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NORTH CAROLINA

WAKE AND CHATHAM COUNTIES

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR STONEWATER SUBDIVISION

DECLARATION

OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR STONEWATER SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by Lennar Carolinas, LLC, a Delaware limited liability company, hereinafter referred to as "Declarant", and GMAC Model Home Finance, LLC, a Delaware limited liability company and successor by statutory conversion to GMAC Model Home Finance, Inc., a Virginia corporation, (hereinafter "GMAC"), the owner of all the property described on Exhibit A.

WITNESSETH THAT:

WHEREAS, Declarant has an option to purchase all the Properties in the Town of Cary, County of Wake and County of Chatham, State of North Carolina, which is more

particularly described on Exhibit A attached hereto and incorporated herein by this reference; and

WHEREAS, Declarant and GMAC desire to subject all of the property described on Exhibit A to certain protective covenants, conditions, restrictions and easements as hereinafter set forth; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of North Carolina, as a non-profit corporation, STONEWATER HOA, INC., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth and which shall be duly formed and in good standing prior to the conveyance of any lot.

NOW, THEREFORE, Declarant and GMAC hereby declares that all of the Properties described on Exhibit A, including without limitation, every Lot (herein after defined) which is a part of the Properties, shall be held, sold, used, occupied, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with, the Properties and be binding on all parties having any right thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1.01. "Act" is defined as the "North Carolina Planned Community Act", currently contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements and replacements as enacted from time to time.

Section 1.02. "Additional Property" is defined as all real property subjected to or annexed to this Declaration subsequent to the recording of this Declaration in the Registry, either by Supplemental Declaration or by merger or consolidation, as provided herein.

Section 1.03. "Architectural Control Committee" shall mean a committee of three (3) individuals appointed by the Declarant or the Board of Directors.

Section 1.04. "Assessment" shall mean and refer to the share of the Common Expenses from time to time assessed against a Lot and its Owner by the Association in the manner herein provided.

Section 1.05. "Association" shall mean and refer to STONEWATER HOA, INC., its successors and assigns.

Section 1.06. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

Section 1.07. "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 1.08. "Common Area" shall mean that certain portion of the Properties (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including Open Space Areas, open space/protective yard, parking areas, and any recreational facilities constructed, erected or installed on the real property that is part of the Common Areas. Any Stormwater Control Measures serving more than one Lot, which are situated outside the public street rights of way, are Common Areas, including any stormwater management area.

Section 1.09. "Common Expenses" shall mean and refer to all sums lawfully assessed against a Lot by the Association; expenses of administration, maintenance, repair or replacement of the Common Areas, expenses agreed upon as Common Expenses by the Association; expenses declared Common Expenses by the provisions of this Declaration or the Bylaws; and insurance premiums.

Section 1.10. "Declarant" shall mean and refer to Lennar Carolinas, LLC, a Delaware limited liability company, its successors and assigns as provided in the Planned Community Act and also mean and refer to any person, firm or corporation which shall also be designated as a "Declarant" by Lennar Carolinas, LLC hereinafter when such designee becomes vested with title to two or more undeveloped Lots for the purpose of causing dwellings to be constructed thereon, and any such successor in title to Lennar Carolinas, LLC shall be a Declarant during such period of time as said party is vested with title to two or more such Lots (whether undeveloped or developed and un-conveyed), but not longer; provided, however, such designee's classification as a Declarant shall automatically terminate upon such designee becoming in default under its agreement with Lennar Carolinas, LLC to purchase Lots. In the event the Declarant does not exercise its option to purchase the properties described on Exhibit A, GMAC shall have the right to designate a successor Declarant.

Section 1.11. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Stonewater and all valid amendments hereto applicable to the Properties recorded in the Office of the Register of Deeds of Wake and Chatham County, North Carolina.

Section 1.12. "Dwelling Unit" include without limitation, townhomes and each detached dwelling unit located on its own separate lot. A "Detached Dwelling Unit" is defined as a Dwelling Unit located in a building on a Lot which contains only that Dwelling Unit. The Declarant, during the period of Declarant Control Period, and thereafter the Association, has the authority to resolve any and all conflicts, disputes or questions as to whether a Dwelling Unit is a Detached Dwelling Unit or an Attached Dwelling Unit.

Section 1.13. "Eligible Mortgage Holder" shall mean a holder, insurer, or guarantor of a first Mortgage on a Lot who has requested notice of certain matters from the Association as provided in this Declaration or the Organizational Documents.

Section 1.14. "FHA" shall mean and refer to the Federal Housing Administration of the U.S. Department of Housing and Urban Development, "HUD" shall mean the U.S. Department of Housing and Urban Development, and "VA" shall mean and refer to the U. S. Department of Veterans Affairs.

Section 1.15. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties (provided said map has been approved by Declarant or the Association) with the exception of the Common Area and road rights-of-way which are offered for public dedication. Except where otherwise indicated by context, the term "Lot" shall include the improvements on such Lot.

Section 1.16. "Limited Common Expenses" is defined as all of those expenses of the types included with the term Common Expenses that are related solely and specifically to Attached Dwelling Units. The Limited Common Expenses shall be paid for solely by those Members of the Association who own real property located in a particular phase, section, or subdivision of Stonewater or who own the particular Lot for or which the maintenance has been established. Exterior maintenance of Attached Dwelling Lots and yard maintenance for such Lots are a Limited Common Expense.

Section 1.17. "Map" or "Maps" shall mean and refer to any plat or map of the Properties constituting the initial phase or any additional phases (if they are annexed pursuant to Article IX hereof) which may be recorded by Declarant in the Office of the Register of Deeds in Wake and Chatham County, North Carolina, hereafter.

Section 1.18. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.19. "Mortgage" means any mortgage, deed of trust and any and all similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of any obligation.

Section 1.20. "Mortgagee" shall include a beneficiary or holder of a deed of trust, as well as a mortgagee under a mortgage.

Section 1.21. "Organizational Documents" shall mean and refer to the Articles of Incorporation and By-Laws of the Association, and all lawful amendments thereto.

Section 1.22. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.23. "Person" means any individual, corporation, partnership, limited liability company, association, trustee or other legal entity.

Section 1.24. "Planned Community Act" shall mean the provisions of Chapter 47F of the General Statutes of North Carolina applicable to Properties, as such provisions shall be amended and re-codified from time to time.

Section 1.25. "Property" or "Properties" shall mean and refer to that certain real property more particularly described on Exhibit A attached hereto and incorporated herein by this reference and such additions thereto as may hereafter be annexed and brought within the jurisdiction of the Association.

Section 1.26. "Stormwater Control Measures" shall mean and refer to the stormwater facilities situated outside the public street rights-of-way and serving more than one Lot and located on the Property as private drainage easements or stormwater management areas designated on recorded Maps of the Property.

Section 1.27. "Subdivision Plan" is defined as the most current development plan approved by the Town of Cary for any portion of the Properties or the Declarant Additional Property, including a subdivision plan, site plan, group housing plan or cluster unit development plan. When two or more Subdivision Plans are approved for the same portion of the Properties (for example, a phase or section within a cluster unit development), the most current and most specific plan controls.

Section 1.28 "Waterford" shall mean Waterford Stonewater, LLC, a North Carolina limited liability company and its successors and assigns.

Section 1.29 "Waterford Agreement" shall mean the agreement dated February 28, 2006, between the Declarant, the Association and Waterford.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and a right and easement over the Common Area for access, ingress and egress to and from streets, parking areas, walkways, as all of the same may exist and be located from time to time, and to and from such Owner's Lot, which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Admission and Other Fees: Subject to the ordinances of the Town of Cary, the right of the Association to regulate the use of and to charge reasonable admission and other fees for the use of any recreational facilities which may constitute a portion of the Common Area;

(b) Suspension of Use of Common Area: The right of the Association to suspend the voting rights and right to use of any of the recreational facilities which may constitute a portion of the Common Area by an Owner, his family, occupants, tenants, guests and invitees for any period during which any Assessment against his Lot remains unpaid. Such rights also may be suspended, after notice and hearings, for and the period of the infraction plus a reasonable period not to exceed sixty (60) days, for any infraction or violation of any provision of this Declaration, the Organizational Documents or published rules and regulations of the Association;

(c) Borrowing for Improvements: The right of the Association, in accordance with its Organizational Documents and the Planned Community Act, to borrow money for the purpose of constructing, repairing or improving the Common Area and its facilities, and in aid thereof, with the assent of Members entitled to cast at least 80% of the votes of the entire membership, but in any event not less than 67% of the votes of the membership excluding the Declarant, and in accordance with the provisions of the Planned Community Act, to mortgage, pledge, encumber or hypothecate said Common Area; provided, however, the right of such Mortgagee shall be subordinate to the rights and easements of the Association and the Owners established hereunder;

(d) Dedication and Transfer of Common Area: Except as restricted by applicable law, including but not limited to the ordinances, regulations and procedures, including variances, of the Town of Cary, the right 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 agreed to by the Members, and provided that said dedication or transfer shall be approved as provided herein. No such dedication or transfer shall be effective unless Members entitled to cast at least 80% of the votes of the entire membership, but in any event not less than 67% of the votes of the membership excluding the Declarant, have signed a written instrument consenting or agreeing to such dedication or transfer and unless such other agreement or consent as then required by the Planned Community Act and the ordinances, regulations and procedures, including variances, of the Town of Cary have been satisfied. Any such dedication or transfer shall be made subject to the rights and easements of the Association and the Owners established hereunder, including but not limited to every Owner's easement for access, ingress and egress to such Owner's Lot;

(e) Guests: The right of the Association to limit the number of guests that a Member may allow to use the Common Area;

(f) Use of Common Area: The right of the Association, through its Board of Directors, to determine the time and manner of use of the Common Areas and facilities, if any, by the Members and others and to formulate, publish, impose and enforce rules and regulations and specifically including, but not limited to, the right to make permanent and temporary assignment of parking spaces and to make rules and regulations concerning parking;

(g) Easements: The right of the Declarant, during the period of Class E membership, with regard to the Properties which may be owned for the purpose of development, to grant easements in and to the Common Area to any public agency, authority, or any utility for such purposes as benefits the Properties or any portion thereof. This Section 2.01(g) may not be amended or deleted, without the written consent of Declarant and Waterford;

(h) Exchanges: The right of the Association, as provided by and consistent with the Town of Cary Code, as the same may be amended from time to time, to exchange all of part of the Common Area for other real property and consideration of like value and utility subject to the provisions of the Planned Community Act; and

(i) Rules and Regulations: The right of the Association or Board to formulate, publish, impose and enforce rules and regulations as provided by this Declaration for the use and enjoyment of the Common Area, which regulations may further restrict the use of the Common Area.

Section 2.02. Delegation of Use. Subject to Section 1 above, any Owner may delegate, in accordance with the By-Laws, his rights of use and enjoyment in and to the Common Area, to the members of his family, his lawful tenants, or contract purchasers, who reside on such Owner's Lot and, to his guests, invitees and licensees.

Section 2.03. Title to the Common Area. Prior to the sale of any Lot, the Declarant hereby covenants for itself, its successors, and assigns that in accordance with the Planned Community Act it will convey fee simple title to the Common Area shown on the same recorded Subdivision Map to the Association, which Common Area shall include any private roads or drives which may have been previously created, free and clear of all encumbrances and liens, except utility and drainage easements and those easements stated in Article VIII. Title to Common Area within real property annexed pursuant to this Declaration shall be similarly conveyed to the Association. The Common Area shall be preserved for the perpetual benefit of the Owners of the Lots and the Common Area is restricted against private or public ownership for any reason other than as provided by the Planned Community Act. Common Area shall not be subsequently subdivided or conveyed by the Association except as permitted by and in accordance with this Declaration, the Planned Community Act and the ordinances, rules, regulations and procedures, including variances, of the Town of Cary.

Section 2.04. Telecommunications Systems and Antennas. The Association may provide, but is not required to provide, one or more cable television or telecommunication systems, central television antennas or other telecommunications-receiving devices for the convenience of the Members. The costs of services provided under these contracts shall be included in annual or special assessments applicable to the Lots. The Association may regulate or prohibit the erection of antennas, satellite dishes and related equipment on any Lots in accordance Section 7.05 of this Declaration. No exterior antennas, dishes, towers, or other transmitting or receiving structure, or support thereof, shall be erected, installed, placed, or maintained without the prior written consent

of the Board of Directors or Architectural Committee. The Association may further enter into a telecommunications agreement with a third party provider to provide cable television services, email and computer services and similar or related services to its Members, the cost of which shall be included in annual or special assessments to the Members. Once executed, either before or after the recordation hereof, such agreements shall continue in place in accordance with their respective terms and shall not be terminated or voided by the Association.

Section 2.05. Parking Rights. If a Lot is improved with a garage then said garage and the space in front of the garage is the area for parking if it does not interfere with another Owner. Owners of Lots, members of their family, their guests or tenants shall not be permitted to park any vehicles on the streets of the Properties. Garages shall be used for parking of motor vehicles and shall not be used as storage areas nor converted to other uses, such as conversion to living area. The Board may regulate all parking on the Common Areas including but not limited to the parking of boats, trailers, and other such items on the Common Areas. No boats and other water craft, trailers, campers, tractors, trucks other than pickup trucks rated at 3/4 tons or less, and motor vehicles other than passenger motor vehicles for 8 or fewer passengers nor commercial vehicles shall be parked within the right of way of any street within the Properties, nor shall any of these be regularly parked on the Properties except in an enclosed garage or in areas on the Properties designated by the Board. No inoperable motor vehicles shall be regularly stored on any Lot or on the streets of the Properties. The Board may from time to time adopt appropriate rules for the temporary parking of any of these items on the Properties.

Section 2.06. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations concerning the use of the Common Area, including but not limited to the Amenities, and the Lots. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners' prior to their effective date. Such rules and regulations shall be binding upon the Owner's (with the exception of the Class E Member), their families, tenants, guests, invitees, and agents until and unless such rule or regulation shall be specifically overruled, canceled, or modified by the Board of Directors or by the affirmative votes of a majority of the Members in a regular or special meeting. After notice and opportunity to be heard, the Board of Directors shall have the authority to impose reasonable monetary fines and other sanctions for a violation of the Association's rules and regulations, including but not limited to a suspension of the Owner's rights to use the Common Area. All rules and regulations shall be uniform with respect to the Lots. Notwithstanding anything to the contrary in this Declaration, the Board of Directors may not suspend an Owner's right of ingress and egress over the Common Areas and right to the use of parking spaces as provided in this Declaration.

Section 2.07. Taxes on Common Area. The Association shall be responsible for and shall cause to be paid out of annual assessments all ad valorem taxes, special assessments and assessments for public and private capital improvements made to or for the benefit of the Common Area or levied against the Common Area, if any.

Section 2.08. Leases of Lots. Any lease between an Owner and a tenant for the lease of such Owner's Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Organizational Documents and the rules and regulations of the Association, as they exist from time to time, and that any failure by the tenant to comply with the provisions of this Declaration, the Organizational Documents and the rules and regulations of the Association, as they exist from time to time, shall be a default under the terms of the lease. All leases of Lots shall be in writing and shall be for a term of not less than 180 days.

Section 2.09. Utility Charges for Water and Street Lights. As consideration for the conveyance of the Common Area and as consideration for the rights, entitlements and benefits granted to and conferred upon the Association under and by virtue of this Declaration, the Association covenants and agrees to accept the responsibility for payment of any and all fees, charges and expenses arising by virtue of the use of water provided to and used in connection with any of the Common Area and by virtue of the use and operation of the street lights installed and erected within the Common Area from and after the date of acceptance. Such cost of fees, charges and expenses paid by the Association shall be charged ratably to the Owners as an Assessment according to the provisions of Article IV below.

