

Prepared by:
WHITE & DALTON
William R. White

325 61

EAGLE LAKE
DECLARATION OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

THIS DECLARATION, made on the date hereinafter set forth by CAMACHEE COVE YACHT HARBOR, INC., a Florida corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Transylvania County, State of North Carolina, which is more particularly described on Exhibits A and B attached hereto and made a part hereof.

WHEREAS, Declarant desires to provide for the orderly development of the land described on Exhibit A ("Property") and so much of the land described on Exhibit B ("Additional Property") as may be from time to time subjected to the Declaration so as to assure high quality standards for the enjoyment of the Property and to promote the quality of life for the residents of the Property. The purpose of these restrictions is to insure the use of the Property for attractive single-family residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the Property, to maintain the desired standards of the community, and thereby to secure to each Owner (as hereinafter defined) the full benefit and enjoyment of his Dwelling (as hereinafter defined) with no greater restrictions on the free and undisturbed use of his Lot (as hereinafter defined) than it necessary to insure the same advantages to the other Owners. The intent of all of these restrictive covenants is to insure the perpetual preservation of the natural beauty and tranquility of this unique mountain lake community. In carrying out and interpreting these covenants it is incumbent upon the Association (as hereinafter defined) to always keep foremost in mind the preservation of this rural mountain lake community.

000515

WHEREAS, Declarant deems it desirable to create Eagle Lake Property Owners' Association, Inc., a North Carolina not-for-profit corporation ("Association") to manage the Property. The Association shall own, operate, maintain and administer all the Common Property, as hereinafter defined, and shall administer and enforce the covenants, conditions, restrictions and limitations set forth herein. The Association shall enforce the easements created herein and collect and disburse the assessments hereinafter created.

NOW, THEREFORE, Declarant hereby declares that all of the Property described on Exhibit A shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1.1 "Additional Property" shall mean and refer to any land which is adjacent or contiguous with the Property including, without limitation, the land described in Exhibit B attached hereto and made a part hereof or, is located such that if such land is annexed to the Declaration by the Declarant, or its successors or assigns, it shall form an integrated community with the Property. Declarant, or its successors or assigns, may annex the Additional Property by recording in the public records

of the county a supplemental declaration subjecting such Additional Property to the covenants and conditions of this Declaration in the manner hereinafter set forth. Provided, however, until such Additional Property is subjected to the Declaration, this Declaration shall not constitute a lien, encumbrance or defect on the title thereof.

Section 1.2 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

Section 1.3 "Association" shall mean and refer to Eagle Lake Property Owners' Association, Inc., a not-for-profit North Carolina corporation, its successors and assigns.

Section 1.4 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

Section 1.5 "Common Expenses" shall mean and refer to those items of expense for which the Association is or may be responsible under this Declaration and those additional items of expense approved by the Board of Directors in the manner set forth in the Declaration, the Articles or the Bylaws.

Section 1.6 "Common Property" shall mean and refer to those tracts of land which are deeded to the Association and such improvements thereon as are specifically conveyed to the Association, including, without limitation, the lake, dam, recreational parcels, if developed, green space and entrance features. The term "Common Property" shall also include any personal property acquired by the Association, as well as certain areas designed for maintenance responsibility which the Association is herein obligated to maintain notwithstanding that it may not own the underlying fee simple title, as well as certain easements conveyed to the Association. All Common Property is to be devoted to and intended for the common use and enjoyment of the Owners and their guests, lessees or invitees subject to any operating rules adopted by the Association and subject to any use rights made or reserved by Declarant prior to conveyance of such Common Property or the granting of the easements.

Section 1.7 "County" shall mean and refer to Transylvania County, North Carolina.

Section 1.8 "Declarant" shall mean and refer to Camachee Cove Yacht Harbor, Inc., a Florida corporation, qualified to do business in North Carolina its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot or parcel of Property from the Declarant for the purpose of development and resale to an Owner who will reside therein, and provided that such rights of the Declarant are specifically assigned to the successor or assign and such successor or assign shall specifically assume the obligations of Declarant under the Declaration, Articles and Bylaws. Declarant may assign all or part of its rights in the manner set forth in such assignment.

Section 1.9 "Declaration" shall mean and refer to this Eagle Lake Declaration of Covenants, Conditions, Restrictions and Easements applicable to the Property.

Section 1.10 " Dwelling" shall mean and refer to any single family residential dwelling constructed or to be constructed on or within a Lot, whether a primary or secondary residence.

Section 1.11 "Lot" shall mean and refer to any plot of land together with the improvements thereon shown upon any

recorded subdivision plat of the Property or on any preliminary plan for Additional Property which the Declarant intends to plat as a part of the Property or a parcel of land conveyed to an Owner and described in the conveyance to be a "Lot".

Section 1.12 "Member" shall mean and refer to those persons entitled to Class A or B membership in the Association as provided in the Declaration and Articles.

Section 1.13 "Mortgagee" shall mean and refer to any institutional holder of a first deed of trust encumbering a portion of the Property as security for the performance of an obligation; an insurer or guarantor of such deed of trust, including, without limitation, the Veterans Administration ("VA") or Federal Housing Administration ("FHA") and/or a purchaser of such deeds of trust in the secondary market, including, without limitation, Federal National Mortgage Association ("FNMA") and Governmental National Mortgage Association ("GNMA"); and the Declarant, if it is holding a first deed of trust on any portion of the Property.

Section 1.14 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or Dwelling, which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.15 "Property" shall mean and refer to that certain real property described on Exhibit A together with improvements thereon, (except such improvements the title of which are reserved by the Declarant or its assignees), and such portions of the Additional Property as may hereafter be brought within the jurisdiction of the Declaration by annexation.

ARTICLE II

COMMON PROPERTY RIGHTS

Section 2.1 Owners' Common Property Easements. Subject to the provisions of the Declaration, the rules and regulations of the Association, and any prior use rights granted in the Common Property, every Owner(s), their successors and assigns and their families and every guest, tenant, and invitee of such Owner(s) is hereby granted a right and easement of ingress and egress and enjoyment in and to Common Property which shall be appurtenant to and shall pass with the title to every Lot and Dwelling, subject to the following provisions:

(a) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period, not to exceed 60 days, for any infraction of its published rules and regulations. In no event may the Association deny an Owner the use of the entrance areas or private roads or cul-de-sacs, if any, so as to prohibit ingress and egress to his Lot or Dwelling Unit.

(b) The right of the Board of Directors, without further consent from Owners or their Mortgagees, to dedicate, transfer or grant an easement over all or any part of the Common Property to any public agency, authority or utility company for the purpose of providing utility or cable television service to the Property and the right of the Board to acquire, extend, terminate or abandon such easement.

(c) The right of the Association to sell, convey or transfer the Common Property or any portion thereof to any third party other than those described in Subsection (b) for such purposes and subject to such conditions as may be approved by a two-thirds (2/3) vote of the Board of Directors.

(d) The right of the Board of Directors to adopt reasonable rules and regulations pertaining to the use of the Common Property.

(e) The right of the Declarant or the Association to authorize other persons to enter upon or use the Common Property for uses not inconsistent with the Owners' rights therein.

(f) The right of the Association to mortgage any or all of the Common Property for the purpose of improvement or repair of the Common Property on such terms and conditions as are approved by a two-thirds (2/3) vote of the Board of Directors.

Section 2.2 Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Property to the members of his family, his tenants, or contract purchasers who occupy the Lot or Dwelling within the Property.

Section 2.3 Conveyance of Common Property. The Declarant may convey the Common Property to the Association at such time as all the planned improvements, if any, are complete; and in the event the Common Property is unimproved, then at such time as the Declarant determines, but in all events prior to the termination of the Class B membership. Such conveyance shall be subject to easements and restrictions of record and taxes for the year of conveyance. The Declarant may reserve certain rights to itself for use of the Common Property and/or Common Roads which are not adverse to the Owners. The Declarant may terminate the designation of land as Common Property without consent or joinder of any Owner or Mortgagee. Upon conveyance of the Common Property to the Association, such Common Property shall be held for the benefit of the Association.

ARTICLE III

STRUCTURE, POWERS, AND DUTIES OF MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 3.1 Association. The Association is the not-for-profit corporation charged with the duties and vested with the powers set forth in the North Carolina General Statutes for not-for-profit corporations, the Articles of Incorporation, the Bylaws and this Declaration. A Board of Directors of the Association, and officers, elected as provided in the Articles and Bylaws, shall conduct the affairs of the Association in accordance with the Declaration, Articles and Bylaws.

