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**WALKER SPRINGS  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS**

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This instrument prepared by and  
upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Boult Cummings LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
(205) 521-8429

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**WALKER SPRINGS  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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THIS WALKER SPRINGS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of the 13<sup>th</sup> day of February 2026 by **NEWCASTLE DEVELOPMENT, LLC**, an Alabama limited liability company.

**RECITALS:**

Developer, as hereinafter defined, desires to own, develop, improve, lease and sell the Property for single-family attached and detached residential housing purposes, subject to certain easements, covenants, conditions, restrictions, requirements and obligations in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the development, administration and maintenance of the Property.

NOW, THEREFORE, Developer does hereby declare that all of that certain real property situated in Shelby County, Alabama which is more particularly described in **Exhibit A** attached hereto and incorporated herein by reference shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property described in **Exhibit A** attached hereto and any of the Additional Property, as hereinafter defined (but only to the extent that Developer submits any Additional Property to the terms and provisions of this Declaration), and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**ARTICLE I**  
**DEFINITIONS**

As used throughout this Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

**I.1 Additional Property**

The term “Additional Property” shall mean and refer to any real property and any improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Property) which Developer may from time to time submit and add to the provisions of this Declaration pursuant to the provisions of Section 2.02 below. The Additional Property may also include additional Common Areas.

**I.2 Affiliate**

The term “Affiliate” shall mean, as to any Person, any other Person which, directly or indirectly, is in common control of, is controlled by, or is under direct or indirect common control with, such Person, and, if such Person is an individual, any member of the immediate family of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person which is controlled by any such member or trust. As used herein, the term “control” (and like terms) when used with respect to any Person, means the direct or indirect beneficial ownership of more than five percent (5%) of the outstanding voting securities or voting equity of such

Person or possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities or by contract or otherwise.

### I.3 Amenity Fee

. The term "Amenity Fee" shall mean and refer to a fee in such amount as may be determined (and changed) from time to time by the Board, which fee shall be paid to and used by the Association for the purposes set forth in Section 4.06 below with respect to any Recreational Facilities. The First Owner of each Lot upon which a completed Dwelling is situated (as evidenced by the issuance of a certificate of occupancy for such Dwelling) and each subsequent Owner thereafter may be obligated to pay Amenity Fees to the Association in accordance with the terms and provisions of Section 4.06 below.

### I.4 ARC

. The term or letters "ARC" shall mean the architectural review committee for the Association to be appointed pursuant to Article V hereof with the rights and obligations conferred upon such architectural review committee pursuant to this Declaration.

### I.5 Architectural Standards

. The term "Architectural Standards" shall mean the standards prepared, issued and amended from time to time by the ARC pursuant to Article V below for the purpose of establishing policies, guidelines and minimum requirements with regard to the construction, location, landscaping, design, architectural styles and elements and any other matters relating to the construction of Improvements on the Lots. In addition, the term "Architectural Standards" shall also include, without limitation, any other or additional construction and development guidelines adopted from time to time by the ARC or the Board.

### I.6 Assessment

. The term "Assessment" shall mean, collectively, the Annual Assessments (as defined in Section 8.03(a) below), Special Assessments (as defined in Section 8.04 below), and Individual Assessments (as defined in Section 8.05 below).

### I.7 Association

. The term "Association" shall mean Walker Springs Association, Inc., an Alabama nonprofit corporation, and its successors and assigns.

### I.1 Association-Maintained Sewer Lines

. The term "Association-Maintained Sewer Lines" means, collectively, the Owner LPS Equipment on each LPS Lot and the Owner Gravity Sewer Line on each GSL Lot.

### I.1 Board

. The term "Board" shall mean and refer to the Board of Directors of the Association and their duly elected successors as may be provided in the Certificate of Formation and Bylaws.

### I.8 Bylaws

. The term "Bylaws" shall mean and refer to the Bylaws of the Association, as the same may be amended from time to time.

### I.9 Certificate of Formation

. The term "Certificate of Formation" shall mean and refer to the Certificate of Formation of the Association, as the same may be amended from time to time.