Section 2.10. Fences. There shall be no fencing allowed on any Lot except as approved by the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.01. Membership. Every Owner of a Lot shall be a Member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot. Following termination of the Properties as a planned community under the provisions of the Planned Community Act, all Persons are entitled to distributions of proceeds under the Planned Community Act shall be Members of the Association.

No Owner, whether one or more Persons, shall have more than one (1) membership for each Lot owned. In the event the Owner of a Lot is more than one Person, the votes associated with such Lot shall be cast as provided in the Planned Community Act.

3.02. Membership Classes:

Class A: Class A Members are all Owners of Lots described in Exhibit B containing or intended for a single family Attached Dwelling Units excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class A Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise provided herein, Class A Members are entitled to the following votes:

- (1) A Class A Member is entitled to one (1) vote for each Attached Lot owned by such Class A Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class B: Class B Members are all Owners of Lots described in Exhibit C containing or intended for single family Attached Dwelling Units, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class B Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class B Members are entitled to the following votes:

- (1) A Class B Member is entitled to one (1) vote for each Attached Lot owned by such Class B Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class C: Class C Members are all Owners of Lots described in Exhibit D containing or intended for a single family Detached Dwelling Units, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class C Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class C Members are entitled to the following votes.

- (1) A Class C Member is entitled to one (1) vote for each Detached Lot owned by such Class C Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class D: Class D Members are all Owners of Lots described in Exhibit E containing or intended for Detached Dwelling Units referred to as patio homes, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class D Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class D Members are entitled to the following votes:

- (1) A Class D Member is entitled to one (1) vote for each Attached Lot owned by such Class D Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class E: The Class E Member(s) shall be the Declarant, or its assigns, and shall be entitled to three (3) votes for each Lot owned. The foregoing allocation of votes is in recognition of the fact that the Properties likely will be developed in phases and there may be times during the development of the Properties when Declarant owns less, if any, Lots. The Class E membership shall be reinstated if before December 31, 2011 additional lands are annexed to this Declaration as hereinafter provided. The Class E membership shall cease and be converted to Class A, Class B, Class C and Class D membership on the happening of either of the following events, whichever occurs earlier:

- (a) When 75% of the maximum number of Lots allowed for the Properties (as amended and supplemented from time to time) under the subdivision plan have been conveyed to Owners; or
- (b) on December 31, 2011; or
- (c) the date specified by the Declarant in a written notice to the Association.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned with the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual Assessments or charges, and (2) collected as hereinafter provided. All annual assessments shall be fixed at a uniform rate for all Lots; provided, however, as to any Lot which is not a Lot in use (owned by Declarant or its' assigns), the amount of the annual assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the amount of the annual assessment applicable to a Lot which is a Lot in use. Assessments may be collected on an annual, semi-annual or quarterly basis as determined by the Board from time to time. The annual and special assessments, together with interest thereon, applicable late fees and the costs of collection thereof, including reasonable attorney fees, shall be a charge on the Lot and shall be a continuing lien upon such Lot against which each such assessment is made until paid in full. Each such Assessment, together with such interest, late fees and costs of collection, including reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment became due. The personal obligation

for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 4.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to pay the Common Expenses and to promote the beautification of the Property, the recreation, health, safety and welfare of the residents of the Property, to enforce these covenants and the rules and regulations of the Association, and in particular for the acquisition, improvement and maintenance of the Common Area, services and facilities devoted to these purposes and related to the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the cost of maintenance as provided in this Declaration and, in particular, for the payment of governmental water and sewage disposal charges attributable to the Common Areas, as well as other like expenses, including but not limited to, operation, maintenance and repair of Stormwater Control Measures and for such other purposes permitted by the Planned Community Act Chapter 47F of the General Statutes of North Carolina as now stated and as hereafter amended. Assessments shall include, but not be limited to, the payment of taxes, liability insurance and all assessments for the public improvements of the Common Area, and easements appurtenant thereto, the enforcement of these covenants and the rules of the Association and, in particular, for the improvement and maintenance of the Property, private streets, drives and parking areas, and the employment of attorneys, accountants and other professionals on behalf of the Association when necessary. The Association shall be required to maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Association Common Area out of the assessment levied.

Section 4.03. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas and those other portions of the Properties or Lots which the Association may be obligated to maintain. Such reserve fund is to be established and maintained out of regular assessments as a common expense, but if the reserve fund is inadequate, a special assessment may be made.

Section 4.04. Maximum Annual Assessment. The following provisions shall not operate so as to restrict the Association or the Board in performing the duties and obligations required of the Association or the Board under the Planned Community Act, but they shall be a limitation on discretionary costs and expenses above and beyond such duties and obligations:

(1) The maximum amount annual assessment applicable to the Association will be determined before the sale of any Dwelling Unit to any Person which amount shall be applicable until January 1, 2007.

(2) From and after January 1, 2007, the maximum annual assessment may be increased each year not more than twenty percent (20%) above the maximum assessment for the previous year without a vote of the membership. Any budget increasing

assessments by less than twenty percent (20%) is ratified unless ninety percent (90%) of the total vote of each class of Members vote to reject the budget at a duly called meeting.

(3) From and after January 1, 2007, the maximum annual assessment may be increased above twenty percent (20%) of the maximum annual assessment for the previous year by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(4) The Board of Directors may fix the annual Assessment at an amount not in excess of the maximum annual assessment.

(5) Until the Association makes an assessment for Common Expenses, the Declarant shall pay all Common Expenses as required by the Planned Community Act. If the assessments are insufficient to pay all Common Expenses, the Declarant may advance expenses for the maintenance and operation of the Association to the extent that annual assessments assessed against the Owners are inadequate for this purpose. Such advance shall be to the Association and on terms generally available to Declarant from its lending institution. At such time as the majority of the total votes of the Association are no longer held by the Declarant, its successors or assigns, the Declarant shall have no further obligation for maintenance and operation of the Association pursuant to the terms of this section. Notwithstanding the foregoing, Declarant, its successors and assigns, shall be responsible for the payment of assessments and other amounts pursuant to other sections of this Declaration.

Section 4.05. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, or any other purpose permitted under the Planned Community Act. Any such special assessment shall have the two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Fines levied by the Board of Directors shall be treated as special assessments otherwise due to the Association, and as such, will be a lien against the Owner's Lot if not paid. Such fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines.

Section 4.06. Working Capital Fund. In addition to any other assessment provided in this Declaration, a sum equal to two (2) months of the regular annual assessment applicable to such Lot shall be collected from the purchaser and transferred to the Association at the time of closing of the sale of each Lot to a party other than the Declarant or its' assigns. Each Lot's share of the working capital fund shall be paid to the general operating fund of the Association to be used in the same manner specified for annual assessments. All sums paid into the working capital fund are in addition to and not in lieu of regular assessments for Common Expenses.

Section 4.07. Notice and Quorum for Any Action Authorized Under Sections 4.04 and 4.05. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.04 or 4.05 of this Article shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast twenty percent (20%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, the meeting may be adjourned and another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. This provision shall continue to reduce the quorum by one-half from that required by the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 4.08. Uniform Rate of Assessment. Both annual and special Assessments must be fixed at a uniform rate for all Lots and annual assessments shall be due and payable and collected on an annual, semi-annual or quarterly basis or as deemed appropriate by the Board of Directors.

Section 4.09. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to a Lot on the earlier of the date such Lot was conveyed by the Declarant to a third party purchaser or the date such Lot becomes a Lot in use. The first annual assessment for such Lot shall be adjusted according to the number of months remaining in the calendar quarter or year. The Board of Directors shall adopt a proposed budget for the Association and fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. The Board of Directors shall send to each Member a written summary of the proposed budget and a written notice of the annual assessment due subject thereto. If necessary, a written notice of the meeting of Members to consider ratification of the proposed budget must be sent to all Members at least ten (10) days and not more than sixty (60) days in advance of such meeting called for that purpose. Unless otherwise provided in the Planned Community act, there shall be no requirement that a quorum be present at such meeting to consider ratification of the proposed budget. The proposed budget shall be ratified unless at that meeting a majority (or such smaller percentage as required by the Planned Community act) of the votes of all Members rejects the proposed budget. In the event the proposed budget is rejected, the last ratified budget of the Association shall continue until a new budget is ratified. The due date shall be as previously set forth herein, unless otherwise established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 4.10. Effect of Nonpayment of Assessments. Remedies of the Association. Any assessment remaining not paid thirty (30) days after the due date shall

be delinquent. The Association shall have the option to declare the outstanding balance of any assessment due and payable if any installment thereof shall become delinquent as defined herein. If an assessment is not paid within thirty (30) days after its due date, the assessment shall bear interest from its due date at the rate of eighteen percent (18%) per annum, or other such rate as established by the Association as provided in the Planned Community Act, but in no event shall such interest exceed the highest rate allowed by law, and shall also be subject to late fees as approved by the Board of Directors and permitted by law. Sixty (60) days after the delinquency, the Association may bring an action at law against the Owner personally obligated to pay the same for such delinquent assessment, interest thereon, late charges and reasonable attorney fees of any such action, or foreclose the lien against the property in a like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. For purposes of this Section, the amount of delinquent assessment and late charge shall be considered evidenced by this paragraph and therefore, evidence of indebtedness shall exist hereby. Each Owner, by acceptance of a deed to a Lot hereby expressly grants to the Association, its agents or assigns, the right and power to bring all actions against such Owner personally liable for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 4.11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage or first deed of trust on a Lot. Mortgagees are not required to collect assessments and nothing in this Declaration shall require that failure to pay assessments shall constitute a default under a Mortgage insured by the U.S. Department of Housing and Urban Development ("HUD"), the U.S. Department of Veteran Affairs ("VA") or by any other governmental mortgage insurance program, such as those by the Federal Home Loan Mortgage Corporation, the Government National Mortgage Corporation or the Federal National Mortgage Association. Sale or transfer of any Lot shall not affect the assessment lien; however, the sale or transfer of any Lot pursuant to the foreclosure of any such Mortgage, deed of trust or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer; provided that the Association and Declarant have been notified of said foreclosure prior to the date thereof. Such unpaid assessments extinguished by the foreclosure sale shall be deemed to be a Common Expense collected from all Owners, including the purchaser at foreclosure, his successors and assigns. No sale or transfer shall relieve any such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4.12. Exempt Property. The following portions of the Properties, subject to this Declaration shall be exempt from the assessment created herein:

1. All portions of the Property dedicated to and accepted by a local public authority; and

2. The Common Area.

Section 4.13. Fines. Designated to be Special Assessments. The Board may impose fines against any Lot and such fines shall be treated as a special assessment otherwise due to the Association, and as such will be alien against the Owner's dwelling or Lot. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines. These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fines paid by the offending Owner(s) shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner. Fines shall be as follows:

- (a) First non-compliance or violation: a fine not in excess of Fifty Dollars (\$50.00).
- (b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).
- (c) Third and subsequent non-compliance, or violation or violations that are of a continuing nature: a fine not in excess of One Hundred Dollars (\$100.00) for each week of continued violation or non-compliance.

Section 4.14. Association Funds Not Asset of Owners. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any common expense or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration and the Organizational Documents of the Association. The Association shall maintain separate accounting for all Class A and Class B monies. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association and any increments thereto or profits derived therefrom, shall be held for the benefit of the Members, no Member shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a Member by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or for any assessment which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association are an asset of the Association which may be used in the operation and management of the Properties

ARTICLE V**INSURANCE**

Section 5.01. Ownership of Policies. All insurance policies upon the Common Area, which shall be purchased by the Association, shall be for the benefit of all the Association and the Owners and their mortgagees as their interest may appear.

Section 5.02. Coverage. The Board of Directors or its duly authorized agent may have the authority to and shall obtain insurance for the Common Area, including but not limited to the recreational facilities, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard and shall also obtain a broad-form liability policy covering the Common Area and all damage or injury caused by the negligence of the Association or any of its agents in an amount as determined by the Board of Directors, but in any event of not less than One Million Dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of each named insured under the policy shall not be prejudiced with respect to his action against another named insured. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary. Such policies shall contain clauses providing for waiver or subrogation, if possible. All such insurance coverage shall be written in the name of the Association.

Section 5.03. Fidelity Insurance or Bond. The Association may maintain blanker fidelity bonds or other similar insurance coverage for all officers, directors, trustee and employees of the Association and for all other Persons handling or responsible for funds of or administered by the Association. Where the Association has delegated some or all of the responsibility for the handling of funds or to otherwise deal in the assets of the Association to a management agent, such management agent shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties.

The total amount of fidelity bond coverage shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event shall the aggregate amount of such fidelity bonds be less than a sum equal to one-half (1/2) of the total annual assessments on all Lots plus reserve funds accumulate.

Fidelity bonds required herein shall:

- A. name the Association as an obligee;
- B. contain waivers by the issuers of the fidelity bond of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions; and

- C. to the extent available without the payment of an additional premium, provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association, to any such agent as the Association shall designate to negotiate settlement of insurance claims on behalf of the Association, and to any institutional lender servicing on behalf of the Federal National Mortgage Association any loan secured by any Lot.

Notwithstanding anything to the contrary, in lieu of fidelity bonds, insurance providing similar coverage or protection may be provided and references to "fidelity bonds" shall include such insurance.

Section 5.04. Premiums. Premiums for contracts of insurance and fidelity bond coverages purchased by the Association shall be paid by the Association and charged ratably to all Owners as an assessment according to the provisions of Article IV above.

Section 5.05. Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association and its mortgagees, if any, as their interest may appear, and the Owners, and shall provide that all proceeds thereof shall be payable to the Association, as insurance trustee under this Declaration. The sole duty of the Association, as insurance trustee, shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein.

Section 5.06. Distribution of Insurance Proceeds. Proceeds of contracts of insurance received by the Association, as insurance trustee, shall be distributed to or for the benefit of the beneficiary or beneficiaries thereof in the following manner:

- (a) the proceeds shall be paid first to defray the cost of reconstruction and repair of casualty or liability so covered.
- (b) any expense of the insurance trustee may be paid from proceeds after payment of reconstruction or repair expenses or liability. Any proceeds remaining thereafter shall be distributed to the beneficiary or beneficiaries of the trust.

ARTICLE VI

ARCHITECTURAL CONTROL AND BUILDING RESTRICTIONS

Section 6.01. Purposes. The Properties are hereby made subject to the protective covenants and restrictions hereby declared for the purpose of insuring the best use and most appropriate development and improvement of each Lot in the Properties; to protect the Owners against such improper use of surrounding Lots as will depreciate the value of the Properties; to preserve, so far as practicable, the natural beauty of said Properties; to

guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper and unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said Properties; to encourage and secure the erection of attractive dwelling units thereon, with appropriate locations thereof on Lots; to secure and maintain proper set-backs from the streets and adequate free spaces between structures; and in general to provide adequately for a high type and quality of improvements in said Properties and thereby to enhance the values of investments made by the purchasers of Lots therein. It is specifically disclosed that different architectural styles, sizes and prices of dwellings may be built by the Declarant or its' assigns to provide a variety of housing options.

Section 6.02. Plan Approval Requirement. Other than improvements constructed, installed, planted or otherwise made by the Declarant or its' assigns, no building, sign, fence, outside lighting, hedge, wall, roof, shingle replacement, walk, antenna, deck, porch, carport, garage, or other structure or landscape planting shall be commenced, constructed, erected, altered, permitted or planted on any Lot, nor shall any addition, alteration, replacement, repair to the exterior or other change in exterior appearance of a dwelling unit or Lot be made thereto, nor shall any building, wall, fence, or other structure be rebuilt after destruction by any hazard until the plans and specifications showing the nature, kind, shape, height, materials, floor plans, color scheme, and location with respect to topography and finished ground elevation shall have been submitted to an approved in writing by the Declarant or its' assigns during the period of Class E membership, and thereafter the Architectural Control Committee. The Architectural Control Committee shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving such plans and applications, the Architectural Control Committee shall consider the suitability of the proposed building, improvements, structure, landscaping and materials or location on which the same are built, the site upon which it is proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the Architectural Control Committee shall fail to specifically approve or disapprove the plans and specification submitted in final and complete form, within forty-five (45) days after written request for final approval or disapproval such plans and specifications shall be deemed approved. To the extent not prohibited by the Planned Community act or by regulations of HUD or VA, the Association shall have the right to charge and collect a reasonable fee for review of such plans and specification. Nothing herein contained shall be construed to require approval for any improvements, constructed, made, installed or planted by the Declarant, or its' assigns, nor to permit interference with the development of the Properties by the Declarant, or its' assigns, so long as said development follows the general plan of development of the Properties approved by FHA and/or VA, if any, or by the Town of Cary from time to time.