Section 3.2 Qualification for Membership. Every Owner of a Lot or Dwelling which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling which is subject to this Declaration.

Section 3.3 Classes of Membership and Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A Members shall be all Owners of Lots or Dwelling, with the exception of the Declarant, and there shall be one vote for each Lot or Dwelling. Once a Class A Member has constructed a Dwelling on a Lot, the vote associated with the Lot shall then be associated with the Dwelling.

(b) Class B. The Class B Member shall be the Declarant who shall be entitled to the number of votes equal to the number of Lots or Dwellings from time to time subject to the Declaration or which are depicted on a preliminary plan for the Property which the Declarant intends to subject to this Declaration plus one.

The total number of votes of the Class B Member shall be increased at the time of submission of the preliminary plat to the County or upon commencement of Declarant's marketing of such Lots or Dwellings to include the number of Lots or Dwellings contained within the Additional Property plus one. The Class B membership shall cease upon the happening of the first of the following events do occur:

- (i) when the Declarant has conveyed one hundred percent (100%) of the Property or Additional Property which it owns; or
- (ii) fifteen years from the date of recording this Declaration; or
- (iii) when Declarant, in its sole discretion, elects to transfer control to the Class A Members.

Section 3.4 Approval by Voting. Whenever in this Declaration a proposed action or issue must be approved by a specified percentage of the vote of the Members of the Association, such approval may be obtained by:

(a) the specified percentage of Members of each class of Members casting their respective votes to approve such action or issue in person or by proxy at duly noticed and constituted meeting of the Members at which a quorum is present, or

(b) the specified percentage of Members of each class of Members holding all votes giving the approval by written consent to approve the action or issue.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot or Dwelling owned within the Property, hereby covenants, and each Owner of any Lot or Dwelling by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) Annual Assessments which are herein defined as those funds regularly collected from Owners of Lots or Dwelling in the Property for the improvement, maintenance and repair of the Common Property, for the operation and administration of the Association, for the establishment of a maintenance, repair and reserve account for the payment of taxes and insurance on the Common Property and for such other purposes and obligations of the Association as are required hereunder or permitted in this Declaration, the Articles or the Bylaws.

(b) Special Assessments which are herein defined as those funds which are established and assessed from Owners for expenses incurred which affect all Owners on a limited or special basis or may be assessed against specified Owner(s) for failure to comply with the terms and conditions of this Declaration.

The Annual and Special Assessments, (sometimes jointly referred to herein as "Assessments") together with interest, costs, and reasonable attorney's fees, shall be a charge on the Lot or Dwelling and shall be a continuing lien upon the Lot or Dwelling against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot or Dwelling at the time when the Assessment fell due. The personal obligation for delinquent

Assessments shall be the joint obligation of the grantor and grantee under a deed, without affecting the grantee's right to recover the grantor's share from the grantor. There shall be no diminution or abatement of any Assessment based upon any alleged failure of the Association to perform some function required of it, or any alleged negligent or wrongful acts of the Association, its officers, agents or employees or based upon an Owner's abandonment or non use of the Lot or Dwelling or Common Property.

Section 4.2 Annual Assessments. The Board of Directors shall have the right, power and authority, during any fiscal year, to set or increase the Annual Assessment for the purpose of meeting the Common Expenses on a current basis.

The Annual Assessment shall be computed on an equal basis for Lots and Dwellings. Once a Dwelling or Dwelling(s) are constructed upon a Lot, it shall be considered a Dwelling and subject to the restrictions contained herein for Lots and Dwelling(s), except that a Lot with one or more Dwellings constructed thereon shall be counted only once in computing the Annual Assessment and shall have only one vote, irrespective of the number of Dwellings.

Section 4.3 Special Assessments.

(a) In addition to the Annual Assessments authorized above, the Association may levy, in any Assessment year, a Special Assessment applicable to that year only 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 Property, including fixtures and personal property related thereto, and for making up any budget deficit, provided that any such Assessment shall have the approval of two-thirds (2/3) majority vote of the Board unless the Special Assessment is required due to the inadequacy of the insurance proceeds to cover the cost of a repair to Common Property, see Section 9.1) wherein no approval shall be required.

(b) In the event that an Owner fails to maintain his Lot or Dwelling and any appurtenant improvements as required herein, the Association shall give written notice specifying such failure to the Owner and if the Owner fails to correct such unperformed maintenance within ten (10) days from the Association's written notice, the Association may perform such maintenance and the cost of such shall constitute a Special Assessment for which a claim of lien may be filed and enforced.

Section 4.4 Uniform Rate of Assessment. Both Annual Assessments and Special Assessments, except those for failure to maintain as set forth in Subsection 4.3(b), must be fixed at a uniform rate for all Lots and Dwellings within a class and any increase must be applied uniformly for all classes.

Section 4.5 Date of Commencement of Annual Assessments; Due Dates. A Lot shall be deemed substantially complete and subject to Assessments when the Common Roads necessary to provide access to a particular Lot have been constructed, whether any Dwelling has been completed thereon. With respect to any Dwelling which is conveyed upon completion, the Annual Assessment shall commence upon conveyance of the Dwelling to a third party purchaser. Provided, however, if the Declarant or a successor developer or builder owns Lots upon which it intends to construct Dwellings for purchase by a third party, the Assessments for those Lots will not commence until conveyance of the Dwellings to the third party purchaser. The Board of Directors shall fix the amount of the Annual Assessment against each Lot or Dwelling at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to

every Owner subject thereto. The Annual Assessment shall be payable monthly, and the due date shall be the first day of each month unless specifically changed by the Board of Directors.

Section 4.6 Association Certificate. 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 for a specified Lot or Dwelling have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot or Dwelling is binding upon the Association as of the date of its issuance.

Section 4.7 Effect of Nonpayment of Assessments; Remedies of the Association. Any Assessment not paid within fifteen (15) days after the due date shall be subject to a late charge in the amount of \$15.00. Further, any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the highest rate of interest permitted by the law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Dwelling. Costs and reasonable attorneys' fees incurred in any such action may be awarded to the prevailing party.

Section 4.8 Subordination of the Lien to Deeds of Trust. The lien of the Assessments provided for herein shall be subordinate to the lien of any first deed of trust held by a Mortgagee. Sale or transfer of any Lot or Dwelling shall not affect the Assessment lien. However, the sale or transfer of any Lot or Dwelling pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot or Dwelling from liability for any Assessment thereafter becoming due or from the lien thereof. Any such delinquent Assessments which were extinguished pursuant to the foregoing may be reallocated and assessed against all of the Lots or Dwellings as part of the annual budget.

Section 4.9 Exempt Property. All properties dedicated to, and accepted by, a local public authority or utility company and serving a public use, all properties owned by a charitable or non-profit organization exempt from ad valorem taxation by the laws of the State of North Carolina and properties owned by the Association shall be exempt from the Assessment created herein, except no land or improvements which are occupied as a residence shall be exempt from Assessments.

Section 4.10 Budget.

(a) The fiscal year for the Association shall be the calendar year commencing on January 1 of each year.

(b) The initial budget shall be established by the Declarant and shall be based upon estimates the Declarant can establish using the financial data for similar properties.

(c) Commencing approximately one month before the expiration of each budget year, the Board of Directors shall adopt a budget for the next fiscal year based upon the actual expenditures of the Association in the previous fiscal years including, without limitation, expenses for wages, employee benefits, materials, insurance premiums, services, supplies and for the reserves as set forth below. Upon adoption by the Board such budget shall be in effect for the fiscal year and each Owner shall pay its pro rata share of the Annual Assessment as set forth in such budget. Provided, however, no budget which results in Annual Assessments for each Lot or Dwelling which exceeds one hundred and twenty five percent (125%) of the prior year's Annual Assessment shall be

adopted unless approved by two thirds of the members of the Board of Directors.

(d) The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Property and a reserve for working capital and contingencies. This reserve fund shall constitute a portion of the annual budget. In addition, the Board of Directors may establish reserve funds from the Annual Assessments to be held in reserve in an interest bearing account for:

- (i) major rehabilitation or major repairs,
- (ii) for emergency and other repairs required as a result of storm, fire, mutual disaster or other casualty loss and
- (iii) initial cost of any new service to be performed by the Association.