### I.10 Common Areas

. The term “Common Areas” shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Areas shall also mean and include (regardless of whether legal title to the same has been conveyed to the Association) all signage (including, without limitation, informational, traffic and street signage) whether situated within the Property or in areas which do not constitute part of the Property but which are for the benefit of Walker Springs which Developer may determine to be Common Areas under this Declaration, including all lighting, landscaping and other improvements associated with such signage, including irrigation systems and utility charges, if any, for such signage and landscaping, all street lights and street and landscaping lighting situated within the right-of-way of any streets, roadways and alleys within the Property (other than standard street and traffic signage maintained by any Governmental Authority), all walkways, nature trails, greenways, sidewalks, paths, on-street parking spaces and facilities situated within any portion of the Property (other than any such areas located solely within the boundaries of any Lot or which are maintained by any Governmental Authority), all bicycle and jogging paths and lanes, gates, walls, fences, entrances and entrance features, landscaping and landscaped or other areas and improvements immediately adjacent to any public roadways, including all medians within any public roadways, whether the same are located within the boundaries of the Property or on or within the rights-of-way of any public roadways which may provide ingress to and egress from any portion of the Property (other than any such areas located solely within the boundary lines of any Lot or which are owned or maintained by any Governmental Authority), any community buildings or facilities provided for the common use by the Owners and Occupants, all lakes, water features, storm drains and sewers, drainage and/or watershed protection or retention ponds, basins or other areas and facilities located within the Property (other than such areas located solely within the boundary lines of any Lot or which are maintained by any Governmental Authority), all utility and irrigation lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which serve any portion of the Common Areas (which are not owned or maintained by any public or private utility providers or Governmental Authorities), any Recreational Facilities and any other areas or improvements on or within Walker Springs which are designated by Developer as Common Areas from time to time. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof.

#### I.11 Common Expenses

. The term “Common Expenses” shall mean and refer to all expenditures made or incurred by or on behalf of the Association, including, without limitation, those expenses described in Section 8.03(c) below, together with all funds assessed for the creation or maintenance of reserves pursuant to the provisions of this Declaration.

#### I.12 City Gravity Sewer Main

. The term “City Gravity Sewer Main” shall mean and refer to the gravity sewer main lines owned and maintained by the City of Alabaster, Alabama and its successors and assigns situated within the rights-of-way of the roadways or easements within the Property.

#### I.13 City Low Pressure Sewer Main

. The term “City Low Pressure Sewer Main” shall mean and refer to the low pressure sewer main lines owned and maintained by the City of Alabaster, Alabama and its successors and assigns situated within the rights-of-way of the roadways or easements within the Property.

#### I.14 DECLARATION

. The term “Declaration” shall mean and refer to this Walker Springs Declaration of Covenants, Conditions and Restrictions, together with all amendments thereto.

#### I.15 Developer

. The term “Developer” shall mean Newcastle Development, LLC, an Alabama limited liability company, and its successors and assigns.

#### I.16 Dwelling

. The term “Dwelling”, with an initial capital letter, shall mean and refer to any improved Lot intended for use as a single-family attached or detached residential housing unit, including, without limitation, townhouses, condominiums, duplexes, zero-lot-line homes and cluster, patio and garden homes. Common Areas shall not constitute Dwellings. Each condominium unit within a condominium shall, for purposes of this Declaration, constitute a Dwelling.

#### I.17 First Owner

. The term “First Owner” shall mean and refer to the first third party purchaser/grantee of any Lot who is not Developer or any Affiliate of Developer.

#### I.18 Governmental Authority

. The term “Governmental Authority” shall mean and refer to any and all City, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Property or any Improvements thereto.

#### I.19 GSL Lot

. The term “GSL Lot” shall mean and refer to any Lot which is connected to the City Gravity Sewer Main through an Owner Gravity Sewer Line.

#### I.20 Improvement

. The term “Improvement”, with an initial capital letter, shall mean and refer to all Dwellings and any building, structure or device constructed, erected or placed upon any Lot which in any way affects, alters or causes a change in the exterior appearance of any Lot. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, swimming pools, tennis courts, treehouses, playhouses, swing sets, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot and any fixtures, appurtenances, personal property or devices installed, erected, constructed, attached, placed or maintained on the exterior of any Dwelling or any other buildings situated on any Lot. “Improvements” shall also mean any exterior alterations or additions to any existing Dwelling or other structure situated on a Lot and any grading, excavation or fill.

#### I.21 Living Space

. The term “Living Space” shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating and air conditioning equipment, exclusive of any of the following areas of a Dwelling which are not heated and cooled by heating, ventilating and air conditioning equipment: “bonus” rooms in garages or attics, garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements. Following initial approval by the ARC of the minimum and maximum Living Space for any Dwelling, none of the foregoing described areas which are not heated and cooled by heating, ventilating and air conditioning equipment shall be enclosed or otherwise improved to create Living Space out of such areas unless the same is approved by the ARC and any additional Living Space created out of such areas will not result in the Dwelling exceeding the maximum Living Space limitations established for such Lot unless the same has been specifically approved in writing by the ARC.

#### I.22 Lot

. The term “Lot” shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each lot indicated thereon (other than any lots designated thereon as Common Areas or which subsequently become Common Areas) shall be deemed a Lot for purposes of this Declaration.