Section 6.03. Architectural Committee. The Board of Directors shall designate the number of and appoint the members of the Architectural Committee on an annual basis. Each of the Classes A through E shall be entitled to a representative on the

Architectural Committee. In the event of the death or resignation of any member of the Architectural Committee, the remaining members of the Architectural Control Committee, shall have full authority to designate and appoint a successor. Members of the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by the Board.

Section 6.04. Procedures. No improvement shall be erected, remodeled or placed on any Lot, except by the Declarant, or its' assigns, until all plans and specifications therefore and a site plan therefore have been submitted to and approved in writing by the Architectural Control Committee, as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces;
- (c) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and any improvements situated thereon and drainage arrangement; and
- (d) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Control Committee, or matters in which the Architectural Control Committee has been vested with the authority to render a final interpretation and decision.

Final plans and specifications (including a site plan showing the location of the contemplated improvements on the Lot) for all improvements proposed to be constructed on a Lot shall be submitted to the Architectural Control Committee for approval or disapproval. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials. Any modification or change to the Architectural Control Committee – approved set of plans and specifications (specifically including, but without limitation, the above described site plan) must again be submitted to the Architectural Control Committee for its inspection and approval. The Architectural Control Committee's approval or disapproval as required herein shall be in writing. Once the Architectural Control Committee has approved the plans and specifications for the proposed improvements, the construction of such improvements must be promptly commenced and diligently pursued to completion and if such construction is not commenced within the time set therefore by the Architectural Control Committee in the written approval (but in no event later than two (2) years after such approval), such approval shall be deemed rescinded and before construction of improvements can thereafter be commenced on the Lot in questions, the plans and specifications therefore must again be approved by the Architectural Control Committee pursuant to this Article.

The Architectural Control Committee may from time to time publish and promulgate architectural standards bulletins which shall be fair, reasonable and uniformly applied in regard to the Lots and shall carry forward the spirit and intention of these covenants, conditions and restrictions. Current copies of the architectural standards bulletins shall be available to interested persons at the principal office of the Association for a reasonable cost.

Section 6.05. Enforcement. The Architectural Control Committee shall have the specific, nonexclusive right (but no obligation) to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained herein. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed improvement, or to remove any unapproved improvements, the prevailing party shall be entitled to recovery of all court costs, expenses and reasonable attorney fees in connection therewith.

Section 6.06. Conditions. As a condition to the granting of approval of any request made under this Article, the Declarant or the Board or the Architectural Control Committee, as the case may be, may require that the Owner requesting such change be liable for any cost of maintaining or repairing the approved project. If such condition is imposed, the Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Declarant or the Board, as the case may be. Thereafter, the Owner, and any subsequent Owner of the Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that any cost of maintenance and repair of such improvement shall be added to and become a part of the annual assessment or charge applicable to such Lot, and subject to the lien rights provided in this Declaration.

Section 6.07. Grounds for Disapproval/Defects. Denial of approval of such plans, locations or specifications may be based upon any grounds, including purely aesthetic and environmental, which the Declarant, Board of Directors or Architectural Control Committee, as the case may be, in its sole discretion, shall deem sufficient. The Declarant, Board of Directors and Architectural Control Committee shall not be responsible for any deficiencies or defects in the plans and specifications submitted to it or in any structure erected according to such plans and specifications.

Section 6.08. Verification of Compliance with Plans. The Declarant, Board of Directors or Architectural Control Committee, as the case may be, or its appointed agents, shall have the right, at its election, but shall not be required, to enter upon any Lot during site preparation or construction, erection or installation of improvements, to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

Section 6.09. Limitation of Liability. Neither the Architectural Control Committee, the members thereof, nor Declarant shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any

Owner by reason of mistake of judgment, negligence or nonfeasance arising out of services performed pursuant to this Article or the Declaration. Every person who submits plans and specifications for approval agrees, by submission of such plans and specifications, that it will not bring any action or suit against the Association, Declarant or Architectural Control Committee to recover any such damages.

Section 6.10. Compensation. No member of the Architectural Control Committee shall be entitled to compensation arising out of services performed pursuant to this Article. The Association shall reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses incurred by such members in the performance of their duties as members of the Architectural Committee.

Section 6.11. Maintenance by Association. Common Areas and improvements thereon shown on the recorded Maps of the Property shall be maintained by the Association.

The streets within the Properties shall be dedicated for public use on each recorded Map. Declarant shall remain responsible for any maintenance or repair necessary for any streets until maintenance is formally accepted by the Town of Cary or other appropriate government entity. The Association shall maintain the private streets which shall be part of the Common Area, but not part of a Sub-Association.

Section 6.12. Class A, B, C and D Membership – Maintenance Responsibilities. The maintenance responsibilities of all Sub-Association Common Areas and of each Class of Membership shall be set forth in separate Declarations for each of the properties set forth in Exhibits B through E.

Section 6.13. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Map and over the rear ten (10) feet on each Lot and five (5) feet on each side, on each Lot, unless shown in excess of such distances on a recorded Map, in which case the Map shall control. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements that are included as Common Area and those improvements for which a public authority or utility company is responsible. No easement shall exist along an interior Lot line on any Lot on which a house is constructed within an area which would otherwise be an easement, if the placement of the house is permitted in these covenants. So long as Declarant owns at least one Lot within the Properties, Declarant reserves the right to waive in writing this rear and side line easement requirement.

ARTICLE VII**USE RESTRICTIONS**

Section 7.01. Permitted Use. No Lot shall be used for any purpose other than a single family residential dwelling; provided, however, the Declarant excepts and reserves the right for itself and its assigns to use any Lot or dwelling unit as construction or sales offices and/or models which may be shown to prospective purchasers of Lots. No garage shall be converted or used as a bedroom, storage room or other living space, nor shall the number of bedrooms in a dwelling unit on any Lot be increased without the approval of the Association and the Town of Cary. Garages shall be used for the parking of motor vehicles and limited storage which does not interfere with such parking. No attached or detached garage shall be used for human habitation temporarily or permanently.

Section 7.02. No Businesses. Except as specifically provided in this Section, no trade, business, industry, occupation or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any Lot or other part of the Properties, except that any Owner may lease his Lot for residential purposes in accordance with this Declaration; provided, however, the foregoing covenant shall not apply to the business activities associated with the development of the Properties and sales of the Lots and the construction and maintenance of houses and other improvements on the Lots, and to the various activities of the Association in furtherance of its powers and purposes. The Declarant and its agents and builders may use any Lot or Lots and any dwelling thereon for office, sales or display purposes.

An Owner or occupant residing in a dwelling on any Lot may conduct business activities within such dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all applicable zoning requirements, without the need for a variance; (c) the business activity does not involve door-to-door solicitation of residents of the Properties; (d) the business activity does not, in the reasonable judgment of the Board of Directors, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Properties which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; (e) the business activity is consistent with the residential character of the Properties, does not create a hazardous or dangerous condition nor threaten the security or safety of other occupants of the Properties, and is not a nuisance nor an unreasonable annoyance or offensive use, all as may be determined in the sole discretion of the Association's Board of Directors.

The terms "business", "trade", "industry", "occupation" and "profession" as used in this Section, shall be construed to have their ordinary, generally-accepted meanings and shall include, without limitation, any occupation, work or activity which involves the provision of goods or services to person other than the provider's immediate family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether such activity is engaged in full or part-time, such activity is intended to or does generate a profit, or whether a license is required. The leasing of a

Lot in accordance with this Declaration shall not be considered a business or trade within the meaning of this Section.

Section 7.03. Prohibited Structures. No Owner shall at any time place on such Owner's Lot or any other portion of the Properties, any mobile, manufactured or modular home, nor shall any tent, shack, barn, other outbuilding, camper or other temporary structure of a similar nature be used as a residence either temporarily or permanently upon any Lot, with the limited exception of construction trailers for use as offices by Declarant or its' assigns for overseeing construction and sales during the construction process and then only for the use of the contractor performing such construction and sales. Such construction trailers shall not be permitted to remain on the Properties after the period of construction and sales. Accessory buildings of any nature whatsoever, including but not limited to detached garages, storage buildings, dog houses, greenhouses, etc. shall not be placed on any Lot without the prior written approval of the Architectural Control Committee. No exposed above-ground tanks, except for recreational swimming pools approved by the Architectural Control Committee, will be permitted for the storage of fuel or water or any other substance, except that such tanks may be placed above-ground provided that they are kept in a screened enclosure which must exceed in height by at least one (1) foot any such tank as may be placed therein. No fence, wall, hedge or mass planting shall be permitted to extend beyond the minimum building set back line except upon approval by the Architectural Control Committee. The use of chain link fencing is not permitted on the Properties.

Section 7.04. Animals. No animal, livestock or poultry of any kind shall be raised or kept on any Lot, except that no more than 2 dogs, cats or other usual household pets may be kept and maintained thereon, provided that such pets shall not be a danger or menace to others, that they are not kept or maintained for any commercial purposes or in such a manner to be offensive, threatening or dangerous to the residents of the Properties and provided further that they are kept, maintained and controlled in compliance with: (i) all applicable laws, ordinances and regulations of the State of North Carolina, Wake and Chatham County and the Town of Cary, (ii) such rules and regulations as the Board of Directors may adopt from time to time, and (iii) the keeping of such animals does not increase the premiums for any insurance maintained by the Association or which will result in the cancellation of any such insurance. In the event of a dispute over whether an animal is a permitted household pet for purposes hereunder, the determination of the Declarant during the period of Class E Membership and thereafter by the Board of Directors shall be final. Puppies and kittens in excess of the numbers set forth above may be kept only until old enough to be safely separated from their mother. The Board of Directors shall have the absolute power to prohibit any particular pet from being kept on the Properties, including inside a residence, if the Board of Directors in its sole and absolute discretion determines that the pet is threatening, menacing, dangerous, a nuisance, or otherwise has a negative impact on the Properties. Additionally no kennel or dog run or similar structure shall be constructed or allowed to remain on any Lot.

Section 7.05. Outside Antennas. No outside radio or television antennas or discs shall be erected on any Lot or dwelling unit within the Properties, but a satellite dish with a diameter of two (2) feet or less may be installed, in a location that is not

visible from the street in front of the dwelling unit, upon receipt of permission for the same granted by the Declarant or the Board of Directors or its Architectural Control Committee in accordance with Article VI. To the extent this restriction may later be determined to be unenforceable pursuant to applicable laws; including but not limited to any rules and regulations promulgated by the Federal Communication Commission (as from time to time may be amended), an Owner shall nevertheless be restricted in its placement of said antennas to an area which is least visible from the front of the Lot or dwelling unit and which causes or is likely to cause the least interference with the placement and use of antennae and disks by other Owners. Any permitted antenna or disk shall be installed, maintained and replaced in accordance with rules and regulations adopted by the Board from time to time. Nothing in this section, however, shall prohibit (but shall not obligate) the Declarant or the Association from erecting a central master antenna, satellite dish or other similar master telecommunication system for the benefit of the Lots and charging fees for usage thereof.

Section 7.06. Insurance Risks. Nothing shall be kept and no activity shall be carried on in any dwelling unit, Lot or on the Common Areas, nor shall any Owner do or keep anything, nor cause or allow anything to be done or kept on his Lot, or in his dwelling unit or on the Common Area, which will increase the rate of insurance, applicable to residential use, for the Properties or the contents thereof or which will result in the cancellation of insurance on any portion of the Properties, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Areas

Section 7.07. Signs. No Owner shall display, or cause or allow to be displayed, to public view on his Lot any sign, placard, poster, billboard, or identifying name or number on any portion of a Lot, the Common Area or the right-of-way of any street or road within the Properties except as permitted in this Declaration or as required by the Town of Cary. Notwithstanding the foregoing, the Declarant and each Owner, or their respective agents, may place a single "For Sale" or "For Rent" sign on any Lot they own. During the development of the Properties and the marketing of Lots, the Declarant, builders and their realtors may maintain offices and may erect and display such signs and banners as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws. No Owner, other than the Declarant, shall display, or cause or allow to be displayed, to public view on his Lot any "For Sale" or "For Rent" sign which exceeds 24 inches in width or 15 inches in height. The Board of Directors may adopt Rules and Regulations concerning the color and placement of signs by Owners other than the Declarant. A sign advertising a yard sale or other temporary activity may be displayed on a Lot for no more than seventy-two (72) consecutive hours. Notwithstanding the foregoing, the Board of Directors has the authority to require any sign, other than a sign maintained by the Declarant, be removed if it determines, in its sole discretion, such sign to be detrimental to the Properties. Easements are reserved as shown and designated on the recorded Maps of the Properties to erect and construct entrance signs and landscape or streetscape areas.

Section 7.08. Structural Integrity. Nothing shall be done in or to any dwelling unit on any Lot or in, to, or upon any of the Common Areas which will impair the

structural integrity of any building, dwelling unit, or portion of the Common Areas or which would impair or alter the exterior of any building or portion thereof, except in the manner provided in this Declaration.

Section 7.09. Number Percent (10%) by a vote of Occupants. No Lot shall be rented to or occupied by a greater number of unrelated individuals than the number of bedrooms in the dwelling unit on such Lot as approved in accordance with Article VI of this Declaration. No Lot shall be rented to or occupied by a number of individuals, whether or not unrelated, which exceeds twice the number of bedrooms in the dwelling unit on such Lot as approved in accordance with Article VI of this Declaration; provided, however, a Lot may be rented to or occupied by a number of individuals which is not more than three (3) times the number of bedrooms in the dwelling unit on such Lot as approved in accordance with Article VI of this Declaration so long as all such individuals occupying such dwelling unit are within the same immediate natural or adopted family (namely, spouses, grandparents, parents, children and grandchildren) or who are legal guardian and ward. For purposes of this Section, "unrelated individuals" means individuals who are neither within the same immediate natural or adopted family (namely, spouses, grandparents, parents, children and grandchildren) nor who are legal guardian and ward; provided, however, siblings shall be considered unrelated individuals unless one of their parents or legal guardian also occupies the same Lot as such parent's or legal guardian's principal residence.

Section 7.10. Maintenance of Lots. Maintenance requirements for all Lots of Class A through D owners are set forth in separate Declarations.

Section 7.11. Garbage Cans and Trash Removal. Garbage cans or approved dumpsters shall be located or screened so as to be concealed from view of neighboring Lots, Common Areas and street rights of way. All rubbish, trash, and garbage shall be regularly removed from any Lot and shall not be allowed to accumulate thereon. Trash spillage shall be the responsibility of the subject Owner for removal. Yard waste must be disposed of properly and not deposited on any other Lot, the Common Areas or street rights of way within the Properties. Notwithstanding the foregoing, the Declarant reserves for itself and its approved builders of dwelling units within the Properties the right to dump and bury rocks, trees, stumps and similar debris as needed for efficient development of the Properties provided that such dumping and burying are done according to good building practice and in accordance with all applicable governmental laws and regulations.