(e) The failure or delay of the Board to prepare or adopt the annual budget for any fiscal year or to send written notice of the budget shall not constitute a waiver or release in any manner of the Owner's obligation to pay any Assessment as herein provided, whenever the same shall be determined or notice sent. In the absence of any annual budget or written notice, each Owner shall continue to pay the Assessment as established for the previous year.

Section 4.11 Fidelity Bonds. The Association may obtain and maintain blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not such person received compensation for such services. The Association shall be the obligee under such bonds and the premiums shall be paid as a part of the Common Expenses of the Association. In the event that a management agent handles the funds of the Association, such agent shall also provide the same coverage required of the Association. The Association shall be named as an additional obligee in the management agent's bond.

The fidelity bond should cover the maximum funds that will be in the custody of the Association or its management agent at any time the bond is in force which shall be at the minimum equal to three (3) months Assessments for all Lots or Dwellings plus the amount of reserves. The bonds must provide for ten (10) days written notice of cancellation to the Association and to each Mortgagee who requests such notice.

The foregoing bonding requirements are contained in this Declaration for the purpose of compliance with the requirements of certain Mortgagees. Should such coverage become unobtainable or such Mortgagees modify their requirements, then the Board may, in its discretion, make such modifications to the provisions hereof as the Board, using its business judgment, deems prudent and reasonable.

ARTICLE V

ARCHITECTURAL CONTROL

Section 5.1 General Provisions. No construction, modification or alteration of any improvement shall be made on any Lot, and no Dwelling, other than those erected by the Declarant, shall be constructed, commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, color, materials, and location of

the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant. Improvements or modifications which are specifically subject to architectural approval include without limitation, construction of the initial structures on a Lot; painting or alteration of a Dwelling (including doors, windows, roof); landscaping; installation of solar panels or other devices; construction of fountains, swimming pools, jacuzzis; construction of privacy walls or fences; and installation of awnings, shutters, gates, flower boxes, shelves, exterior lighting, statues or other outdoor ornamentation (collectively referred to as "Proposed Improvements").

Section 5.2 Architectural Control Committee ("ACC")

(a) Composition of the ACC.

The architectural review and control functions set forth in this Declaration shall be administered and performed by the ACC, which shall consist of at least three (3) members who need not be Members of the Association. The Declarant shall have the right to appoint all of the members of the ACC, or such lesser number as it may, in its sole discretion, appoint for so long as it owns any portion of the Property or Additional Property. Thereafter, members of the ACC as to whom Declarant may relinquish the right to appoint, shall be appointed by, and shall serve at the pleasure of, the Board of Directors of the Association. At such time as the Board of Directors has the right to appoint the members of the ACC, the Board shall appoint at least one (1) architect or building contractor thereto. A majority of the ACC shall constitute a quorum to transact business at any meeting of the ACC, and the action of a majority present at a meeting at which a quorum is present shall constitute the action of the ACC. Any vacancy occurring on the ACC because of death, resignation, or other termination of service of any member thereof shall be filled by the Board of Directors; except that Declarant, to the exclusion of the Board, shall fill any vacancy created by the death, resignation, removal or other termination of services of any member of the ACC appointed by Declarant.

(b) Powers and Duties of the ACC.

The ACC shall have the following powers and duties:

(i) To draft Architectural Planning Criteria. The initial Architectural Planning Criteria have been adopted by the Declarant and are set forth in Section 5.3. The Declarant shall have the sole power and right to amend such Architectural Planning Criteria for so long as it has the right to appoint the ACC. In addition, the Declarant may establish such additional rules, regulations and policies as it may determine reasonable or convenient which may be set forth in a separate publication available at Declarant's office so long as such rules, regulations and policies are consistent with the Architectural Planning Criteria set forth herein. Subsequent to the termination of the Declarant's control of the ACC, the ACC shall recommend modifications and/or amendments to the Architectural Planning Criteria to the Board. Any modification or amendment to the Architectural Planning Criteria shall be consistent with the provisions of this Declaration, and shall not be effective until adopted by a majority of the members of the Board of Directors of the Association. No amendment to the Architectural Planning Criteria need be recorded in the public records of the county.

(ii) To require submission to the ACC of two (2) complete sets of plans and specifications for any Proposed Improvement to be constructed by any person or entity other than the Declarant, the construction or placement of which is proposed

upon any Lot or Dwelling. The ACC may also require submission of samples of building materials and colors proposed for use in the Proposed Improvement and may require such additional information as reasonably may be necessary for the ACC to completely evaluate the Proposed Improvement in accordance with this Declaration and the Architectural Planning Criteria. One set of the plans shall be retained by the ACC, the other shall be returned to the Owner signed by the ACC.

(iii) To approve or disapprove any Proposed Improvement or change or modification thereto, the construction, erection, performance or placement of which is proposed upon any Lot or Dwelling. The ACC shall approve or disapprove the application for a Proposed Improvement within thirty (30) days after it has been submitted to the ACC in proper form together with all supporting information. If the application is not approved in such period, it shall be deemed approved. Subsequent to the transfer of control of the ACC by the Declarant, any party aggrieved by a decision of the ACC shall have the right to make a written request to the Board within thirty (30) days of a decision of disapproval, for a review thereof. The determination of the Board upon reviewing any such decision shall be dispositive; provided, however, during the time the Declarant controls the ACC, determination by the ACC shall be final.

In connection with its approval or disapproval of a Proposed Improvement, the ACC shall evaluate each application for the total effect. This evaluation relates to matters of judgment and taste which cannot be reduced to a simple list of measurable criteria. It is possible, therefore, that a Proposed Improvement might meet individual criteria delineated in this Article and the Architectural Planning Criteria and still not receive approval, if in the sole judgment of the ACC, its overall aesthetic impact is unacceptable. The approval of an application for one Proposed Improvement shall not be construed as creating any obligation on the part of the ACC to approve applications involving similar designs for Proposed Improvements pertaining to different Lots.

(iv) To inspect a Lot and/or Dwelling to assure compliance with the approval. Following the approval of any Proposed Improvement, the ACC has the right during reasonable hours to enter upon and inspect any Proposed Improvement with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. If the ACC determines that the Proposed Improvement has not been approved or are not being constructed in compliance with the approved plans and specifications, the ACC is entitled to enjoin further construction and to require the removal or correction of any work in place which is not in compliance with the approved plans and specifications.

(v) If any Proposed Improvement as aforesaid shall be changed, modified or altered without prior approval of the ACC of such change, modification or alteration, and the plans and specifications therefor, if any, then the Owner shall, upon demand, cause the Proposed Improvement to be restored to comply with the original plans and specifications, or the plans and specifications originally approved by the ACC, and shall bear all costs and expenses of such restoration, including costs and reasonable attorneys' fees of the ACC.

(vi) The ACC is hereby authorized to make such charges as it deems necessary to cover the cost of review of the plans and specifications.

Section 5.3 Architectural Planning Criteria.

The following Architectural Planning Criteria shall govern the development of improvements to the Property unless specifically waived by the ACC.

(a) Building Type. All Dwellings shall be for single family residential purposes. The principal Dwellings placed upon a Lot constituting part of the Property shall contain not less than fifteen hundred (1,500) square feet of liveable, enclosed, heated floor area (exclusive of open or screen porches, patios, terraces, garages and carports) for one story Dwellings and not less than one thousand square feet of livable, enclosed, heated floor area on one floor of two-story Dwellings. Any other building on the Lot, whether a dwelling or a secondary structure such as a detached garage or utility building shall be of a permanent nature and so constructed as to be compatible with its surroundings when located. No mobile homes, house trailers or similar "live-in" vehicles may be occupied on a Lot.

(b) Lot Siting. Set back restrictions for Lots shall be as set forth on the plat or in any supplemental restrictions made pursuant to the terms hereof. A Dwelling may be located upon a single platted Lot or a combination of platted Lots and in such event the side set back lines shall apply to the outermost Lot lines. The ACC shall have the right to impose additional set back requirements for all Lot lines to preserve line of sight of neighboring properties. Unless a specified waiver is obtained from the ACC principal Dwellings must be set back from the Lot boundary lines as follows:

Front or road side	35 feet
Side	30 feet
Rear	30 feet
Lake side	50 feet

Guest Dwellings shall generally comply with the foregoing set back lines unless specifically approved by the ACC.

