper, recreational motor vehicle, camper trailer or similar items be stored or permanently, continually or regularly parked on any street, driveway or in the open on any Lot.

5.16 No Joyriding. Except as otherwise authorized by the Board, motor scooters, minibikes or similar vehicles shall be operated for transportation only, and no joyriding on the streets, any Lot or the Common Area shall be allowed except on a designated bike or cycle trail.

5.17 Requirement to Keep Lot in Good Order and Repair. Each Owner (other than Developer; provided it shall cause all Lots owned by it to be mowed periodically) shall keep all Lots owned by it, and all improvements therein or thereon, in good order and repair, including, but not limited to, the seeding, watering by an underground water sprinkler system and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management in relation to a quality residential neighborhood such as will exist in the Property. Except as otherwise provide herein, if any portion of the Common Area is deeded to the Owner of an adjoining Lot, the Owner of each Lot shall maintain such area in the same manner as the Lot. Furthermore, except as may be otherwise approved by the Association DRC, each Owner of a Lot which is contiguous to a street right-of-way (other than an arterial street right-of-way on the perimeter of a portion of the Property) shall seed, water, install and operate an underground water sprinkler system, mow and otherwise maintain in good, sightly condition, a lawn area between the boundary of such Lot and the street within such right-of-way. Additionally, except as may be otherwise approved by the Association DRC, each Owner of a Lot contiguous to any Common Area reserve on which a lake is located shall install and operate a water sprinkler system, seed, mow and otherwise maintain in good, sightly condition, a lawn area between the boundary of such Lot and the water's edge of the lake located in such Common Area; provided, in lieu of a lawn, the distance of fifteen feet (15') from the water's edge may be covered entirely by a sand beach, so long as the Owner maintains such area in a good, sightly condition. If, in the opinion of the Board, any Owner fails to perform the duties imposed by this Section, the Board, after approval by a two-thirds decision of the Board, and after fifteen (15) days written notice to Owner to remedy the condition in question, shall have the right, through its contractors and representatives, to enter upon the Lot in question and to repair, maintain, repaint and restore the Lot or such improvements, and such Owner shall pay the Association for the cost thereof, together with additional amount equal to twenty percent (20%) of such cost, within ten (10) days following demand therefor, which payment shall be a binding personal obligation of such Owner, and the Board may establish a special assessment and lien on such Lot for such cost and charge, together with interest thereon at the rate specified in Section 4.12 above, and enforce the same as provided in Article IV hereof. The lien established as a result of this Section shall be superior to all other liens or encumbrances which may thereafter arise, excepting liens for taxes and other public charges as are by applicable law made superior.

5.18 Division of Lots Prohibited. Except as authorized by the New Construction DRC, no platted Lot shall be split or divided into more than one Lot or building site, but more than one Lot may be used as a building site for one dwelling.

5.19 No Disturbances of Streams. No lake, pond, stream or water drainage facilities, natural or erected within the Common Area shall be disturbed other than by Developer or the Board.

5.20 Boating; Lake Use. Except as permitted by the rules adopted by the Board from time to time, no boat (motorized or not), raft, canoe or surfboard shall be operated within the Common Area. **Any use of any lake, pond or other body of water within the Common Area shall be strictly in compliance with the rules and regulations adopted from time to time by the Board.**

5.21 Fishing. Fishing in any body of water, if any, within the Common Area will only be permitted at such times and at such places only to the extent, if any, permitted by the rules adopted by the Board from time to time concerning such use.

5.22 Fences.

A. Developer may, and hereby reserves the right to, in its sole discretion, construct and install a fence, "living fence" (a combination of trees and other fencing or wall materials), wall or entrance treatment of a style and of materials satisfactory to the Developer, in its sole discretion, within any of the fence or wall easement areas, any entry areas shown on the plat of the Property, within other easement areas established by other easement instruments, or within Common Area. With respect to any Lot on which Developer has constructed an entry monument, fence "living fence" or wall, the Owner(s) may not install or construct any fence or wall which is visible from adjacent streets without the approval of the Developer or the Association DRC.

B. Except as provided in paragraph A immediately above and subject to paragraphs C and D immediately below, all Lots, other than Wrought Iron Fence Lots may utilize fences made of black wrought iron, a Good Neighbor Fence or both, provided the same shall not exceed six feet (6') in height. A "Good Neighbor Fence," is the type of wood privacy fence which appears substantially the same from both sides of the fence and is approved by the Association DRC. However, on a Lot which is not a Wrought Iron Fence Lot, the Good Neighbor Fence shall only be installed along the rear boundary line of the Lot and may not be placed along the side boundary lines of the Lot without the prior approval of the Association DRC. Fencing may not be installed to the front of a residence constructed on a Lot. No fences shall be constructed or maintained on Wrought Iron Fence Lots except for privacy fences immediately adjacent to patios which are appurtenant to a residence and except for black wrought iron fences which do not exceed six feet (6') in height and which are approved by the Association DRC.

C. All fences shall be approved by the Association DRC prior to construction or installation on any Lot.

D. All fences installed within drainageways established by the master drainage and grading plan referenced in Section 5.24 shall have a minimum of four inches