Section 7.12. Nuisances. No immoral, improper, offensive or unlawful use shall be made of the Properties, or any part thereof, and all valid laws, orders, rules, requirements, ordinances and regulations of all governmental agencies having jurisdiction thereof relating to any portion of the Properties shall be observed. No noxious or unreasonably offensive activities shall be carried on upon any Lot or other portion of the Properties, nor shall anything be done thereon which may be or become a nuisance or an unreasonable annoyance to the neighborhood. Activities associated with the development of the Properties and the construction of dwelling units or Common Area facilities on the Properties shall not be deemed offensive nor an annoyance or nuisance if

conducted in accordance with the ordinances of the Town of Cary. Other than in connection with the development of the Properties or the construction and sale of Lots and dwelling units by the Declarant or its' assigns, no trade materials or inventories may be stored upon a Lot.

Section 7.13. Rules and Regulations. The Board of Directors shall have the power to formulate, adopt, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment of the yard spaces of each Lot and the Common Area. All rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolutions which shall be maintained in a place convenient to the Owners and available to them for reasonable inspection during normal business hours.

Section 7.14. Subdivision of Lot. No Lot shall be subdivided nor its boundary lines changed except with the prior written approval of the Declarant or its assigns, if during the period of Class E membership, and thereafter with the prior written approval of the Board; provided, however, the Declarant reserves the right to subdivide, re-subdivide or recombine any Lot or other property in the Properties owned by the Declarant. Any subdivision, re-subdivision or recombination of the Properties or any portion thereof shall be done in accordance with all applicable laws and regulations.

Section 7.15. Open Space Preservation and Protection Areas. Within any portion of the Common Area which is designated or approved as open space preservation and protection areas, no land-disturbing activity, placement of impervious surfaces, removal of vegetation, encroachment, construction or erection of any structure shall occur except with approval of the Association and in accordance with a watercourse buffer permit first being issued by the Town of Cary.

Section 7.16. Stormwater Control Measures – Potential Fines & Liens. Portions of the Common Area are or may be subject to drainage easements, as shown on the recorded Maps, identified in Section 1.24 of this Declaration. If so required, stormwater control measures shall be maintained by the Association in accordance with the requirements of the Town of Cary. Stormwater control measures are required to comply with the Cary Town Code and the failure to maintain stormwater control measures is a violation potentially subjecting each Lot Owner to significant daily penalties and other enforcement action.

Section 7.17. Development Rights Reserved. Notwithstanding any provisions or restrictions contained in this Declaration, and rules and regulations adopted hereunder or any amendments to the foregoing, it shall be expressly permissible for the Declarant, and its respective agents, employees and approved builders during the period of Class E membership to maintain such facilities and carry out such construction activities as may be reasonably required, convenient or incidental to the development, improvement, completion and sale of any portion of the Properties, including without limitation, the installation and operation of sales and construction trailers and offices, sales models and appropriate signs; provided, however, that in the event a sales office has been maintained in any portion of a Lot such sales office must be removed and the original intended and

approved use of such structure must be restored prior to conveyance from the Declarant or its assigns to any third party purchaser.

Section 7.18. Government Regulations. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Properties shall be observed. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Declaration, the more restrictive provision shall apply.

Section 7.19. Stream River Riparian Buffers. A portion of the Property contains Stream River riparian buffers and contains a series of stormwater measures that were constructed, enhanced or preserved as part of this development. These measures include the storm collection and drainage system, stormwater management ponds/constructed wetlands, grass swales, wetland areas, wooded buffers, outlet protection devices, level spreaders, and other features. These devices are required by local and state agencies, as part of the overall water quality measures for this development. These devices will be managed and maintained by the Association, in accordance with an approved maintenance plan.

Section 7.20. Lake and Buffer Rules and Regulations. Each Owner's use and enjoyment of the lake located on the Property and other adjoining Common Properties shall be subject to the following provisions:

- (a) no boats shall be allowed or permitted except for a boat used by the Association for maintenance, care and repair of the lake or facilities attendant thereto;
- (b) no boats may be stored or left unattended on the lake or upon any other Common Properties;
- (c) no net fishing shall be allowed or permitted;
- (d) no dumping or discharge of any substance into the lake shall be allowed or permitted;
- (e) the Association shall not be responsible for supervision of any activities or uses of or on the lake;
- (f) at all times when the lake is being utilized for any purpose by a family, guest, invitee or licensee, the Owner shall be responsible for supervising such use; and
- (g) except in cases of emergency, no spot light or search light shall be shown over or across the lake.

It is recognized that the lake is a zoning ordinance requirement and is to be maintained as a water quality resource and as a stormwater control structure. The lake shall be maintained by the Association as a common expense. The budget for the Association shall include sums necessary for annual maintenance of the lake and an

annual amount in a sinking fund reserve for silt removal every six years and an annual sum for structural replacement of the lake every twenty-five years.

The Declarant and/or the Association shall determine the method, manner or means by which any Owner, the members of his family, guests, invitees, licensees, tenants, contract purchasers or others acting through Owner shall use and enjoy the lake. Accordingly, neither the Association nor Declarant shall be liable to any Owner, the members of his family, guests, invitees, licensees, tenants, contract purchasers or others acting through Owner, except where physical injury to a natural person is proximately caused by the gross negligence or recklessness of the Association or Declarant, as the case may be. This disclaimer and standard of liability shall be binding on the Association, Declarant, all Owners, members of their families, guests, invitees, licensees, tenants, contract purchasers and others acting through Owner. If this disclaimer and standard of liability should be held inapplicable to or not binding upon any class or subclass of persons referenced above by a Court of competent jurisdiction, it shall nonetheless survive and remain in full force and effect as to all other classes or subclasses. Nothing contained in this Section shall be deemed a waiver or modification of any common law or statutory defenses otherwise available to the Association or Declarant including, but not limited to, contributory negligence. Any Owner whose conduct was a concurring or proximate cause of any injury or damage for which the Association or Declarant is sued shall indemnify and hold the Association and Declarant harmless in the event the claim on behalf of any such person injured or damaged is reduced to judgment or otherwise paid by the Association or Declarant, or both.

ARTICLE VIII

EASEMENTS/BUFFERS

Section 8.01. Utilities. Easements for the installation and maintenance of utilities (including, but not limited to water, sewer, gas, electricity, telephones, telecommunications, cable television and other utilities, such as a master antenna system) and drainage facilities are reserved as indicated on the recorded Maps of the Properties. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The Association shall have the power and authority to grant and establish upon, over and across the Common Areas such additional easements as are necessary or desirable for the providing of service or utilities to the Common Areas or Lots.

Section 8.02. Encroachments. In the event that any improvements on a Lot shall encroach upon any Common Areas or upon any other Lot as a result of the initial improvements constructed by Declarant or for any reason not caused by the purposeful or negligent act of the Owner or agents of such Owner, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Areas

or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Areas shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Areas into any such Lot for so long as such encroachment shall naturally exist. Notwithstanding anything hereinabove to the contrary, this provision does not authorize any encroachments except those which exist by virtue of original construction by the Declarant or its' assigns or with Declarant's express approval.

Section 8.03. Easement for Governmental Agencies. An easement is hereby established over the Common Area for the benefit of applicable governmental agencies, utility companies and public service agencies (and any other Person providing services to the Properties under agreement with or at the direction of the Association) as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage channels and facilities, utilities, and fire lines and acting for other purposes consistent with public safety and welfare, including without limitation, law enforcement, fire protection, emergency and rescue services, garbage collection and delivery of mail. An easement is hereby established for the benefit of the Town of Cary over the Common Area and over the front five (5) feet of each Lot for the setting, removal and reading of water meters, the maintenance and replacement of water, sewer and drainage channels and facilities and the collection of garbage.

Section 8.04. Walks, Drives, Parking Areas and Utilities. All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, cable television lines, and other public utilities as shall be established prior to the conveyance of such Lots or the Common Area by the Declarant, and the Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Areas conveyed to it such further easements as are requisite for the convenient use and enjoyment of the Properties. If a Lot is served by a driveway as indicated on a recorded Map of the Properties (provided such Map was approved by the Declarant or the Association), there is created an appurtenant easement over the Common Areas in favor of such Lot for the construction, reconstruction, repair and maintenance of such driveway and for the exclusive use of such driveway for ingress, egress, regress and parking purposes. Such driveway easement is subject to water, sewer and utility lines lying under such driveway and the repair and maintenance of such lines. The Association and the other Owners shall not obstruct or interfere with the use of such driveway except as is incident to the repair and maintenance of Common Areas and water, sewer and utility lines. If the Association obstructs or interferes with the permitted uses of such driveway, the Association shall make reasonable efforts to provide alternative parking for such Lot during the period of obstruction or interference.

Section 8.05. Easements Appurtenant to Lots. All private streets and driveway areas in the Common Areas shall be subject to an easement in favor of every Lot to which they are adjacent or which they are intended to serve and shall be deemed appurtenant to each such Lot, whereby the Owner of each such Lot shall be entitled to use them as a means of ingress, egress and regress and such other uses as shall have been

designated. Such easement shall be superior to the lien of every mortgage or deed of trust.

Section 8.06. Emergencies, Etc.. Every Lot and dwelling unit shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any dwelling unit on any Lot and that endangers any Lot or portion of the Common Areas, or as necessary to correct any grading for drainage purposes.

Section 8.07. Easements to Association. An easement is hereby granted to the Association, its officers, agents, employees, and authorized representatives, including but not limited to management companies, to enter in or to cross over the Common Area in connection with the exercise of any right, duty or obligation of the Association under this Declaration or its Organizational Documents.

Section 8.08. Easement and Right of Entry for Repair, Maintenance and Reconstruction. Each Owner of a Lot shall have a perpetual access easement over the adjoining Lots and/or Common Area to the extent reasonably necessary to perform repair, maintenance or reconstruction of the dwelling unit on such Owner's Lot. Such repair, maintenance or reconstruction shall be done expeditiously, in good and workmanlike manner and in compliance with all applicable laws, ordinances and regulations, and upon completion of the work, the Owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. No fence, wall, storage shed or similar type of structure or any other kind of obstruction shall be permitted within the area lying within five (5) feet of the adjoining Lot that will obstruct such access to the adjoining Lot.

Section 8.09. Access Easement. Each Owner shall have the right to ingress and egress over, upon and across the Common Area as necessary for access to his Lot and shall have the right to lateral support for his Lot.

Section 8.10. Easement Reserved by Declarant for Development. Until December 31, 2011, notwithstanding any provisions contained in this Declaration to the contrary, Declarant hereby expressly reserves unto itself and its successors and assigns including, but not limited to Persons constructing dwellings and other improvements on the Common Area or Lots, a nonexclusive, right, privilege and easement over, under, in; and/or on the Common Area, without obligation and without charge, for the purposes of construction, installation, relocation, development, sale, maintenance, repair, replacement, use and enjoyment, and/or otherwise dealing with the Properties, including but not limited to construction of the recreational facilities and installation of utilities. The reserved easement shall constitute a burden on the title to the Properties and specifically includes, but is not limited to:

- A. The right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on and through the Common Area; and the right to construct the Amenities; and the right to tie into any portion of the Properties with driveways, parking areas, and walkways; and the right to tie into and/or

- otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities, constructed or installed in, on, under, and/or over the Properties any damage caused by the exercise of such rights shall be repaired and the damaged property shall be restored to as near the same condition, as reasonable and practical, as that which existed prior to the exercise of such rights;
- B. The right to construct, install, replace, relocate, maintain, authorize, repair, use, and enjoy signs, model residences, sales offices, construction offices and business offices as, in the sole opinion of Declarant, may be required, convenient, desirable, or incidental to the construction and sale of residences on the Lots;
 - C. No rights, privileges, and easements granted or reserved herein shall be merged into the title of any portion of the Properties, including, without limitation, Lots or Common Areas conveyed to the Association, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quitclaim deed from Declarant releasing such right, privilege, or easement by express reference thereto; and
 - D. This section may not be amended without the written consent of Declarant.

Section 8.11. Drainage. The Declarant reserves for itself and its assignees, including but not limited to the Association, the right and easement to enter upon any Lot or the Common Area for the purpose of altering the flow of surface water in, on or across such Lot or Common Area in order to correct surface water drainage problems existing on any Lot or the Common Area. Any alterations made pursuant to the foregoing easement shall be made at the sole cost and expense of the Declarant or its assigns, as the case may be, and shall not unreasonably interfere with the Owner's use and enjoyment of his Lot. Declarant hereby agrees that in exercising the rights reserved above, all debris, materials, excess soil and rock from an affected Lot shall be removed, all excavations shall be filled, all topsoil and grass on all disturbed earth shall be replaced and reseeded. Declarant may give its written consent to an Owner to alter the flow of surface water in, on or across such Owner's Lot in order to correct surface water drainage problems existing on such Lot; provided, however, that the Declarant during the period of the Class E Membership, and thereafter the Board of Directors or the Architectural Control Committee, as the case may be, must give its written approval to the Owner's plan to alter the flow of surface water on such Owner's Lot.

ARTICLE IX

ANNEXATION OF ADDITIONAL PROPERTIES

Section 9.01. By Declarant. If on or before January 1, 2011, the Declarant should develop additional lands adjacent to the Properties, such additional lands may be annexed by the Declarant to said Properties without the assent of the Class A, Class B, Class C or Class D membership. In the event of annexation by the Declarant, the Declarant shall not be required to build the same or substantially similar type of dwelling units and the Declarant specifically reserves the right to build dwelling units of different types, styles, colors, sizes and prices.

Section 9.02. By Association. Any other annexation of additional land shall require the assent of two-thirds (2/3) of each Class of Membership of the Association.

Section 9.03. Procedure. Annexation of additional land shall be accomplished by recording in the Office of the Register of Deeds in Wake and Chatham County a Declaration of Annexation, duly executed by the Association, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. In the event of annexation by the Declarant pursuant to Section 9.01, the Declarant shall have the right to amend or supplement the terms of this Declaration as applicable to the additional lands as the Declarant deems advisable for the types, styles, colors, sizes and prices of the dwelling units to be developed on the additional lands. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation. Upon annexation, the land shall be used only for residential and ancillary purposes and shall be subject to this Declaration and all Owners shall automatically become Members of the Association.

(a) The additions authorized above shall be made by filing Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the Additional Properties in the Wake and Chatham County, North Carolina, Public Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such Properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined. Such Supplementary Declarations as applied to the Additional Properties covered thereby, may include such specific additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens as may be set forth in such Supplementary Declaration. At the time of the filing of each Supplementary Declaration, there shall be recorded in the Wake and Chatham County, North Carolina, Public Registry a Map or Maps which show the boundary line of each Lot annexed pursuant to such Supplementary Declaration and which delineates all Common Area annexed pursuant to such Supplementary Declaration. All Common Area situated within the Additional Property shall be deeded to the Association in the same manner as set forth in Article II, Section 2.03 prior to the sale of any Lot of the Additional Property.

(b) The obligation for Owners of Lots in any portion of the Additional Properties to pay the assessments described in Article IV hereof shall commence upon the filing of the Supplementary Declaration in the Wake and Chatham County, North Carolina, Public Registry annexing such portion. The Owners of such Lots shall have the same voting rights as the Owners of Lots in the Properties, and such voting rights shall commence as of the date of the filing of the Supplementary Declaration.

ARTICLE X

RIGHTS RESERVED TO INSTITUTIONAL LENDERS

Section 10.01. Entities Constituting Institutional Lenders. "Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

Section 10.02. Obligation of Association to Institutional Lenders. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

- A. To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by an accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by May 15th of each calendar year;
- B. To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions, the Organizational Documents of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self management by the Association;
- C. To receive notice of any condemnation or casualty loss affecting the Common Area or any portion thereof;
- D. To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

- E. To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Area, other than those specific rights vested in the Association under Article II hereof; and
- F. To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such institutional Lender, or to the place which it may designate in writing.