(c) Sedimentation Control. During construction of any structure on any Lot, Owner shall insure against soil erosion and sedimentation by the installation of such sedimentation and erosion control devices and practices (including, but not limited to, siltation screens) as are sufficient to retain sediment generated by land disturbing activities within the boundary of the subject Lot. Disturbed areas on the subject Lot shall be seeded and grassed, or afforded other appropriate cover, as soon as practicable, during the construction period, having regard for the exigencies of building construction, and in any event such cover shall be in place and sufficient to retain sedimentation run-off prior to removal of the aforementioned sedimentation and control devices.

(d) Height Limitations. No structure shall exceed thirty-five feet in height, such limit not to count basement level which shall be that level which is wholly or substantially below ground level.

(e) Exterior Color Plan. The ACC shall have final approval of all exterior colors plans and each Owner must submit to the ACC prior to initial construction and development upon any Lot a color plan showing the color of the roof, exterior walls, shutters, trims, which shall be consistent with the homes in the surrounding areas.

(f) Roofs. Flat roofs shall not be permitted unless approved by the ACC. Minimum pitch of main structure roof will be 4/12. Protrusions through roofs for power ventilators or other

apparatus, including the color and location thereof, must be approved by the ACC.

(g) Elevations. Similar elevations shall not be built directly adjacent or across from each other.

(h) Driveway Construction. All driveways must be constructed of an approved material.

(i) Games and Play Structures. All basketball backboards, tennis courts and play structures shall be located at the rear of the Dwelling, or on the inside portion of a corner Lot within the setback lines except for Lots which abut the Lake. In the case of Lots which front on the Lake, such recreational structures shall be constructed to enhance the view from the lake. No platform, doghouse, tennis court, playhouse or structure of a similar kind or nature shall be constructed on any part of a Lot located in front of the rear line of the Dwelling constructed thereon and shall be constructed so as to not adversely affect the adjacent Lots or the use thereof. Any such structure must have prior approval of the ACC.

(j) Fences and Walls. The composition, location and height of any fence or wall to be constructed on any Lot shall be subject to the approval of the ACC. The ACC shall require the composition of any fence or wall to be consistent with the material used in the surrounding homes and other fences, if any. Any fence, wall, hedge or other similar structure or improvement must be included in the plans and specifications of the Proposed Improvements with respect to location, height, and type of material and must be approved by the ACC.

(k) Swimming Pools and Tennis Courts. Any swimming pool or tennis court to be constructed on any Lot shall be subject to the requirements of the ACC, which include, but are not limited to the following:

- (i) Composition to be of material thoroughly tested and accepted by the industry for such construction;
- (ii) The outside edge of any pool wall may not be closer than four (4) feet to a line extended and aligned with the side walls of a Dwelling unless approved by the ACC;
- (iii) No screening of pool areas may extend beyond a line extended and aligned with the side walls of the Dwelling unless approved by the ACC;
- (iv) Pool screening may not be visible from the street in front of the Dwelling unless approved by the ACC;
- (v) Location and construction of tennis or badminton courts must be approved by the ACC;
- (vi) Any lighting of a pool or other recreation area shall be designed so as to buffer the surrounding Dwelling from the lighting;
- (vii) Tennis court lighting shall not be permitted.

If one Owner elects to purchase two (2) adjoining Lots and use one for recreation purposes, the Lot used for recreation purposes must be adequately screened by landscaping and/or walls or fences on both the front and side as required by the ACC.

(l) Garbage and Trash Containers. No Lot shall be used or maintained as a dumping ground for rubbish, trash or other waste. All trash, garbage and other waste shall be kept in sanitary containers which shall be kept within an enclosure constructed with each Dwelling in a location approved by the ACC. Due to the existence of wooded surroundings, no incinerator shall be kept for the burning of household waste. Occasional burning of brush is permitted only if County and State guidelines are followed and permits obtained.

(m) Temporary Structures. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any Lot at any time as a residence either temporarily or permanently, except that the Declarant and/or its designees may erect and utilize temporary structures for construction or sales use.

(n) Utility Connections. Building connections for all utilities, including, but not limited to, water, electricity, telephone shall be run underground from the proper connecting points to the Dwelling in such a manner to be acceptable to the governing utility authority. Approval of water to air heat pumps will not be considered unless excess water can be dispelled directly into a storm water drainage structure.

(o) Wells. All wells installed on the Property shall be constructed and maintained in accordance with all applicable state and local regulations.

(p) Sight Distance at Intersection. No fence, wall, hedge or shrub planting which obstructs sight lines and elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street line.

(q) Private Docks and Boat Houses. The design of any private dock must be approved by the ACC. In general, all docks must be parallel to the shoreline, extending not more than ten (10) feet into the lake, no more than thirty (30) feet in length and shall not be covered. No portion of the dock shall be closer than thirty (30) feet to the Lot line. Docks shall be constructed of natural materials (preferably pressure treated wood) and are to be well anchored and secured. Docks shall be maintained in a clean condition and in good repair. Any dock which is deemed to be a hazard with respect to the lake or dam may be removed by the Association. Boat house designs and placement must be reviewed by the ACC and in general, shall be located on land and not over water.

(r) Fuel Storage Tanks. Any fuel storage tank shall be buried beneath the ground as may be permitted by the applicable state or local rules and regulations or shall be screened so as not to be visible from any street, lake or common property.

(s) Waiver of Architectural Planning Criteria. The Architectural Planning Criteria set forth herein are intended as guidelines to which adherence shall be required by each Owner in the Property; provided, however, the ACC shall have the express authority to waive any requirement set forth herein if, in its professional opinion, it deems such waiver in the best interest of the Property and the deviation requested is compatible with the character of the Property. A waiver shall be evidenced by an instrument signed and executed by the ACC upon approval by a majority of its members.

Section 5.4 ACC Liability. Neither the ACC, the Association, the Declarant nor any of their representatives shall be liable in damages to anyone submitting plans for approval or to any Owner or occupant of the Property by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of any plans or the failure to approve any plans. Any Owner making or causing to be made any Proposed Improvement or additions on any portion of the Property, Lot or Dwelling agrees and shall be deemed to have agreed, for such Owner, and his heirs, personal representatives, successors and assigns, to hold the ACC, the Association, the Declarant and all other Owners harmless from any liability, damage to the Property and from expenses arising from the construction and installation of any Proposed Improvement and such Owner shall be solely responsible for the maintenance, repair and insurance of any alteration, modification or change and for assuring that the Proposed Improvement meets with all applicable governmental approvals, rules and regulations.

No approval as provided herein shall be deemed to represent or imply that the Proposed Improvement, if constructed in accordance with the approved plans and specifications will result in properly designed improvements or will meet all applicable building codes, applicable governmental permits or other governmental requirements.

ARTICLE VI

USE RESTRICTIONS

In order to provide for congenial occupancy of the Property and for the protection of the value of the Lots and Dwellings, the use of the Property, Lots and Dwellings shall be in accordance with the following provisions so long as the Property, Lots and Dwellings are subject to this Declaration.

Section 6.1 Residential Uses. Subject to the provisions of Section 6.18, all Dwellings and any improvements on Lots shall be used for residential living units and certain appurtenant purposes such as storage facilities, cabanas, guest houses or garages and for no other purpose, and no business or commercial building may be erected on any Lot which requires additional traffic in the Property. The leasing of a Dwelling shall not relieve the Owner as well as the tenant of the necessity of compliance with this Declaration, the Articles and the Bylaws.

Section 6.2 Satellite Dishes. Until such time as cable television is available to the Property, television satellite dishes shall be permitted on the Lots, provided that they are not visible from the roadway or by Owners of other Lots. When cable television lines are installed within the Property, all television satellite dishes shall be removed within ninety (90) days.

Section 6.3 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind unless screened from the view outside the Lot and from the street and removed when clothes are dry.

Section 6.4 Nuisances. Nothing shall be done or maintained on any Lot or Dwelling which may be or become an annoyance or nuisance to the other Owners of the Property or which is noxious or offensive.

Section 6.5 Signs. No signs of any kind shall be displayed to public view on any portion of the Property except one professional sign of not more than one square foot designating the owner's name and address; one "For Sale" or "For Rent" no

greater than five square feet, may be placed on any Lot or Dwelling without the prior approval of the ACC. In the event the ACC approves a standard "For Sale" or "For Rent" sign, such sign shall thereafter be required for such purposes. Provided however, the Declarant, its successors and assigns, shall be permitted to place such signs as it deems necessary in connection with its sales efforts of or promotion of the Property.