Section 10.03. Requirements of Institutional Lender. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by certified mail at the address of the Association's registered agent identifying the Lot or Lots upon which any such Institutional Lender holds any first mortgage together with sufficient pertinent facts to identify such mortgage, or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

ARTICLE XI

GENERAL PROVISIONS

Section 11.01. Enforcement. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and the Organizational Documents. Failure by the Association, Declarant or any Owner to enforce any such restriction, condition, covenant, reservation lien or charge herein contained shall in no event be deemed a waiver of the right to enforce any such restriction, condition, covenant, reservation, lien or charge at any other time or in connection with the same or any other event, nor shall it be deemed a waiver of the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

Section 11.02. Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 11.03. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall insure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their legal representatives, heirs, successors, and assigns for a term of twenty (20) years from the date this Declaration is recorded, after which time, this Declaration shall be automatically extended for successive periods of ten (10) years each. This Declaration

may be amended during the first twenty (20) year period by an instrument approved by not less than sixty-seven percent (67%) of the Lot Owners, and thereafter by an instrument approved by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded with the Office of the Register of Deeds in Wake and Chatham County. In the event that Declarant or its' assigns have arranged for and provided purchasers of Lots with FHA insured or VA mortgage loans, then prior approval of FHA/VA is also required for amending this Declaration.

Section 11.04. Amendment of Declaration Without Approval of Owners. The Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgages or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U. S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

Section 11.05. Certificate of Amendment Form. If any amendment, to these covenants, conditions and restrictions is so approved and executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall within thirty (30) days, do the following:

(a) Reasonably assure itself that the amendment has been validly approved by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of Members and shall not be required to cause any title to any Lot to be examined).

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
STONEWATER SUBDIVISION

By authority of its Board of Directors, STONEWATER HOA, INC., hereby certifies that the foregoing instrument has been duly approved by the Owners of sixty-seven percent (67%) of the Lots of Stonewater and is, therefore, a valid amendment to the existing Declaration of Covenants, Conditions and Restrictions of Stonewater.

This the _____ day of _____, 200__.

STONEWATER HOA, INC.

President

Attest:

Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Office of the Register of Deeds in the Wake and Chatham County Registry.

All amendments shall be effective from the date of their recordation in the Office of the Register of Deeds in Wake and Chatham County, North Carolina; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded, and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

Section 11.06. Voting. Voting of Members of the Association shall be in accordance with the applicable provisions set forth in the Association's By-Laws.

Section 11.07. Contract Rights of Association. As long as there is a Class E membership, any contract or agreement entered into by or on behalf of the Association shall contain a provision giving the Association the right to terminate such contract or agreement, with or without cause, upon the giving of not more than thirty (30) days written notice to the other party or parties.

Section 11.08. Underground Utilities and Street Lighting. Declarant reserves the right to subject the Property described hereinabove to a contract with public utility companies for the installation of underground utility service and the installation of street lighting, either of which or both of which may require a continuous monthly charge to the Owner of the Lot. Declarant further reserves the right to connect to each Lot necessary water and sewer service which may require a continuous monthly charge to the Owner of each Lot. Upon acceptance of a deed to a Lot, each Owner agrees to pay said continuing monthly payments therefore as approved by the North Carolina Utilities Commission, or other appropriate government authorities.

Section 11.09. FHA/VA/FNMA Approval. As long as there is a Class E membership, the following actions, if required, shall be approved by the Federal Housing Administration, Veterans Administration or Federal National Mortgage Association, as the case may be Annexation of Additional Properties, dedication of Common Area, deeding in trust the Common Area, mergers and consolidations and amendment of this Declaration.

Section 11.10. 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 provisions hereby apply to either corporations or individuals, man or woman, shall in all cases be assumed as though in each case fully expressed.

Section 11.11. Liability Exemptions. In no case shall the Town of Cary be responsible for failing to provide any emergency or regular fire, police or other public service to the Common Area or the Lots or to their occupants when such failure is due to lack of access to such areas due to inadequate design or construction, blocking of access

routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association, the Owners or their occupants. In no case shall the Town of Cary or the State be responsible for maintaining any private street. Such responsibility shall rest with the Association and Owners in that such private streets will not be constructed to the minimum standards sufficient to allow their inclusion for public maintenance.

Section 11.12. Address. Each Member agrees to keep the Association informed of his address at any time and any notice sent or delivered to said address shall be sufficient. Each new Member agrees to provide the Association with evidence of his Ownership for preparation of a membership roster and the roster as so completed shall be sufficient evidence as the Ownership of each Lot. If a Member fails to provide the Association with its address or otherwise fails to keep its address current, the Association may use the address shown on the Wake and Chatham County tax records for the Owner of the Lot for which such membership exists as the Member's address.

Section 11.13. Conflicts. In the event of a conflict between the terms and provisions of this Declaration and the By-Laws or Articles of Incorporation of the Association, the terms and provisions of this Declaration shall control. In the event of a conflict between the terms and provisions of the By-Laws and the Articles of Incorporation of the Association, the terms and provisions of the Articles of Incorporation shall control.

Section 11.14. DISPUTE RESOLUTION.

1. Consensus for Association Action.

(a) Except as provided in this Section, the Association may not commence a legal proceeding or an action under this Article without the approval of at least two-thirds of the voting Members. A voting Member representing Lots owned by Persons other than the voting Member shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners of two-thirds of the total number of Lots represented by the voting Member. This Section shall not apply, however, to (i) actions brought by the Association to enforce the Declaration or the Organizational Documents (including, without limitation, the foreclosure of liens); (ii) the imposition and collection of assessments; (iii) proceedings involving challenges to ad valorem taxation; or (iv) counterclaims brought by the Association in proceedings instituted against it.

(b) Prior to the Association or any Member commencing any proceeding to which Declarant is a party, including but not limited to an alleged defect of any improvement, Declarant shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of any improvement as to which a defect is alleged or otherwise correct the alleged dispute.

2. Alternative Method for Resolving Disputes.

Declarant, its officers, directors employees and agents; the Association, its officers, directors and committee members; all Persons subject to this Declaration; any Builder, its officers, directors employees and agents; and any Person not otherwise

subject to this Declaration who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 3 (collectively, "Claims") to the procedures set forth in Section 4, both herein below.

3. Claims.

Unless specifically exempted below, all Claims between any of the Bound Parties regardless of how the same might have arisen or on what it might be based including, but not limited to Claims (a) arising out of or relating to the interpretation, application or enforcement of the Declaration or the Organizational Documents or the rights, obligations and duties of any Bound Party under the Declaration or the Organizational Documents, (b) relating to the design or construction of improvements; or (c) based upon any statements, representations, promises, warranties, or other communications made by or on behalf of any Bound Party shall be subject to the provisions of Section 11.14 Paragraph 4.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 11.14 Paragraph 4.

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article IV (Assessments);
- (b) any suit by the Association or Declarant to obtain a temporary restraining order or injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to act under and enforce the provisions of Article VI (Architectural Control and Building Restrictions) or Article VII (Use Restrictions);
- (c) any suit between or among Owners, which does not include Declarant, a Builder or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration or the Organizational Documents; and
- (d) any suit in which any indispensable party is not a Bound Party.

With the consent of all parties hereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 11.14 Paragraph 4.

4. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (the Claimant and the Respondent referred to herein being individually, as a "Party," or, collectively, as the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(iii) the proposed remedy; and

(iv) the fact that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation.

(ii) If the Parties do not resolve the Claim within 30 days after the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 days to submit the Claim to mediation under the auspices of the American Arbitration Association ("AAA") in accordance with the AAA's Supplemental Mediation Procedures for Residential Construction.

(iii) If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation, or within such other time as determined by the mediator or agreed to by the Parties, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all charges rendered by the mediator. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 11.14 Paragraph 4 and any Party thereafter fails to abide by the terms of such agreement, then any other Party may file suit or initiate arbitration proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 11.14 Paragraph 4. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including without limitation, attorneys' fees and court costs.

(c) Binding Arbitration.

(i) Upon Termination of Mediation, Claimant shall thereafter be entitled to initiate final, binding arbitration of the Claim under the auspices of the AAA in accordance with the AAA's Supplemental Arbitration Procedures for Residential

Construction. Such claims shall not be decided by or in a court of law. Any judgment upon the award rendered by the arbitrator may be entered in and enforced by any court having jurisdiction over such Claim. If the claimed amount exceeds \$250,000, the dispute shall be heard and determined by three arbitrators. Otherwise, unless mutually agreed to by the parties, there shall be one arbitrator. Arbitrators shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues are involved.

(ii) Unless provided otherwise by AAA's Supplemental Arbitration Procedures for Residential Construction, each Party shall bear its own costs and expenses and an equal share of the arbitrator's and administrative fees of arbitration. Notwithstanding the foregoing, if a Party unsuccessfully contests the validity or scope of arbitration in a court of law, the non-contesting party shall be awarded reasonable attorneys' fees and expenses incurred in defending such contest. All decisions respecting the arbitrability of any Claim shall be decided by the arbitrator(s).

(iii) The award of the arbitrator(s) shall be accompanied by detailed written findings of fact and conclusions of law. Except as may be required by law or for confirmation of an award, neither a party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties.

5. Amendment of Article.

Without the express prior written consent of Declarant, this Article may not be amended for a period of twenty years from the effective date of this Declaration.

Section 11.15, Lender Subordination. Whereas, there has heretofore been executed and delivered to Tiffany Tillman, acting as Trustee, and Residential Funding Corporation, certain Deeds of Trust recorded in Book 11839, Page 1940 Wake County Registry, North Carolina, and Book 1242, Page 423, Chatham County Registry, North Carolina; and

Whereas Residential Funding Corporation has substituted Nicole Kemp as Trustee by instrument duly recorded in the Wake and Chatham County Registries; and

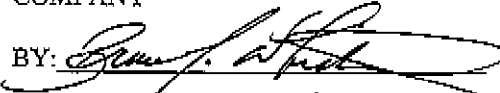
Whereas Declarant and GMAC desire that said existing Deeds of Trust be subordinated and have requested said substitute Trustee to join in the execution thereof;

Now, therefore, said Nicole Kemp, acting as Trustee, and , in consideration of the sum of One (\$1.00) Dollar to him in hand paid, do hereby contract and agree with Declarant and GMAC that this Declaration of Covenants, Conditions and Restrictions shall be superior to the Deed of Trust now held by said parties and to carry out the said purpose said Nicole Kemp, acting as Trustee, and do hereby release, remise, and forever quitclaim unto said Declarant and GMAC their title to and lien upon said lands to the extent, but to the extent only, that the Deeds of Trust now held by them shall be subordinate to this Declaration of Covenants, Conditions and Restrictions.

It is expressly understood and agreed that except for such subordination, the Deeds of Trust now held by said parties and all and singular the terms and conditions thereof shall be and remain in full force and effect.

IN WITNESS WHEREOF, the Declarant and GMAC have caused this Declaration to be executed by its duly authorized officers as of the _____ day of _____, 2006.

LENNAR CAROLINAS, LLC, A
DELAWARE LIMITED LIABILITY
COMPANY

BY:  *Bruce M. Whitton*
Printed Name: 4/11/07
Manager

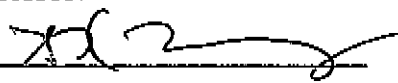
GMAC MODEL HOME FINANCE, LLC,
A DELAWARE LIMITED LIABILITY
COMPANY AND SUCCESSOR BY
STATUTORY CONVERSION TO GMAC
MODEL HOME FINANCE, INC., A
VIRGINIA CORPORATION

BY: 
Printed Name: Monika Peets
Manager
Assistant Vice President

TRUSTEE

BY: 
Nicole Kemp

RESIDENTIAL FUNDING
CORPORATION

BY: 
Printed Name: Brian K. Murray
ITS: VP

STATE OF NORTH CAROLINA

COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Bruce M. Whitten

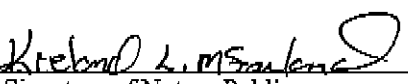
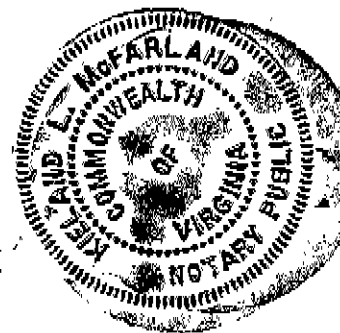
Date: 4/11/07

 Signature of Notary Public
Printed Name: Grayson G. RussellMy commission expires: 9/27/2011

COMMONWEALTH OF VIRGINIA

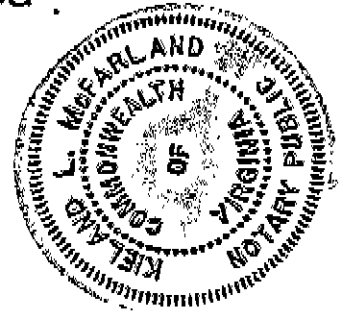
County OF Henrico

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Monika Peets

Date: 04/05/07

 Signature of Notary Public
Printed Name: Kieland McFarlandMy commission expires: 8-31-2010

County OF Henrico

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Nicole Kemp

Date: 04/05/07Kieland McFarland
Signature of Notary PublicPrinted Name: Kieland McFarlandMy commission expires: 8-31-2010

COMMONWEALTH OF VIRGINIA

County OF Henrico

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Brian Murray

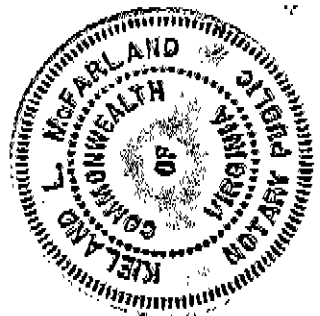
Date: 04/05/07Kieland McFarland
Signature of Notary PublicPrinted Name: Kieland McFarlandMy commission expires: 8-31-2010

EXHIBIT A**Exhibit A – Legal Description Overall Tract:**

Situated in White Oak Township, Wake County, N.C. and Williams Township, Chatham County, N.C., and being all of those tracts of land labeled as SF-1, SF-2, MF-2, MF-4, and MF-5, as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

EXHIBIT B

Situated in White Oak Township, Wake County, N.C. and being all of a tract of land labeled as MF-2, containing 579,470 S.F. (13.303 ac.), as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

EXHIBIT C

Situated in White Oak Township, Wake County, N.C. and being all of a tract of land labeled as MF-4, containing 589,047 S.F. (13.523 ac.), as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

EXHIBIT D**Parcel 1:**

Situated in Williams Township, Chatham County, N.C., and being all of a tract of land labeled as SF-1, containing 2,145,283 S.F. (49.249 ac.), as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

Parcel 2:

Situated in White Oak Township, Wake County, N.C. and being all a tract of land labeled as SF-2, containing 3,353,329 S.F. (76.982 ac.), as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P., Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

EXHIBIT E

Situated in White Oak Township, Wake County, N.C. and being a portion of a tract of land labeled as MF-5, containing 740,696 S.F. (17.004 ac.), and also situated in Williams Township, Chatham County, N.C., a portion of a tract of land labeled as MF-5, containing 5,449 S.F. (0.125 ac.), as shown on a map dated October 4, 2004, revised October 10, 2004, entitled "Subdivision Map Stonewater P.U.D., White Oak TWS'P, Wake County, N.C., Williams TWS'P, Chatham County, N.C., prepared for Waterford Stonewater, LLC" by Chas. H. Sells, Inc., and recorded in Book of Maps 2005, Page 88 through 91, Chatham County Registry and recorded in Book of Maps 2005, Page 495 through 498, Wake County Registry.

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WAKE COUNTY, NC 244
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/14/2009 AT 13:27:30

BOOK:013531 PAGE:01089 - 01101

NORTH CAROLINA

WAKE AND CHATHAM COUNTIES

*Prepared by: Grayson G. Russell
Russell Law Group, PLLC
Held Box # 167*

FIRST AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR STONEWATER SUBDIVISION
AND PARTIAL ASSIGNMENT OF SPECIAL
DECLARANT'S RIGHTS

**FIRST AMENDMENT TO DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
STONEWATER SUBDIVISION AND
PARTIAL ASSIGNMENT OF SPECIAL DECLARANT'S RIGHTS**

THIS First Amendment to the Declaration of Covenants, Conditions and Restrictions for Stonewater Subdivision and Partial Assignment of Special Declarant's Rights ("Amendment") is made by STONEWATER HOA, INC., a North Carolina not for profit corporation ("Association") LENNAR CAROLINAS, LLC, a Delaware limited liability company ("Lennar"), DOA PROPERTIES IX (LOTS-OTHER), LLC, a Delaware limited liability company ("DOA") and WOF, LLC, a North Carolina limited liability company ("Wimberly").

RECITALS

A. The Declaration of Covenants, Conditions and Restrictions for Stonewater Subdivision recorded in Book 12493, Page 1860 of the Registry for Wake County, North Carolina and recorded in Book 1328, Page 662 of the Registry for Chatham County, North Carolina ("Original Declaration") was entered into by Lennar, as Declarant, and GMAC Model Home Finance, LLC, as successor by statutory conversion to GMAC Model Home Finance, Inc., a Virginia corporation.

B. By merger, GMAC Model Home Finance, Inc. became known as GMAC Model Home Finance of Delaware, Inc., a Delaware corporation, which later by statutory conversion became known as GMAC Model Home Finance, LLC, a Delaware limited liability company ("GMAC").

C. Lennar, under its Option to Purchase, as evidenced by the Memorandum of Option dated March 1, 2006 recorded in Book 11839, Page 1932 of the Registry for Wake County, North Carolina and recorded in Book 1242, Page 416 of the Registry of Chatham County, North Carolina, purchased those Lots located within the Properties listed in Exhibit 1-A attached hereto.

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D. On September 17, 2007, by written notice to GMAC, Lennar terminated its Option to Purchase.

E. GMAC conveyed all of its right, title and interest in the Property, as such property is listed in Exhibit 1-B attached hereto, to DOA by General Warranty Deed recorded in Book 13168, Page 1658 of the Registry for Wake County, North Carolina and recorded in Book 1411, Page 569 of the Registry for Chatham County, North Carolina.

F. As of March 16, 2009, DOA conveyed all of its right, title and interest in the Property described as Parcel 1 of Exhibit D of the Original Declaration ("Wimberly Property") to Wimberly.

G. Lennar has entered into a Purchase and Sale Agreement dated March 26, 2009 to purchase from DOA those heretofore unconveyed Lots located within those Properties described in Exhibits C, Parcel 2 of Exhibit D and Exhibit E to the Original Declaration ("Lennar Properties").

H. Lennar has agreed to assign its special declarant rights to DOA for the Property retained by DOA, as described in Exhibit B to the Original Declaration ("DOA Property") and to assign its special declarant rights as to the Wimberly Property to Wimberly.

I. Pursuant to Section 11.03 of the Original Declaration, the Original Declaration may be amended during the first twenty (20) year period by a vote of not less than sixty-seven percent (67%) of the Lot Owners.

J. More than sixty-seven percent (67%) of the Lot Owners, including Lennar as Declarant, have agreed to amend the Original Declaration.

K. The Association has approved certain amendments to the Original Declaration. Simultaneously with the adoption of this Amendment, the Association approved amendments to the original By-Laws adopted by the Board of Directors of the Association on November 28, 2007.

NOW THEREFORE, the parties hereto agree as follows:

1. ASSIGNMENT OF SPECIAL DECLARANT RIGHTS.

- (a) Pursuant to Section 1.10 of the Original Declaration and as provided in Section 47F-3-104 of the North Carolina General Statutes, Lennar hereby transfers to DOA, it successors and assigns, all of Lennar's special declarant rights, as defined in Section 47F-1-103 of the North Carolina General Statutes, relating to the DOA Property.
- (b) Pursuant to Section 1.10 of the Original Declaration and as provided in Section 47F-3-104 of the North Carolina General Statutes, Lennar hereby transfers to Wimberly, it successors and assigns, all of Lennar's special declarant rights, as defined in Section 47F-1-103 of the North Carolina General Statutes, relating to the Wimberly Property.

2. **AMENDMENTS TO DECLARATION.** At a duly called and noticed special meeting of the members of the Association held on April 20th, 2009, at which a quorum was present in person or by proxy, not less than sixty-seven (67%) percent of the Lot Owners adopted the following amendments (All additions to the text of the Original Declaration appear as underlined and any deletions to the text appear as ~~strikeout~~):

(A) Article I of the Original Declaration shall be modified as follows:

Section 1.10 of the Original Declaration is amended to read as follows:

Section 1.10. "Declarant" shall mean and refer to Lennar Carolinas, LLC, a Delaware limited liability company, its successors and assigns as provided in the Planned Community Act and, as to the Lennar Properties and shall mean and refer to DOA, its successors and assigns, as to the DOA Property and shall mean and refer to Wimberly, its successors and assigns, as to the Wimberly Property. The term "Declarant" shall also mean and refer to any person, firm or corporation which shall also be designated as a "Declarant" by Lennar Carolinas, LLC DOA or Wimberly hereinafter when such designee becomes vested with title to two or more undeveloped Lots for the purpose of causing dwellings to be constructed thereon, and any such successor in title to Lennar Carolinas, LLC shall be a Declarant during such period of time as said party is vested with title to two or more such Lots (whether undeveloped or developed and un-conveyed), but not longer; provided, however, such designee's classification as a Declarant shall automatically terminate upon such designee becoming in default under its agreement with Lennar Carolinas, LLC to purchase Lots. In the event the Declarant, In the event Lennar does not exercise its option to purchase the properties described on Exhibit A, Lennar Properties, DOA shall have the right to designate a successor Declarant as to the Lennar Properties when such designee becomes vested with title to two or more undeveloped Lots for the purpose of causing dwellings to be constructed thereon.

Section 1.15 of the Original Declaration is amended to read as follows:

Section 1.15. "Lot" shall mean and refer to any plot of land shown upon any portion of the Properties (a) which is developed or intended for development, use and occupancy as a Dwelling Unit as determined by (x) the zoning for such portion of the Properties, (y) the most current master plan, site plan, Subdivision Plan or development agreement for such portion of the Properties agreed to by the City of Cary and Declarant, or (z) a recorded subdivision map of the Properties (provided said map has been approved by Declarant or the Association) with the exception of the Common Area and or other such instrument for such portion of the Properties, including without limitation a declaration of condominium, recorded in the Registry of the county in which such portion of the Properties is located; and (b) which is not a Common Area, the common areas/elements of a Sub-Association, or any road rights-of-way which are offered for public dedication. Except where otherwise indicated by context, the term "Lot" shall include the improvements on such Lot.

Section 1.25 shall be deleted in its entirety and replaced with the following:

Section 1.25. "Property" or "Properties" shall mean and refer to any one or more of those parcels described as SF-1, SF-2, MF-2, MF-4 and MF-5 in Exhibit A attached

hereto and incorporated herein by reference, and any additions thereto as may hereafter be annexed and brought within the jurisdiction of the Association.

The following definitions shall be added to the end of Article I:

Section 1.30 "Declarant Control Period" shall mean that period of time beginning on the date of the Declaration and continuing until the earlier of: (i) the date in which seventy-five percent (75%) of the maximum number of Lots allowed for the Properties (as amended and supplemented from time to time) under the Subdivision Plan have been conveyed to Owners other than the Declarants or the assigns of either Declarant; or (ii) on December 31, 2016; or (iii) the date specified by the Declarant in a written notice to the Association. Declarant Control Period is also referred to herein as "period of Class E membership."

Section 1.31 "Sub-Association" shall mean and refer to a nonprofit corporation whose members are comprised entirely of Owners of Lots in any Property described in Exhibit A attached hereto and incorporated herein by this reference or other planned community or planned unit development within but including less than all of the Properties. Nothing contained herein shall prevent the formation of a separate Sub-Association for any one or more of the individual Properties.

Section 1.32 "DOA Property" shall mean and refer to that Property described in Exhibit B of the Original Declaration.

Section 1.33 "Lennar Properties" shall mean and refer to those Properties described in Exhibit C, Parcel 2 in Exhibit D, and Exhibit E of the Original Declaration.

Section 1.34 "Wimberly Property" shall mean and refer to that Property described as Parcel 1 in Exhibit D of the Original Declaration.

(B) The following provision in Section 3.02 of the Original Declaration is amended to read as follows:

Class E: The Class E Member(s) shall be the Declarants, ~~or its assigns and the assigns of a Declarant,~~ and each Class E Member shall be entitled to three (3) votes for each Lot owned by it. The foregoing allocation of votes is in recognition of the fact that the Properties likely will be developed in phases and there may be times during the development of the Properties when Declarants ~~or the assigns of a Declarant owns own~~ less, if any, Lots. The Class E membership shall be reinstated if before December 31, ~~2014~~ 2016 additional lands are annexed to this Declaration as hereinafter provided. The Class E membership shall cease and be converted to Class A, Class B, Class C and Class D membership on the happening of either of the following events, whichever occurs earlier:

(a) When 75% of the maximum number of Lots allowed for the Properties (as amended and supplemented from time to time) under the Subdivision Plan have been conveyed to Owners other than the Declarants or the assigns of a Declarant; or

(b) on December 31, ~~2014~~ 2016; or

(c) the date specified by the Declarant in a written notice to the Association.

.....

The other provisions of Section 3.02 of the Original Declaration are not modified by this Amendment.

(D) Section 4.01 of the Original Declaration is amended to read as follows:

Section 4.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned with the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual Assessments or charges, and (2) special Assessments collected as hereinafter provided. All annual ~~assessments~~ Assessments shall be fixed at a uniform rate for all Lots; provided, however, as to any Lot which is not a Lot in use (owned by Declarants or the assigns of a Declarant or its' assigns), the amount of the annual ~~assessments~~ Assessments for each such Lot shall be an amount equal to twenty-five percent (25%) of the amount of the annual ~~assessments~~ Assessments applicable to a Lot which is a Lot in use. Assessments may be collected on an annual, semi-annual or quarterly basis as determined by the Board from time to time. The annual and special ~~assessments~~ Assessments, together with interest thereon, applicable late fees and the costs of collection thereof, including reasonable attorney fees, shall be a charge on the Lot and shall be a continuing lien upon such Lot against which each such ~~assessments~~ Assessment is made until paid in full. Each such Assessment, together with such interest, late fees and costs of collection, including reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the ~~assessments~~ Assessments became due. The personal obligation for delinquent ~~assessments~~ Assessments shall not pass to his successors in title unless expressly assumed by them.

(E) Section 4.05 of the Original Declaration is amended to read as follows:

Section 4.05. Special Assessments for Capital Improvements. In addition to the annual ~~assessments~~ Assessments authorized above, the Association may levy, in any ~~assessments~~ Assessment year, a special ~~assessments~~ Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, or any other purpose permitted under the Planned Community Act. Any such special ~~assessments~~ Assessments shall have the approval of two-thirds (2/3) of the ~~votes of each class of voting~~ Members who are voting in person or by proxy at a meeting duly called for this purpose. Fines levied by the Board of Directors shall be treated as special ~~assessments~~ Assessments otherwise due to the Association, and as such, will be a lien against the Owner's Lot if not paid. Such fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines.

(F) The first sentence of Section 4.06 of the Original Declaration is amended to read as follows:

Section 4.06. Working Capital Fund. In addition to any other assessment provided in this Declaration, a sum equal to two (2) months of the regular annual Assessments applicable to such Lot shall be collected from the purchaser and

transferred to the Association at the time of closing of the sale of each Lot to a party other than the Declarants or its' the assigns of a Declarant.

.....

The other provisions of Section 4.06 of the Original Declaration are not modified by this Amendment.

(G) The first sentence of Section 4.09 of the Original Declaration is amended to read as follows:

Section 4.09. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to a Lot on the earlier of the date such Lot was conveyed by the Declarants or assignee of Declarants to a third party purchaser ~~of or~~ the date such Lot becomes a Lot in use.

.....

The other provisions of Section 4.09 of the Original Declaration are not modified by this Amendment.

(H) Section 6.03 of the Original Declaration is amended to read as follows:

Section 6.03. Architectural Committee. After the Declarant Control Period ends, the ~~The~~ Board of Directors shall designate the number of and appoint the members of the Architectural Control Committee on an annual basis. Each of the Classes A through E shall be entitled to a representative on the Architectural Committee; provided, Class C shall be entitled to two representatives, one from the Property described as Parcel 1 of Exhibit D and one from the Property described as Parcel 2 of Exhibit D. In the event of the death or resignation of any member of the Architectural Control Committee, the remaining members of the Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time with or without cause, and without prior notice, by the Board.

(I) A new Section 11.16 shall be added to Article XI to read as follows:

Section 11.16. Uniformity. All rules, regulations, assessments and use restrictions contained herein and/or imposed by the Association shall be applied uniformly and in a non-discriminatory manner among all Lots and/or Properties so as not to have a disproportionate impact upon one or more, but less than all, Declarant (except where unanimous Declarant consent is given), Owner, Lot, Property or group of Lots or Properties.

2. **CONFLICTS.** In the event that there is a conflict between the provisions of this Amendment and the Original Declaration, this Amendment shall control.

3. **DEFINITIONS.** Any initially capitalized terms not defined in this Amendment shall have the meaning given to such terms in the Original Declaration.

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IN WITNESS WHEREOF, this Amendment has been duly executed as of ~~April~~ ^{May} 6,
2009.

STONEWATER HOA, INC., a North
Carolina not for profit corporation

By: _____

President

(Corporate Seal)

Attest: _____

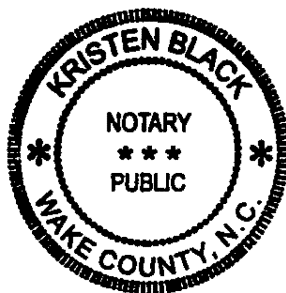
Secretary

BK013531PG01096

STATE OF NORTH CAROLINA)
COUNTY OF Wake)

I, Kristen Black, a Notary Public, certify that Craig Hack personally came before me this day and acknowledged that he (or she) is Secretary of **STONEWATER HOA, INC.**, a North Carolina not for profit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself (or herself) as its Secretary.

Witness my hand and official seal, this the 10th day of May, 2009.



Kristen Black
Notary Public I
Print Name: KRISTEN BLACK
State of NC
My Commission expires: MARCH 18, 2012

BK013531PG01097

IN WITNESS WHEREOF, this Amendment has been duly executed as of ^{month} ~~April~~ March 24, 2009.

Lennar Carolinas, LLC
a Delaware limited liability company

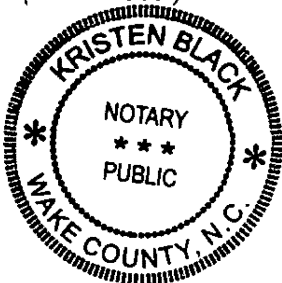
By: [Signature]
Name: Rich Sherman
Title: Authorized Officer

STATE OF North Carolina
COUNTY OF Wake

Rich Sherman Kristen Black, a Notary Public, certify that Rich Sherman personally came before me this day and acknowledged that he or she is Authorized Officer of Lennar Carolinas, LLC, a corporation, and that he/she as Authorized Officer, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the 24 day of March, 2009.

(Official Seal)



[Signature]
Signature of Notary

Kristen Black, Notary Public
Printed or typed name

My commission expires: March 18, 2012

BK013531PG01098

IN WITNESS WHEREOF, this Amendment has been duly executed as of April ^{March} 26, 2009.

**DOA PROPERTIES IX (LOTS-OTHER),
LLC**
a Delaware limited liability company

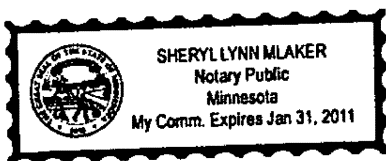
By: Joel D. Kaul
Name: Joel D. Kaul
Title: Vice President

STATE OF Minnesota)
COUNTY OF Hennepin)

I, Sheryl Lynn Mlaker, a Notary Public, certify that
Joel D. Kaul personally came before me this day and acknowledged
that he or she is Vice President of DOA Properties IX (Lots-Other) LLC a corporation,
and that he/she as Vice President, being authorized to do so, executed the foregoing on
behalf of the corporation.