Section 6.6 Energy Conservation. Solar energy and other energy conservation devices are not prohibited or discouraged, but the design and appearances of such devices will be closely scrutinized and controlled to assure consistency with neighborhood aesthetics. Request for approval of installation of any type of solar equipment shall be included in the plans and specifications for the Proposed Improvement and must be constructed in accordance therewith.

Section 6.7 Window Coverings. No reflective window coverings or treatments shall be permitted on any building in the Property. All window coverings shall have linings or other treatment so that the exterior appearance of the window appears neutral from the street. The ACC, at its discretion, may control or prohibit other window coverings and treatments not reasonably compatible with aesthetic standards set forth herein.

Section 6.8 Insurance. Nothing shall be done or kept on any Lot or in a Dwelling or on the Common Property which will increase the rate for the insurance covering the Property. No Owner shall permit anything to be done or kept on his Lot or in the Dwelling which will result in the cancellation of insurance on the Property or any other Lot or Dwelling or which would be in violation of any law.

Section 6.9 Off-Street Motor Vehicles. No dirt bikes or snow mobiles may be operated off the paved roadways. Use of all terrain vehicles shall be limited to use for access to portions of the Property but not for recreational purposes.

Section 6.10 Vehicles and Repair. No inoperative cars, motorcycles, trucks or other types of vehicles shall be allowed to remain either on or adjacent to any Lot or Dwelling for a continuous period in excess of 72 hours, provided, however, this provision shall not apply to any such vehicle being kept in an enclosure and not visible from the street or neighboring Lots and/or Dwellings. Additional rules and regulations regarding use, repair and storage of vehicles on the Property may be promulgated from time to time by the Board.

Section 6.11 Hunting, Firearms, Fireworks. No hunting is permitted within the Property or Additional Property. No firearms shall be discharged for any reason. There shall be no fireworks used on any part of the Property or Additional Property without the express prior written consent of the Association.

Section 6.12 Pets and Animals. No animals except common domestic household pets, within the ordinary meaning and interpretation of such words including dogs, cats, fish and birds may be kept, maintained or cared for on any Lot or Dwelling or within the Property. No pets shall be allowed to make an unreasonable amount of noise or to become a nuisance. Upon written request of any Owner, the ACC may conclusively determine at its sole discretion, in accordance with its rules, whether an animal is a domestic household pet, whether such animal is making an unreasonable amount of noise, whether an animal is being allowed to run at large whether the number of pets is excessive or whether an animals in any manner create a nuisance. The decision of the ACC in such matters is conclusive and shall be enforced as other restrictions contained herein. Provided however, horses

may be kept on Lots exceeding five (5) acres or on the Common Property in an area specifically designated for keeping horses. Horses may be ridden alongside the Common Roads, but not on the Common Roads themselves except to cross the Common Road and on the designated trails throughout the Property as such trails exist from time to time.

Section 6.13 Oil and Mining Operation. No oil drilling, mining operations, oil refining, quarrying or oil development operations, or tanks, tunnels, mineral excavations or shafts shall be permitted upon, in, or under any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 6.14 Lawful Use. No immoral, improper, offensive or unlawful use shall be made of the Property or any part thereof and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed.

Section 6.15 Hazardous Materials. No hazardous or toxic materials or pollutants shall be discharged, maintained, stored, released or disposed of on the Property except in strict compliance with applicable rules and regulations. Flammable, combustible or explosive fluids, materials or substances may be stored or used on the Property subject to strict safety codes and shall be stored in containers specially designed for that purpose.

Section 6.16 Additional Use Restrictions. The Board of Directors of the Association may adopt such additional use restrictions, rules or regulations, applicable to all or any portion or portions of the Property and to waive or modify application of the foregoing use restrictions with respect to any Lot(s) as the Board, in its sole discretion, deems appropriate.

Section 6.17 Sales and Construction Activities. Notwithstanding any other provisions herein, the Declarant and its agents, successors, assigns and designees may maintain such facilities and undertake such activities as may be reasonably required to sell the Lots, Dwellings or the Property and to construct improvements thereon.

Section 6.18 Tree Removal and Privacy Zones. The trees within the Property are an asset not only of the undivided Lot on which they grow, but also of the entire Property. Therefore, trees with a diameter of six inches or more two feet off the ground shall not be cut unless necessary for a Dwelling or as approved by the ACC, driveway or other approved structure or because the tree constitutes a danger or is dead or diseased. Thinning of trees shall be permitted where the tree cover is too thick to permit development or where necessary to enhance the view.

The side setbacks described in Section 5.3(b) are designated to provide a privacy barrier between Dwellings, accordingly, the trees and undergrowth within the side set back lines is to remain in as natural state as possible and any thinning or cutting within the side setback areas shall be carefully screened and approved by the ACC. In addition to the other remedies set forth in this Declaration, in the event that an Owner removes a tree without approval, the Association may require the Owner to replace the tree with a substantially equal tree, or, if such tree can not be transplanted, by a specific number of trees.

Section 6.19 Noise Pollution. Noise pollution is a specific concern within the Property as it is both difficult to measure and to control. Noise generators within the confines of the Property can be particularly bothersome to Owners because of

the amplification from surrounding hills and the transmission of noise across the water. Accordingly, restrictions regarding noise pollution must be interpreted and enforced by the Association with its concerns in mind. In protecting these concerns, the following restrictions apply:

(a) High volume electronic amplifiers and other noise pollution devices shall be limited to a volume that is not audible outside the Lot boundaries.

(b) Personal use of high noise level equipment including without limitation, chain saws, mowers or any other outside power equipment, shall be limited to the hours of 8:00 - 11:00 a.m. and 2:00 - 5:00 p.m.. Provided however, this restriction shall not apply to caretakers, maintenance workers or construction personnel in carrying out their normal duties.

Exterior noise, and noise emanating from within buildings or other improvements, including without limitation, talking, singing, television, radio, record, tape or compact disc player or musical instruments, shall be maintained from 11:00 p.m. until 7:30 a.m. at such volume that the noise is not audible beyond the boundaries of the Lot from which it originates and at all times so as not to constitute a nuisance or unreasonable annoyance to neighbors.

Section 6.20 Subdivision of Lots. No Lot shall be further subdivided into smaller lots by any Owner, except Declarant, provided that this provision shall not be construed to prohibit corrective deeds or similar corrective instruments. The Declarant shall have the right, without the consent of any Owner, to subdivide Lots or cause such Lots to be subdivided for the purposes of construction of a road or right of way and the restrictions as to use contained herein shall not be applicable to such Lot(s).

In addition, the Declarant shall have the right to modify the subdivision plats on the Property provided that all Owners of the Lots whose boundaries are affected thereby consent to such modification, which consent shall not be unreasonably withheld.

Section 6.21 Enforcement Procedure. Every Owner and occupant of any Lot or Dwelling shall comply with the provisions of this Declaration as set forth herein, any and all rules and regulations made pursuant to this Declaration, By-Laws and Articles of Incorporation of the Association, as amended from time to time. Failure of an Owner or occupant to so comply shall be grounds for action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. In addition to all other remedies, in the sole discretion of the Board of Directors of the Association, a fine or fines may be imposed upon an Owner for failure of an Owner, his family, guests, invitees, lessees or employees, to comply with any covenant, restriction, rule or regulation herein or in the Declaration, Articles of Incorporation or By-Laws, provided the following procedures are adhered to:

(a) The Association shall notify the Owner or occupant of the infraction or infractions. Included in the notice shall be a date and time of the next Board of Directors' meeting at which time the Owner or occupant shall present reasons why penalties should not be imposed.

(b) The non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why penalties should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner or occupant by not later than twenty-one (21) days after the Board of Directors' meeting.

(c) The Board of Directors may impose fines against the applicable Lot or Dwelling up to the maximum amount of \$50.00 (or such greater amount as may be permitted by law from time to time).

(d) Each separate incident which is grounds for a fine shall be the basis of one separate fine. In the case of continuing violations, each continuation of same after a notice thereof is given shall be deemed a separate incident.

(e) Fines shall be paid not later than thirty (30) days after notice of the imposition thereof.

(f) All monies received from fines shall be allocated as directed by the Board of Directors.

(g) 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, including, without limitation, the right to assess a Special Assessment as provided in Section 4.3; however, any penalty paid by the offending Owner or occupant shall be deducted from or offset against any damages which the Association may otherwise be entitled to recover by law from such Owner or occupant.

ARTICLE VII

RIGHTS OF MORTGAGEES

Section 7.1 Mortgagee Notice Rights. Upon written request to the Association, identifying the name and address of a Mortgagee, such Mortgagee will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Common Property or any Lot or Dwelling on which there is a first deed of trust held, insured or guaranteed by such Mortgagee.

(b) Any delinquency in the payment of Assessments or charges owed by an Owner of a Lot or Dwelling subject to a deed of trust held, insured or guaranteed by such Mortgagee, which remains uncured for a period of 60 days.

(c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action which would require the consent of a specified percentage of Mortgagees.

Section 7.2 Mortgagee Information. The Association shall make available to Owners and Mortgagees current copies of this Declaration, Articles, Bylaws and rules and regulations of the Association, as well as books, records and financial statements of the Association. "Available" means available for inspection, upon written request during normal business hours or under other reasonable circumstances.

Section 7.3 Financial Statements. Upon written request of a Mortgagee, the Association shall deliver to the Mortgagee an audited or reviewed statement for the preceding fiscal year.

ARTICLE VIII

ANNEXATION OF PROPERTY

Section 8.1 Declarant's Annexation. The Declarant shall have the right, for so long as it is a Class B Member from time to time and in its sole discretion, to annex to the Property and to include within this Declaration any Additional Property with no further consent of Owners or Mortgagees.

Section 8.2 Association Annexation. The Association may annex Additional Property owned by the Association to the Property with the approval of 2/3 of the votes of the Board of Directors and with the consent of the owner of such Property.

Section 8.3 Supplemental Declarations. Any such additions authorized in section 8.1 or 8.2 above may be made by filing of record one or more supplemental declarations. With respect to Additional Property annexed by the Declarant, the supplemental declaration need only be executed by the Declarant; in the case of Additional Property to be annexed by the Association, the supplemental declaration shall be executed by the President of the Association and the owner of the land to be subjected, if not the Association, and shall state that such annexation is in accordance with a resolution passed by the Association in accordance with the terms of this Declaration. A supplemental declaration shall contain a statement that the real property that is the subject of the supplemental declaration constitutes Additional Property which is to become a part of the Property subject to this Declaration. In addition the supplemental declaration may contain additional covenants and restrictions. Supplemental Declarations may permit attached housing, zero lot line housing, and other styles of dwellings permitted by the applicable zoning and a separate declaration with respect thereto may be recorded. In the event that the type of Dwellings annexed under a supplemental declaration require assessments for maintenance which are not applicable to Dwellings within the Property (e.g., attached housing providing for Association maintenance of lots or exterior of improvements) then the supplemental declaration may provide for a separate association. Such supplemental declaration shall become effective upon being recorded in the public records of the County.

Section 8.4 Effect of Annexation. In the event that any Additional Property is annexed to the Property pursuant to the provisions of this Article, then such Additional Property shall be considered within the definition of Property for all purposes of this Declaration, and each Owner of a Lot or Dwelling thereon shall be a Class A Member and shall be entitled to one (1) vote, and the Class B Member shall be entitled to additional votes as provided in Article III. Owners, upon recordation of any Supplemental Declaration, shall also have a right and nonexclusive easement of use and enjoyment within the Additional Property so annexed and an obligation to contribute to the cost of improvement, operation and maintenance of such Common Property within the annexed land. Provided, however, until a supplemental declaration is recorded subjecting any portion of the Additional Property to the Declaration, the fact that such Additional Property is described on Exhibit B shall not constitute a defect or encumbrance on the title of the Additional Property.

Section 8.5 Withdrawal. Declarant may at any time, in its sole discretion, determine to withdraw Property from this Declaration by recording in the public records a declaration of withdrawal of the Property with the consent of the owner of the Property and its Mortgagee, if any, if such Property is not owned by the Declarant. Subsequent to the termination of the Declarant's ownership of any Property subject to this Declaration, the Association may withdraw Property in the manner stated herein with

the consent of the owner and any Mortgagee, if the owner is not the Association.

ARTICLE IX

INSURANCE, CONDEMNATION AND RECONSTRUCTION

Section 9.1 Damage to or Condemnation of Common Property. In the event that any portion of the Common Property is damaged or destroyed by casualty or taken through condemnation or conveyance in lieu thereof, it shall be repaired or restored by the Association to substantially its condition prior to the damage, destruction or condemnation.

Repair or reconstruction of the Common Property shall be substantially in accordance with the plans and specifications pursuant to which the same was originally constructed. All insurance proceeds shall be applied to the restoration and repair. If the insurance proceeds or condemnation award and any reserves maintained by the Association for such purpose are insufficient, the deficit shall be assessed against all Owners as a Special Assessment. If there is a surplus of insurance proceeds or condemnation award, it shall become the property of the Association.

With respect to any insurance proceeds or condemnation award in connection with such loss or damage to the Common Property or improvements thereon, the Association is hereby designated to represent the Owners and Mortgagees in any proceedings, negotiations, settlements or agreements in connection with such award.

Section 9.2 Damage to or Condemnation of the Lots or Dwellings. In the event of damage or destruction to any portion of the improvements on a Lot or Dwelling due to casualty, natural events, condemnation or conveyance in lieu thereof, the improvements shall be repaired or restored by the Owner. In the event that the damage, destruction or condemnation renders the improvements uninhabitable or the damage is so substantial that the Owner determines not to rebuild the improvements on the Lot or Dwelling, the Owner shall clear the debris and have the Lot leveled within 60 days from the date of destruction or damage and shall thereafter maintain the Lot in a clean and sanitary condition.

Section 9.3 Damage to Common Property Due to Owner Negligence. In the event that the Common Property is damaged as a result of the willful or negligent acts of the Owner, his tenants, family, guests or invitees, such damage shall be repaired by the Association and the cost thereof shall be a Special Assessment against such Owner as described in Article IV, Section 4.1.

Section 9.4 Insurance. The Association shall obtain and maintain insurance policies insuring the interests of the Association as hereinafter described. The policy of property insurance shall cover all of the Common Property (except land, foundation, excavation and other items normally excluded from coverage) but including fixtures and building service equipment, to the extent that they are part of the Common Property.

The policy shall afford, as a minimum, protection against the following:

(a) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;

(b) all other perils which are customarily covered with respect to projects similar in construction, location and use and all perils normally covered by the standard "all risk" endorsement, where such is available.

(c) losses covered by general liability insurance coverage covering all Common Property in the amount of at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of Common Property and any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

The hazard policy shall be in an amount equal to 100% of the current replacement cost of the insured properties exclusive of land, foundation, excavation and items normally excluded from coverage. The policy shall provide that it may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association. The Board may obtain such additional insurance as it in its sole discretion deems reasonable, convenient or necessary. In the event that any of the coverage required herein becomes unavailable or prohibitively expensive, the Association may make such changes in coverage as it deems reasonable and prudent provided such coverage is consistent with the then applicable requirements of any Mortgagees.

ARTICLE X

EASEMENTS

Section 10.1 Road Easements. Each Lot conveyed by Declarant shall include in the legal description thereof a portion of which shall be subject to a roadway easement. Access to and from the Lots shall be over the roadway easements in the Lots.

In addition, to the extent that portions of roadways are not contained within a Lot, Declarant shall grant an easement for ingress and egress over such portion of the roadway not contained within a Lot to a publicly dedicated right of way. All portions of the roadway providing ingress and egress from the Lots to the publicly dedicated road are hereby referred to as "Common Roads".

Each Owner of a Lot or Dwelling, his successors and assigns, domestic help, delivery, pick up and fire protection services, police and other authorities of the law, United States mail carriers, representatives of utilities serving the Property, Mortgagees and such other persons as Declarant and/or the Association shall designate, are hereby granted a perpetual non-exclusive easement for ingress and egress over the portion of the Common Roads lying within the designated easement area of each Lot as well as over those portions of the Common Roads leading from the Lots to a publicly dedicated right of way lying outside of the Lots.

Notwithstanding the ownership of fee simple title to the roadways, the Declarant shall construct the Common Roads and the Association shall have the obligation to maintain the Common Roads.