Witness my hand and official seal, this the 24 day of March, 2009.

(Official Seal)



Sheryl Lynn Mlaker
Signature of Notary

Sheryl Lynn Mlaker, Notary Public
Printed or typed name

My commission expires: 01/31/2011

BK013531PG01099

IN WITNESS WHEREOF, this Amendment has been duly executed as of ^{6th} ~~April~~ ^{March} 26, 2009.

WOF, LLC
a North Carolina limited liability company

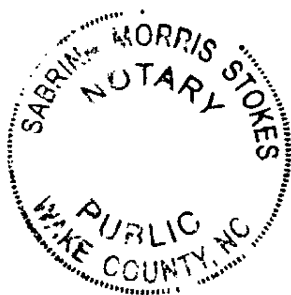
By: Glenn Fentrell
Name: Glenn Fentrell
Title: member manager

STATE OF North Carolina)
COUNTY OF Wake)

I, Sabrina Morris Stokes, a Notary Public, certify that Glenn Fentrell personally came before me this day and acknowledged that he or she is Member manager of WOF, LLC, a limited liability company, and that he/she as Member Manager, being authorized to do so, executed the foregoing on behalf of the limited liability company.

Witness my hand and official seal, this the 26th day of March, 2009.

(Official Seal)



[Signature]
Signature of Notary
Sabrina Morris Stokes, Notary Public
Printed or typed name

My commission expires: 4/6/2010

BK013531PG01100

CERTIFICATION OF VALIDITY OF AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF
STONEWATER SUBDIVISION

By authority of its Board of Directors, STONEWATER HOA, INC., hereby certifies that the foregoing instrument has been duly approved by the Owners of sixty-seven percent (67%) of the Lots of Stonewater and is, therefore, a valid amendment to the existing Declaration of Covenants, Conditions and Restrictions of Stonewater.

This the 6th day of May, 2009.

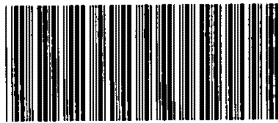
STONEWATER HOA, INC.

By: [Signature]
President

Attest: [Signature]
Secretary

MIADOCS 3402836 2

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BOOK:013531 PAGE:01089 - 01101

**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

This Customer Group

_____ # of Time Stamps Needed

This Document

_____ New Time Stamp
_____ # of Pages

22.004-1/20/06

BYLAWS
OF
STONEWATER HOA, INC.

ARTICLE I
NAME AND LOCATION

The name of the corporation is STONEWATER HOA, INC. (hereinafter referred to as "STONEWATER"). The principal office shall be located at 1201 Edwards Mill Road, Suite 301, Raleigh, North Carolina. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Members and directors shall be held at such places within Wake County, North Carolina as shall be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. "Act" is defined as the "North Carolina Planned Community Act", currently contained in Chapter 47F of the North Carolina General Statutes, and including all amendments, supplements and replacements as enacted from time to time.

Section 2. "Additional Property" is defined as all real property subjected to or annexed to this Declaration subsequent to the recording of this Declaration in the Registry, either by Supplemental Declaration or by merger or consolidation, as provided herein.

Section 3. "Assessment" shall mean and refer to the share of the Common Expenses from time to time assessed against a Lot and its Owner by the Association in the manner herein provided.

Section 4. "Association" shall mean and refer to Stonewater HOA, Inc., its successors and assigns.

Section 5. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

Section 6. "Bylaws" shall mean and refer to these Bylaws of the Association as amended from time to time.

Section 7. "Common Area" shall mean that certain portion of the Properties (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners, including Open Space Areas, open space/protective yard, parking areas, and any recreational facilities. Any Stormwater Control Measures serving more than one Lot, which are situated outside the public street rights of way, are Common Areas, including any stormwater management area.

Section 8. "Common Expenses" shall mean and refer to all sums lawfully assessed against a Lot by the Association; expenses of administration, maintenance, repair or replacement of the Common Areas, expenses agreed upon as Common Expenses by the Association; expenses declared Common Expenses by the provisions of this Declaration or the Bylaws; and insurance premiums..

Section 9. "Declarant" shall mean and refer to Lennar Carolinas, LLC, a Delaware corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 10. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and road rights-of-way which are offered for public dedication.

Section 11. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 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 which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 13. "Properties" shall mean and refer to that certain real property subject to the Declaration, and such additions thereto as may hereafter be brought within the jurisdiction of Association.

Section 14. "Stormwater Control Measures" shall mean and refer to the stormwater facilities situated outside the public street rights-of-way and serving more than one lot and located on the Property as private drainage easements or stormwater management areas designated on recorded plats of the Property.

Section 15. "Subdivision Plan" is defined as the most current development plan approved by the Town of Cary for any portion of the Properties of Additional Property), for any portion of the Properties or the Declarant Additional Property, including a subdivision plan, site plan, group housing plan or cluster unit development plan. When two or more Subdivision Plans are approved for the same portion of The Properties (for example, a phase or section within a cluster unit development), the most current and most specific plan controls.

ARTICLE III MEETINGS OF MEMBERS

Section 1. Members. Declarant, for so long as it shall be an Owner, and every person or entity who is a record Owner of a fee simple or undivided fee simple interest in any dwelling unit or lot that is subject by the Declaration to assessments by the Association shall be a Member of the Association; provided, however, that any such person or entity who holds such title or interest

merely as security for the performance of an obligation shall not be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any dwelling unit or site which is subject to assessment by the Association. Ownership of a dwelling unit or site shall be the sole qualification for Membership. The Board of Directors of the Association may make reasonable rules relating to the proof of ownership of a dwelling unit or site in STONEWATER SUBDIVISION. No Owner shall have more than one Membership, except as expressly provided hereinafter.

Section 2. The Association shall have five classes of voting membership:

Class A: Class A Members are all Owners of Lots described in Exhibit B of the Declaration containing or intended for a single family Attached Dwelling Units excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class A Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise provided herein, Class A Members are entitled to the following votes:

(1) A Class A Member is entitled to one (1) vote for each Attached Lot owned by such Class A Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class B: Class B Members are all Owners of Lots described in Exhibit C of the Declaration containing or intended for single family Attached Dwelling Units, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class B Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class B Members are entitled to the following votes:

(1) A Class B Member is entitled to one (1) vote for each Attached Lot owned by such Class B Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class C: Class C Members are all Owners of Lots described in Exhibit D of the Declaration containing or intended for a single family Detached Dwelling Units, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class C Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class C Members are entitled to the following votes.

(1) A Class C Member is entitled to one (1) vote for each Detached Lot owned by such Class C Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class D: Class D Members are all Owners of Lots described in Exhibit E of the Declaration containing or intended for Detached Dwelling Units referred to as patio homes, excluding the Declarant during the Declarant Control Period. Provided, following the end of the Declarant Control Period, the Declarant also is a Class D Member with respect to all Lots and Unsubdivided Land owned by the Declarant. Except as otherwise proved herein, Class D Members are entitled to the following votes:

(1) A Class D Member is entitled to one (1) vote for each Attached Lot owned by such Class D Member. When the Class E Membership terminates, Declarant shall be entitled to one (1) vote for each Lot owned. Only one (1) vote is entitled to be cast for each Lot, regardless of the number of Owners thereof and fractional voting is prohibited;

Class E: The Class E Member(s) shall be the Declarant, or its assigns, and shall be entitled to three (3) votes for each Lot owned. The foregoing allocation of votes is in recognition of the fact that the Properties likely will be developed in phases and there may be times during the development of the Properties when Declarant owns less, if any, Lots. The Class E membership shall be reinstated if before December 31, 2011 additional lands are annexed to this Declaration as hereinafter provided. The Class E membership shall cease and be converted to Class A, Class B, Class C and Class D membership on the happening of either of the following events, whichever occurs earlier:

- (a) When 75% of the maximum number of Lots allowed for the Properties (as amended and supplemented from time to time) under the subdivision plan have been conveyed to Owners; or
- (b) on December 31, 2011; or
- (c) the date specified by the Declarant in a written notice to the Association.

Section 3. Voting Right Suspension. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and for any period during which any assessment of a Member remains unpaid according to the provisions of Article IV, Section 8 of the Declaration.

Section 4. Voting. The total vote of the Association shall consist of the sum of the votes of the Class A Members, Class B Members, Class C Members and the votes of Class D Members present in person or by Proxy at a legally constituted meeting at which a quorum is present. The number of votes present at a meeting that will constitute a quorum shall be as set forth in the By-Laws, as amended from time to time. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein as the same may be amended from time to time. Quorum and notice requirements shall be as provided in By-Laws except when otherwise specified in the Declaration.

When more than one person holds an interest in any dwelling unit or Lot, all such persons shall be Members; and the vote for such dwelling unit or Lot shall be exercised as they among themselves determine; however, in no event may more than one vote be cast with respect to any one dwelling unit or Lot owned by Class A, B, C and D Members and in no event shall fractional

votes be allowed. When one or more Co-Owners signs a proxy or purports to vote for his or her Co-Owners, such vote shall be counted unless one or more other Co-Owners is present and objects to such a vote or, if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before the vote is counted. Cumulative voting is not allowed.

A persons or entity's Membership in the Association shall terminate automatically whenever such person or entity ceases to be an Owner, but such termination shall not release or relieve any such person or entity from any liability or obligation incurred under or in any way connected with the Association or this Declaration during the period of such ownership, or impair any rights or remedies which the Association or any other Owner has with regard to such former Owner.

Section 5. Right of Declarant to Representation on Board of Directors of the Association. Notwithstanding anything contained herein to the contrary, until December 31, 2011, or until Declarant shall have conveyed seventy-five percent (75%) of the Properties, whichever occurs first, Declarant (or its expressed assignee of the right granted in this section) shall have the right to designate and select any person or persons to serve on any Board of Directors, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association.

Declarant shall have the right to remove any person or persons selected by it to act and serve on said Board of Directors and replace such person or persons with another person or persons to act and serve in the place of any director or directors so removed. Any director designated and selected by Declarant need not be an Owner. Any representative of Declarant serving on the Board of Directors of the Association shall not be required to disqualify himself from any vote upon any contract or matter between Declarant and the Association where Declarant may have pecuniary interest or other interest.

ARTICLE IV MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one year from the date of incorporation of the Association. Each subsequent regular meeting of the Members shall be held in the same month of each year thereafter unless a different date is fixed by the Board of Directors.

Section 2. Special Meetings: Special meetings of the Members may be called at any time by the President or Board of Directors of the Association, or by any Member pursuant to the written request of the holders of not less than one-tenth of all votes of Class A, Class B, Class C and Class D Membership. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in said notice.

Section 3. Place of Meetings. Meetings of the Members shall be held at such place, within Wake County, as may be determined by the Board of Directors.

Section 4. Notice of Meeting: Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, written or printed notice stating the time and place of the meeting shall be delivered not less than ten nor more than fifty days before the date of any Membership meeting, either personally or by mail, by or at the direction of the President, the Secretary, or other person calling the meeting, to each Member of record entitled to vote at such meeting; provided that such notice must be given not less than twenty days before the date of any meeting at which a merger or consolidation is to be considered. If mailed, such notice shall be deemed to be delivered to the Member at his address as it appears on the record of Members of the association, with postage thereon prepaid.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Non-profit Corporation Act.

When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty days, it is not necessary to give any notice of the adjourned meeting other than by announcement at the meeting at which the adjournment is taken.

Section 5. Quorum: Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, the presence at the meeting of Members or of proxies entitled to cast, twenty percent (20%) of the votes appurtenant to each Class of Lots in combination (Class A and B) shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 6. Proxies: Voting may be either in person or by one or more agents authorized by a written proxy executed by the Member or by his duly authorized attorney in fact. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or may cease upon written notice of cancellation of proxy by Member.

Section 7. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the minute book of the Association.

Section 8. Loss of Right to Vote. The vote of any Member who is shown on the books or records of the Association to be more than sixty (60) days delinquent in any payment due the Association shall not be an eligible vote and shall not be counted for purposes of deciding any question so long as such delinquency is not cured, nor shall such Member be eligible to be elected to not remain on the Board of Directors.

ARTICLE V BOARD OF DIRECTORS

Section 1. General Powers: The business and affairs of the Association shall be managed by its Board of Directors.

Section 2. Number, Term and Qualifications: The number of directors constituting the Board of Directors shall be five. At this first annual meeting after transition, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years. At subsequent annual meetings thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is (are) expiring to serve for a term of three (3) years. Directors need not be Members of the Association. Of the five (5) directors to serve, one shall be from each of Classes A, B, C and D and one (1) director shall be at large.

Section 3. Election of Directors: Except as provided in Section 6 of this Article V, the directors shall be elected at the annual meeting of Members; and those persons who receive the highest number of votes shall be deemed to have been elected. If any Member so demands, the election of directors shall be by ballot. Cumulative and fractional voting is prohibited.

Section 4. Election. The directors may be elected by secret written ballot, if a Member so demands, at the annual meeting of the Members. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these By-Laws. The persons receiving the highest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Removal: Any director may be removed at any time with or without cause, by a majority vote of the Members.

Section 6. Vacancies: Any vacancy occurring in the Board of Directors may be filled by the selection of a successor by the remaining Directors, who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the Directors. Such vacancy shall be filled by someone from the vacancy Class.

Section 7. Compensation. No Director shall receive compensation for any service he may render to the Association in the capacity of Director. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties.

ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings: A regular meeting of the Board of Directors shall be held at least quarterly, without notice and at such place and hour as may be fixed from time to time by the Board of Directors.

Section 2. Special Meetings: Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is so taken.

Section 5. Chairman. A Chairman of the Board of Directors shall be elected by the Directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected.

Section 6. Participation in Meetings by Means of Conference Telephone. Members of the Board of Directors, or any committee of the Board, may participate in a meeting of the Board or of such committee by means of a conference telephone or similar communications device by means of which all persons participating in the meeting can hear each other, and participation by such means shall constitute presence in person at such meeting.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

(a) adopt and publish rules and regulations governing the use of the Association Common Properties and the personal conduct of the Members and their guests thereon, and to establish fines and penalties for the infraction thereof;

(b) suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Association pursuant to the provisions of the Declaration. Such rights may also be suspended after such notice and hearing as the Board, in its discretion, may determine, for a period not to exceed 60 days for infraction of the published rules and regulations of the Association;

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a Member of the Board of Directors to be vacant in the event such director shall be absent from three (3) consecutive regular meetings of the Board of Directors:

(e) employ a manager, independent contractors, or such other employees or agents as it may deem necessary and prescribe their duties. In the event a contract is entered into with a management company to manage the affairs of the Association, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days notice;

(f) employ attorneys to represent the Association when necessary;

(g) To execute deeds or other legal documents to effectuate the transfer of Association Common Areas as allowed under the Declaration; and

(h) appoint and remove at 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.

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

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting when such statement is requested in writing by Members entitled to at least one-fourth (1/4) of the votes appurtenant to Class A, Class B, Class C and Class D Lots;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days before January 1 of each year;

(2) send written notice of each assessment to every Owner subject thereto at least fifteen (15) days before January 1 of each year; and

(3) as to any Lot for which an assessment is not paid within sixty (60) days after it becomes due, bring an action at law against the Owner personally obligated to pay the assessment or foreclose the lien against such Lot.

(d) issue, or cause an appropriate officer to the Association to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of such payment as of the date of its issuance;

(e) procure and maintain adequate liability insurance covering the Association in an amount not less than \$1,000,000.00, and adequate hazard insurance if available at reasonable cost, and adequate hazard insurance on the real and personal property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Association Common Properties and all facilities erected thereon including private streets to be maintained;

(h) if necessary, establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements constructed on the Association Common Properties; and

(i) provide such notices to and obtain such consents from the Owners and holders of first deeds of trust on Lots within the Properties as is required by the Declaration or these By-Laws; and

(j) pay all ad valorem and public assessments levied against the real and personal property owned by the Association.

ARTICLE VII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of the Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary, and a Treasurer and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors. Officers shall include a President, Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 3. Term. The officers of the Association shall be elected annually by the Board and each shall hold office for the terms set forth in Article V unless he shall sooner resign, be removed, or be otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board are carried out, shall sign all leases, promissory notes, mortgages, deeds and other written instruments, and, in the absence of the Treasurer, shall sign all checks.

(b) Vice Presidents: The Vice President shall act in the place instead of the President in the event of his death, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, keep the corporate seal of the Association and affix it on all papers requiring a seal, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association and their addresses, and perform such other duties as required by the Board.

(d) Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members. Any or all of the duties may be delegated to a Management Company at the order of the Board of Directors.

ARTICLE IX COMMITTEES

The Board of Directors of the Association may appoint a Nominating Committee, as provided in these By Laws, and shall appoint an Architectural Control Committee, as provided in the Declaration. The Board of Directors may appoint such other committees as it deems appropriate in carrying out its purpose.

ARTICLE X BOOKS AND RECORDS

The books, records and papers of the Association shall at all time, during reasonable business hours, be subject to inspection by any Member or his authorized agent by appointment. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection at the principal office of the Association, where authorized copies, as outlined in a resolution by the Board of Directors, may be purchased at a reasonable cost.

ARTICLE XI ASSESSMENTS

As more fully provided in Article IV of the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum or the maximum interest rate charge as may be established by the Board of Directors, but said rate shall not exceed the maximum rate allowed under the laws of North Carolina. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot for which such assessment is due. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Sub-Association Common Area or abandonment of his unit.

ARTICLE XII CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: STONEWATER HOA, INC.

ARTICLE XIII AMENDMENTS AND CONFLICTS

Section 1. Amendments. These By-Laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present at a meeting duly called for such purpose, in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is a Class E Membership.

Section 2. Conflicts. In case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.


**ARTICLE XIV
FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

CERTIFICATION

I, the undersigned, do hereby certify: THAT I am duly elected and acting Secretary of the Stonewater HOA, Inc. a North Carolina non-profit corporation, and that the foregoing By-Laws constitute the original By-Laws of said Stonewater HOA, Inc. as a duly adopted at a meeting of the Board of Directors thereof, held on the 28 day of November, 2007.

IN WITNESS WHEREOF, I hereunto subscribed my name and affixed the seal of said STONEWATER HOA, INC. this 28 day of November, 2007.



Secretary

NORTH CAROLINA

AMENDMENT TO BY-LAWS OF
STONEWATER HOA, INC.

WAKE AND CHATHAM COUNTIES

AMENDMENT TO BY-LAWS OF STONEWATER HOA, INC.

THIS Amendment to the By-Laws of Stonewater HOA, Inc. ("Amendment") is made by STONEWATER HOA, Inc., a North Carolina not for profit corporation ("Association").

RECITALS

A. The original By-Laws ("Original By-Laws") were adopted by the Board of Directors of the Association on November 28, 2007.

B. Pursuant to Article XIII, Section 1 of the Original By-Laws, the Original By-Laws may be amended by a majority of a quorum of the members present at a meeting duly called for such purpose.

C. The Association has adopted certain amendments to the Original By-Laws of the Association. Simultaneously with the adoption of these amendments to the Original By-Laws, the Association has also adopted amendments to the Declaration of Covenants, Conditions and Restrictions for Stonewater Subdivision, as recorded in Book 12493, Page 1860 of the Registry for Wake County, North Carolina and recorded in Book 1328, Page 662 of the Registry for Chatham County, North Carolina.

1. **AMENDMENTS TO BY-LAWS.** At a duly called and noticed special meeting of the members of the Association held on ~~March~~ ^{April 29}, 2009, at which a quorum was present in person or by proxy, a majority of the voting Members at the Association adopted the following amendments to the Original By-Laws (All additions to the text of the Original By-Laws appear as underlined and any deletions to the text appear as ~~strikeout~~):

(A) Article I, Section 9 of the Original By-Laws is amended to read as follows:

Section 9. "Declarant" shall ~~mean and refer to Lennar Carolinas, LLC, a Delaware corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development~~ have the same meaning for such term as is set forth in the Declaration as amended from time to time.

(B) Article I, Section 9 of the Original By-Laws is amended to read as follows:

Section 10. "Lot" shall ~~mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area and road rights-of-way which are offered for public dedication~~ have the same meaning for such term as is set forth in the Declaration as amended from time to time.

(C) All of Article III, Section 2 of the Original By-Laws is deleted and replaced with the following:

Section 2. The Association shall have five classes of voting membership as set forth in Section 3.01 of the Declaration.

(D) The following provision in Article III, Section 4 of the Original By-Laws is amended to read as follows:

Section 4. Voting. The total vote of the Association shall consist of the sum of the votes of the Class A Members, Class B Members, Class C Members ~~and the votes of~~ Class D Members and Class E Members present in person or by Proxy proxy at a legally constituted meeting at which a quorum is present. The number of votes present at a meeting that will constitute a quorum shall be as set forth in the By-Laws, as amended from time to time. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein as the same may be amended from time to time. Quorum and notice requirements shall be as provided in By-Laws except when otherwise specified in the Declaration.

.....
The other provisions of Article III, Section 4 of the Original By-Laws are not modified by this Amendment.

(E) The following provision in Article III, Section 5 of the Original By-Laws is amended to read as follows:

Section 5. Right of Declarant to Representation on Board of Directors of the Association. Notwithstanding anything contained herein to the contrary, until December 31, 2011 2016 or until Declarant shall have conveyed seventy-five percent (75%) of the Properties maximum number of Lots allowed for the Properties have been conveyed to Owners other than the Declarants or assigns of either Declarant, whichever occurs first, the Declarant (or its an expressed assignee of the right granted in this section) shall have the right to designate and select all persons to serve on the Board of Directors. In the event there are two Declarants, the Declarant (or an expressed assignee of the right granted in this section) owning the highest number of Lots shall have the right to designate and select any person or a majority of the persons to serve on any the Board of Directors and the other Declarant shall have the right to designate the remaining persons on the Board of Directors. In the event there are three or more Declarants, the Declarant (or an expressed assignee of the right granted in this section) owning the highest number of Lots shall have the right to designate and select a majority of the persons to serve on the Board of Directors; the Declarant (or an expressed assignee of the right granted in this section) owning the second highest number of Lots shall have the right to designate and select one person to serve on the Board of Directors; and the Declarant (or an expressed assignee of the right granted in this section) owning the third highest number of Lots shall have the right to designate and select one person to serve on the Board of Directors. The manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or By-Laws of the Association.

.....
The other provisions of Article III, Section 5 of the Original By-Laws are not modified by this Amendment.

(F) Article IV, Section 5 of the Original By-Laws is amended to read as follows:

Section 5. Quorum: Except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws, the presence at the meeting of Members or of proxies entitled to cast, twenty percent (20%) of the total votes appurtenant to each Class of Lots in combination (Class A and B) entitled to be cast by all voting Members shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

(G) Article V, Section 2 of the Original By-Laws is amended to read as follows:


Section 2. Number, Term and Qualifications: The number of directors constituting the Board of Directors shall be up to but no more than five. At this first annual meeting after transition, the Members may elect one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years. At subsequent annual meetings thereafter, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is (are) expiring to serve for a term of three (3) years. Directors need not be Members of the Association. Of the five (5) directors to serve, one shall be from each of Classes A, B, C and D and one (1) director shall be at large.

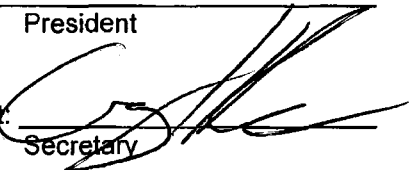
2. **CONFLICTS.** In the event that there is a conflict between the provisions of this Amendment and the Original By-Laws, this Amendment shall control.

3. **DEFINITIONS.** Any initially capitalized terms not defined in this Amendment shall have the meaning given to such terms in the Original By-Laws.

IN WITNESS WHEREOF, this Amendment has been duly executed as of ^{April}~~March~~ 20, 2009.

STONEWATER HOA, INC., a North Carolina not for profit corporation

By: 
President

Attest: 
Secretary

(Corporate Seal)

STATE OF)
)

COUNTY OF)

The foregoing instrument was acknowledged before me this 20 day of April, 2009 by Richard Sherman and Craig Hack, as President and Secretary respectively of **STONEWATER HOA, INC.**, a North Carolina not for profit corporation, on behalf of the corporation.

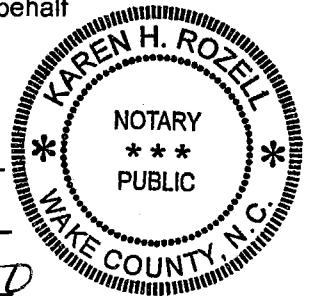
Karen H Rozell

Notary Public

Print Name: Karen H Rozell

State of NC

My Commission expires: 4-17-2017



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ARTICLES OF INCORPORATION
OF
STONEWATER HOA, INC.

These Articles of Incorporation are made and acknowledged for STONEWATER HOA, INC. and shall govern a nonprofit corporation under and by virtue of the laws of the State of North Carolina.

Article 1. Name and Address. The name of the corporation is STONEWATER HOA, INC. For convenience, the corporation shall be referred to in this instrument as the "Association."

The initial principal office of The Association is: c/o Lennar Carolinas, LLC, 1201 Edwards Mill Road, Suite 301, Raleigh, NC 27607.

Wake County

Article 2. Duration. The Association shall have perpetual duration.

Article 3. Applicable Statute. The Association is organized pursuant to the provisions of the North Carolina Nonprofit Corporation Act.

Article 4. Definitions. All capitalized terms used herein which are not defined shall have the meaning set forth in the **DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR STONEWATER SUBDIVISION**, recorded or to be recorded in the Office of the Register of Deeds of Wake and Chatham Counties, North Carolina, as amended from time to time (the "Declaration").

Article 5. Purposes and Powers. The Association does not contemplate pecuniary gain or benefit, direct or indirect, to its members. By way of explanation and not of limitation, the purposes for which it is formed are:

(a) to be and constitute the Association to which reference is made in the Declaration, to perform all obligations and duties of the Association, and to exercise all rights and powers of the Association, as set forth in the Declaration, the By-Laws, and as provided by law; and

(b) to provide an entity for the furtherance of the interests of the Owners of property subject to the Declaration.

In furtherance of its purposes, the Association shall have the following powers, which, unless indicated otherwise by the Declaration or By-Laws of the Association, may be exercised by the Board of Directors:

(a) all of the powers conferred upon nonprofit corporations by common law and the North Carolina statutes in effect from time to time;

(b) all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in these Articles, the By-Laws, and the Declaration, including, without limitation, the following:

(i) to fix, levy, collect, and enforce payment of all charges or assessments authorized by the Declaration by any lawful means; to pay all expenses in connection therewith and all administrative and other expenses incident to the conduct of the business of the Association including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(ii) to manage, control, operate, maintain, repair, and improve the common areas and facilities, and any property subsequently acquired by the Association, or any property owned by another for which the Association, by rule, regulation, declaration, or contract, has a right or duty to provide such services;

(iii) to enforce covenants, conditions, or restrictions affecting any property to the extent the Association may be authorized to do so under the Declaration;

(iv) to engage in activities which will actively foster, promote, and advance the common interests of all Owners of property subject to the Declaration;

(v) to buy or otherwise acquire, sell, or otherwise dispose of, mortgage, or otherwise encumber, exchange, lease, hold, use, operate, and otherwise deal in and with real, personal, and mixed property of all kinds and any right or interest therein for any purpose of the Association;

(vi) to borrow money for any purpose subject to such limitations as may be contained in the Declaration or the By-Laws;

(vii) to enter into, make, perform, and enforce contracts of every kind and description, and to do all other acts necessary, appropriate, or advisable in carrying out any purpose of the Association, with or in association with any other corporation, or other entity or agency, public or private;

(viii) to act as agent, trustee, or other representative of other corporations, firms, or individuals, and as such to advance the business or ownership interests in such corporations, firms, or individuals; and

(ix) to provide any and all supplemental municipal services to the Community as may be necessary or desirable.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the paragraphs of this Article 5 are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provision of this Article 5.

Article 6. Membership. The Association shall be a membership corporation without certificates or shares of stock. Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot, and the votes and rights of use and enjoyment shall be as provided in the Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned. The members shall be entitled to vote in accordance with the Declaration and the By-Laws.

Article 7. Board of Directors. The business and affairs of the Association shall be conducted, managed, and controlled by a Board of Directors. The Board may delegate its operating authority to such companies, individuals, or committees as it, in its discretion, may determine.

The method of election and removal of directors and filling of vacancies and the term of office of directors shall be as set forth in the Declaration and the By-Laws. The initial directors are as follows: **Bruce M. Whitten**

Article 8. Liability of Directors. No person who is serving or who has served as a director of the Association shall be personally liable to the Association or any of its members for monetary damages for breach of duty as a director, except for liability with respect to (a) acts or omissions that the director at the time of such breach knew or believed were clearly in conflict with the best interests of the Association, (b) any transaction from which the director derived an improper personal benefit or (c) acts or omissions with respect to which the North Carolina Nonprofit Corporation Act does not permit the limitation of liability. As used herein, the term "improper personal benefit" does not include a director's reasonable compensation or other reasonable incidental benefit for or on account of his service as a director, officer, employee, independent contractor, attorney, or consultant of the Association. No amendment or repeal of this Article, nor the adoption of any provision to these Articles of Incorporation inconsistent with this Article, shall eliminate or reduce the protection granted herein with respect to any matter that occurred prior to such amendment, repeal, or adoption.

Article 9. Dissolution. The Association may be dissolved only as provided in the Declaration, By-Laws, and by the laws of the State of North Carolina. If the Association is dissolved, the net assets of the Association shall be dedicated to a public body or conveyed to another nonprofit organization with a purpose similar to that of the Association.

Article 10. Merger and Consolidation. The Association may merge or consolidate only upon a resolution duly adopted by the Board of Directors and the affirmative vote of not less than two-thirds (2/3) of the Total Association Vote; provided, however, during Declarant's Development Period, Declarant must also consent to such merger or consolidation.

Article 11. Amendments. These Articles may be amended by the approval of at least two-thirds (2/3) of the Total Association Vote, provided that (i) no amendment shall be in conflict with the Declaration, (ii) during Declarant's Development Period, any amendment to these Articles must also be approved by Declarant, and (iii) provided further that no amendment shall be effective to impair or dilute any rights of members that are governed by the Declaration. In addition, these Articles may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation, or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to the Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage Loans on the Lots subject to the Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent in writing.

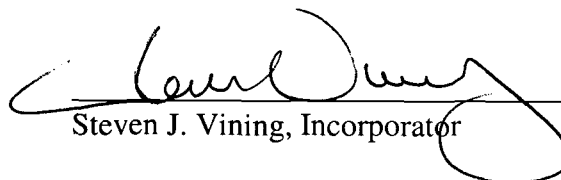
Article 12. Registered Agent and Office. The initial registered agent of the Association is **Bruce M. Whitten** and the initial registered office of the Association is: c/o Lennar Carolinas, LLC, 1201 Edwards Mill Road, Suite 301, Raleigh, NC 27607.

Wake County

Article 13. Incorporator. The incorporator of the Association is: Steven J. Vining whose address is 1003 High House Road, Suite 106, Cary, North Carolina 27513.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation.

STONEWATER HOA, INC.


Steven J. Vining, Incorporator