The Declarant and the Association shall have (a) the right to adopt reasonable rules and regulations pertaining to the use of the Common Roads, (b) the right, but no obligation, from time to time, to control and regulate all types of traffic on the Common Roads, including the installation of gatehouses and gate systems, if the Declarant or Association so elects. The Declarant and the Association shall have the right but no obligation to control speeding and impose speeding fines to be collected by the Association in the manner provided for assessments and to prohibit use of the Common Roads by traffic or vehicles (including without limitation, motorcycles, "go-carts", three wheeled vehicles),

which in the opinion of Declarant or the Association would or might result in damage to the Common Roads or create a nuisance for the residents, (c) the right, but no obligation, to control and prohibit parking on all or any part of the Common Roads, and (d) the right, but no obligation, to remove or require the removal of any fence, wall, hedge, shrub, bush, tree or other thing, natural or artificial which is placed or located on the Property, if the location of the same will in the opinion of the Declarant or the Association obstruct the vision of a motorist.

In addition, it is specifically acknowledged that certain Owners of lands outside the Property have been granted easements over the Property by a separate agreement. At such time as the land subject to the easements is improved for access use, the conveyance of such roads as Common Roads shall be subject to such persons' easement rights as provided by separate instrument.

Section 10.2 Utility Easements. For so long as the Declarant is a Class B Member, the Declarant hereby reserves the right to grant easements of such duration and exclusivity for the benefit of Declarant or its designees, upon, across, over, through and under any portion of the Property owned by Declarant or the Common Property or Common Roads for ingress, egress, installation, replacement, repair and maintenance of utility and service lines and service systems, public and private. Declarant, for itself and its designees, reserves the right to retain title to any and all pipes, lines, cables or other improvements installed on such easements. Upon termination of the Declarant's right to grant such easements, the Association shall have the right to grant the easements described herein.

Section 10.3 Declarant's Easement of Correct Drainage. For so long as the Declarant is a Class B Member, Declarant hereby reserves a blanket easement on, over and under the ground within the Property to maintain and correct drainage of surface waters and other erosion controls.

Section 10.4 Easement for Unintentional Encroachment. The Declarant hereby reserves an exclusive easement for the unintentional encroachment by any Lot or Dwelling upon the Common Property or vice-versa caused by or resulting from, construction, repair, shifting, settlement or movement of any portion of the Property, which exclusive easement shall exist at all times during the continuance of such encroachment, which easement is appurtenant to the encroaching Property to the extent of such encroachment.

Section 10.5 Central Telecommunication Receiving and Distribution System. The Declarant hereby reserves to itself, its successors and assigns, an exclusive easement for installing, maintaining and supplying the services of any central telecommunication receiving and distribution system ("Cable Television Service") serving the Property. Provided, however, the foregoing right shall not impose any obligation on Declarant, its successors or assigns, to provide Cable Television Service to the Property. Declarant reserves to itself, its successors and assigns, the right to connect to any Cable Television Service source as Declarant may, in its sole discretion, deem appropriate including, without limitation, companies licensed to provide Cable Television Service in the County for which service the Declarant, its successors and assigns shall have the right to charge the Association and/or individual Owners a reasonable fee not to exceed any maximum allowable charge for Cable Television Services to single family residences as from time to time defined by the Code of Laws and Ordinances of the County.

ARTICLE XI

MAINTENANCE

Section 11.1 Association Responsibility. In addition to specific obligations set forth herein, the Association shall maintain, repair and restore all the Common Property, including, without limitation, maintenance, repair and replacement of all landscaping, structures, Common Roads, rights-of-way and any and all improvements set thereupon. The Association may assume the maintenance responsibilities set forth in any amendment or supplemental declaration affecting all or part of the Property.

Section 11.2 Owner Maintenance Required and Failure to Maintain. Unless otherwise provided in a Supplemental Declaration, the Owner shall maintain the exterior of all buildings and improvements on his Lot and his Dwelling in good workmanlike manner, and shall present a neat and clean appearance upon the Lot and Dwelling including painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements.

During construction of a Dwelling or other Proposed Improvement, each Owner will be required to maintain his Lot in a clean condition, providing for trash and rubbish receptacles and disposal. Construction debris shall not be permitted to remain upon any Lot or about any Dwelling.

In the event that any Owner fails or refuses to keep his Lot or Dwelling in compliance with the terms hereof, after written notice to Owner, the Board may authorize its agents to enter upon the Lot and perform any necessary maintenance at the expense of the Owner, and such entry will not be deemed a trespass and the cost thereof shall be collected as a Special Assessment as provided in Section 4.3. Upon completion of construction, the Lot shall be maintained free and clear of weeds, debris and underbrush.

ARTICLE XII

LAKE AND WATER RIGHTS

Section 12.1. Ownership of Lake. A portion of the Property consists of a spring-fed lake, and the portion of the Property lying waterward of the "top of bank" shall be conveyed to the Association, including improvements to the lake and dam.

Section 12.2. Maintenance of Lake Embankments and Lake Bottom. The Association shall have the right, but not the obligation to maintain and control the water level and quality of the lake and the lake bottom. The Association shall have the power and right as it deems appropriate, to control and eradicate plants, fowl, reptiles, animals, fish and fungi in and on any lakes, as well as to maintain the dam, any drainage device and/or water level devices so as to insure compliance with applicable governmental regulations as they may exist from time to time irrespective of whether the Lot boundary is above or below the water level from time to time. The Owner of the land adjacent to the water edge of the lake ("Adjacent Owner") shall maintain the embankment to the water edge as such level shall rise and fall from time to time. Maintenance of the embankment shall be conducted so that the grass, planting or other lateral support of the embankment shall exist in a clean and safe manner and so as to prevent erosion. If the Adjacent Owner shall fail to maintain the embankment, the Association shall have the right, but not the obligation, to enter onto the Adjacent Owner's property and perform the maintenance at the expense of the Adjacent Owner, which

expense shall be a Special Assessment against the Owner and his Lot or Dwelling as provided herein.

Section 12.3. Improvements on Lake. In the event that Declarant, an entity designated by the Declarant, or the Association shall construct any fountains, bridges, docks, piers, or other improvements which may extend over or into the lake or construct any bulkheads or similar improvements to support or enhance the lake, the Association shall maintain any and all improvements in good repair and condition. In the event that an Adjacent Owner is permitted to build a dock boathouse or other improvements for its personal use, then all maintenance thereof shall be performed by such Adjacent Owner.

Section 12.4. Easements. The Owners' use and access to the lake shall be subject to and limited by the rules and regulations of the Association. The use of lake shall be limited to fishing, boating, and/or recreational use. The Association is hereby granted a non-exclusive easement for ingress and egress over the lake and a parcel of land extending ten (10) feet landward from the water edge of the lake for the purpose of providing the maintenance required herein. Maintenance includes the right, but not the obligation to, cut trees or shrubbery that are in danger of falling into the lake or to take such measures as are necessary to maintain the integrity of the lake, including, without limitation, removal of boats or docks in a state of disrepair. The Adjacent Owners are hereby granted a non-exclusive easement for ingress and egress over the lake for the purpose of providing any maintenance to the embankment.

Section 12.5. Lake Use Restrictions and Covenants. In connection with the use of any lake, the following restrictions shall apply:

(a) No internal combustion engines, either inboard, outboard or inboard-outboard will be permitted on the lake except that persons performing maintenance may use an outboard boat for lake and dam maintenance of size and power as approved by the ACC. Only boats powered by electric motors, oars, paddles or sails may be used on the lake. Boats may not moor or land at any Lot other than the Lot owned by the Owner without such Owner's permission.

(b) No bottles, trash, cans or garbage of any kind or description shall be placed in the lake.

(c) No activity shall be permitted on the lake which may become an annoyance or nuisance to the adjacent property and the Owners thereof. The Association's determination whether any activity constitutes an annoyance or nuisance shall be dispositive.

(d) No person or entity, except Declarant or the Association, shall have the right to pump or otherwise remove any water from any lake for the purpose of irrigation or other use without the specific approval of the Association.

(e) The lake shall not be used in conjunction with any business enterprise or public use whatsoever.

(f) No trot lines, set lines or nets may be used for fishing and only one pole per person is allowed. The Association reserves the right to set a limit on the size or number of fish that may be caught during any specified period of time.

(g) No person may stock the lake with fish or other marine species without prior written consent of Declarant, which consent may be withheld for any reason. Declarant shall have the right, in its sole discretion, to select the species of fish or

plant or marine life to be stocked in the lake, and Declarant may change the species from time to time.

(h) The Board shall be entitled to establish, amend, or modify rules and regulations governing the use of the lake, including, without limitation, the right to close the lake during certain seasons, to fully or partially drain the lake.

Section 12.6. Indemnification. The Declarant hereby assigns to the Association all the obligations of the Declarant under the applicable permits or under any applicable governmental regulations and for any and all obligations for the maintenance of the lake within the Property. The foregoing maintenance obligation shall be in effect notwithstanding the ownership of the lake. Association further agrees that subsequent to the recording of this Declaration, it shall indemnify and hold Declarant harmless from suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury or property damage or other damage arising from or out of occurrence, in, upon, at or from the maintenance of the lake, occasioned wholly or in part by any act or omission of the Association or its agents, contractors, employees, servants or licensees but not including any liability occasioned wholly or in part by the acts of the Declarant, its successors, assigns, agents or invitees. The use of the lake is entirely at the risk of the user.

ARTICLE XIII

DISCLAIMER OF LIABILITY

Section 13.1 General Provisions. Notwithstanding anything contained herein, in the Articles, Bylaws or rules and regulations of the Association or any other document governing or binding the Association (jointly referred to herein as "Association Documents"), neither the Declarant nor the Association shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner, occupant or user of any portion of the Property, including, without limitation, Owners, residents, their families, guests, invitees, agents, servants, contractors or subcontractors, nor for any property of such persons.

Section 13.2 Specific Provisions. Without limiting the generality of the foregoing:

(a) It is the express intent of the Association Documents that the various provisions thereof which are enforceable by the Association and which govern or regulate the uses of the Property have been written and are to be interpreted and enforced for the sole purpose of enhancing and maintaining the enjoyment of the Property and the value thereof.

(b) Neither the Declarant nor the Association is empowered nor have they been created to act as an entity which enforces or insures compliance with the laws of the United States, the State of North Carolina, the County of Transylvania, and/or any other jurisdiction or prevents tortious activities.

(c) The provisions of the Association Documents, setting forth the uses of Assessments which relate to health, safety and/or welfare shall be interpreted and applied only as limitations on the uses of such funds and not as creating a duty of the Association, or the Declarant, to protect or further the health, safety or welfare of any persons, even if such funds are used for such purposes.

Section 13.3 Owner Covenant. Each Owner, his heirs, successors and assigns (by virtue of his acceptance of title to

his Lot or Dwelling) and each other person or entity having an interest in or lien upon or making use of, any portion of the Property (by virtue of accepting such interest or lien or making use thereof) shall be bound by this Article and shall be deemed to have automatically waived any and all rights, claims, demands and causes of action against the Association or Declarant arising from or connected with any matter for which the liability of the Association or Declarant has been disclaimed in this Article.

ARTICLE XIV

GENERAL PROVISIONS

Section 14.1 Enforcement. The Association, the Declarant for so long as it is a Class B Member, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Provided, however, the foregoing shall not be construed to limit the Declarant's rights under Article V to retain Architectural Control of the Property as provided therein. Failure by the Association, the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 14.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 14.3 Term. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of forty (40) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless an instrument of termination thereof is executed by ninety-percent (90%) of the votes of the Association.

Section 14.4 Amendment. For so long as Declarant retains its Class B membership, Declarant reserves the right without consent or joinder of any Owner or Mortgagee to (a) amend this Declaration, provided that such amendments shall conform to the general purposes and standards of the covenants and restrictions, herein contained, (b) amend this Declaration for the purpose of curing any ambiguity in or inconsistency between the provisions herein contained, (c) include in any supplemental declaration or other instrument hereafter made any additional covenants, restrictions and easements applicable to the Property which do not lower the standards of the covenants, restrictions and easements herein contained and (d) release any Lot or Dwelling from any part of the covenants and restrictions which have been violated, if Declarant, in its sole judgment determines such violation to be a minor or insubstantial violation. This Declaration may be amended during the first twenty (20) years after recording of this Declaration by an instrument signed by Owners representing not less than ninety percent (90%) of all the votes of the Association, and thereafter by an instrument signed by Owners representing not less than seventy-five percent (75%) of all the votes of the Association. Any amendment must be recorded.

Section 14.5 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless same is approved by a vote of seventy-five percent (75%) of the Members at a general meeting. This Section 14.6 shall not apply, however, to (i) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (ii) the imposition of Assessments as provided, (iii) proceedings involving challenges

to ad valorem taxation or (iv) counterclaims brought by the Association in proceedings instituted against it. Notwithstanding the provisions of Section 14.4, this Section 14.5 shall not be amended unless such amendment is made by the Declarant or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, as hereunto set its hand and seal this 7th day of JUNE, 1989.

CAMACHEE COVE YACHT HARBOR, INC.
A Florida corporation

By: Joseph S Taylor
Its President

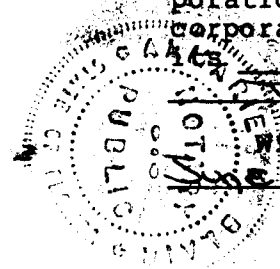
Attest: Thomas H. Taylor
Its Secretary

[CORPORATE SEAL]



STATE OF FLORIDA
COUNTY OF St. Johns

I, a Notary Public of the County and State aforesaid, certify that Thomas H. Taylor personally appeared before me this day and acknowledged that he is Secretary of CAMACHEE COVE YACHT HARBOR, INC. a Florida corporation and that by authority duly given and as an act of the corporation, the foregoing instrument was signed in its name by Joseph S Taylor President, sealed with its corporate seal and attested by Thomas H. Taylor as its Secretary.



Witness my hand and official stamp or seal, this 7th day of JUNE, 1989.

Almarie W. Blair
Notary Public



My Commission expires:

The foregoing certificate of Almarie W. Blair is certified to be correct. This instrument and this certificate are fully registered at the date and time and in the Book and Page shown on the first page hereof.

Fred H. Spraul Register of Deeds for
Transylvania County.

Filed for registration on the 13 day of Feb
19 90 at 3:45 o'clock P. M. and registered and
verified on the 13 day of Feb 19 90
In Book No. 325 of page 61
Fred H. Spraul
Register of Deeds, Transylvania County

EXHIBIT A

PROPERTY

TRACT # 1:

All of the property more fully described at Deed Book 317 at Page 448 in the Transylvania County Registry. (See page 28A of these restrictions).

TRACT # 2:

All of the property more fully described at Deed Book 320 at Page 506 in the Transylvania County Registry.

TRACT #3:

BEGINNING on a new iron pin located in the Eastern boundary of the Camashee Cove property purchased from the Marchman heirs, said iron pin standing South 3 deg. 51 min. 23 sec. West 1330.00 feet from the existing iron pin and property corner of the Camashee Cove outside boundary, and running thence from said beginning corner, South 3 deg. 51 min. 23 sec. West 440.00 feet to a new iron pin in the outside boundary of the Camashee Cove property; thence North 79 deg. 27 min. 05 sec. West 399.59 feet, crossing an iron pin at the edge of the cul de sac of Big Pine Hill Drive to a stake in the center of said cul de sac, and running thence from said stake, North 3 deg. 53 min. 32 sec. East, crossing over an iron pin at 50 feet for a total distance of 393.68 feet to a new iron pin; thence South 86 deg. 06 min. 28 sec. East 396.62 feet to the new iron pin and the point of BEGINNING.. Containing 3.80 acres, as surveyed and platted by Clarence A. Jenkins, RLS, on an unrecorded plat dated November 22, 1989, and being a portion of that property described in Deed Book 293, at Page 536 in the Transylvania County Registry.

325 89

STATE OF NORTH CAROLINA

RESTRICTION OF LOT

COUNTY OF TRANSYLVANIA

That the undersigned, BERT RIDER, his heirs and assigns, by the execution of this instrument hereby restricts the lot and house more fully described in Deed Book 317, at Page 448 by the Restrictive Covenants above; that said property shall henceforth be restricted in accordance with the terms of said Restrictions.

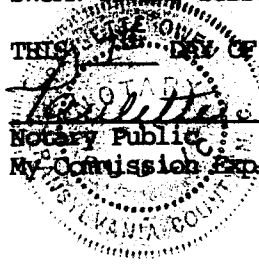
This the 7 day of July, 1989.

Bert J. Rider (SEAL)
Bert Rider

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 7 DAY OF JULY, 1989.

Kenneth Owen
Notary Public
My Commission Expires: 5-6-91



325

90

EXHIBIT B

ADDITIONAL PROPERTY

That certain property more fully described in Deed Book 292 at Page 634 in the Transylvania County Registry, see also Deed of Correction at Deed Book 293 at Page 536 in the Transylvania County Registry.

LCKDECEL