#### I.23 LPS Lot

. The term “LPS Lot” shall mean and refer to any Lot designated on any subdivision plats for the Property which, pursuant to any such subdivision plat, must be connected to the City Low Pressure Sewer Main through the use of Owner LPS Equipment.

#### I.24 Mortgage

. The term “Mortgage”, with an initial capital letter, shall mean and refer to any mortgage, deed of trust or other security device encumbering a Lot or any interest therein and which has been duly and properly recorded in the Probate Office.

#### I.25 Mortgagee

. The term “Mortgagee”, with an initial capital letter, shall mean and refer to the holder of any Mortgage.

#### I.26 Occupant

. The term “Occupant” shall mean and include any family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Lot within the Property. All actions or omissions of any Occupant are and shall be deemed the actions or omissions of the Owner of such Lot.

#### I.27 Owner

. The term “Owner”, with an initial capital letter, shall mean and refer to the Person, including Developer, who is the record owner of fee simple title to any Lot, but shall not include (a) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot at the foreclosure sale held with respect to the foreclosure of such Mortgage or (b) any lessee, purchaser, contract purchaser or vendor who has an interest in any Lot solely by virtue of a lease, contract, installment contract or other agreement.

#### I.28 Owner Gravity Sewer Line

. The term “Owner Gravity Sewer Line” shall mean and refer to the gravity sewer lateral line which the Owner of each GSL Lot will be required to construct and install on such Owner’s GSL Lot which line will begin at a point outside of the Dwelling on such Owner’s GSL Lot and run along and under such Owner’s GSL Lot and connect to the City Gravity Sewer Main. The Owner Gravity Sewer Line shall be owned by the Owner of each GSL Lot.

#### I.29 Owner LPS Equipment

. The term “Owner LPS Equipment” shall mean and refer to the following which the Owner of each LPS Lot shall be required to install on such Owner’s LPS Lot: a grinder pump, basin (reservoir), control panel, two valve boxes, a gravity sewer line from a point outside the Dwelling on such Owner’s LPS Lot which is connected directly to the grinder pump and basin (reservoir), and a pressure sewer lateral line which connects the basin (reservoir) to a valve box within the sewer easement granted to the City of Alabaster, Alabama and its successors and assigns directly adjacent to the County Low-Pressure Sewer Main. Attached hereto as Exhibit B is a drawing illustrating the Owner LPS Equipment and its connection to the County Low-Pressure Sewer Main. The term “Owner LPS Equipment” shall **not**

include the electrical wiring which shall connect the circuit breaker box inside a Dwelling on an LPS Lot to the outside control panel for the Owner LPS Equipment or for electricity which will provide electrical service to the Owner LPS Equipment (“Electrical Connections”). All of the Owner LPS Equipment and the Electrical Connections shall be owned by the Owner of each LPS Lot.

#### I.30 Person

. The term “Person” with an initial capital letter, shall mean and refer to any individual, corporation, association, partnership, limited liability company, joint venture, trust, estate or other entity or organization.

#### I.31 Probate Office

. The term “Probate Office” shall mean and refer to the Office of the Judge of Probate of Shelby County, Alabama and any successor thereto which serves as the official public registry for the public recording of real estate documents in Shelby County, Alabama.

#### I.32 Property

. The term “Property”, with an initial capital letter, shall mean and refer to that certain real property situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Declaration pursuant to Section 2.02 hereof and shall include all Lots, Dwellings and Common Areas.

#### I.33 Recreational Facilities

. The term “Recreational Facilities” shall mean and refer to any swimming pool, clubhouse, tennis courts, parks, playgrounds, walking trails and other recreational amenities or facilities, if any, situated within Walker Springs which are either owned by the Association (and thus constitute Common Areas) or are made available for use by all Owners and Occupants pursuant to the terms and provisions of Section 4.06 below. **Notwithstanding anything provided herein to the contrary, in no event shall Developer be obligated to construct or otherwise provide any Recreational Facilities within any portion of the Property or Walker Springs.**

#### I.34 Rules and Regulations

. The term “Rules and Regulations” shall mean and refer to the Rules and Regulations adopted from time to time by the Board of Directors pursuant to the terms and provisions of Section 6.16 below.

#### I.35 Sewer Maintenance Expenses

. The term “Sewer Maintenance Expenses” shall mean and refer to all costs and expenses incurred by the Association to repair and replace the Association-Maintained Sewer Lines, including, without limitation, all costs and expenses charged by the Sewer Service Company and any other Persons engaged by the Association to monitor, inspect, repair and replace the Association-Maintained Sewer Lines, together with reserves established by the Association for future alterations, improvements, repairs, and replacements of any of the Association-Maintained Sewer Lines.

#### I.36 Sewer Service Company

. The term “Sewer Service Company” shall mean and refer to the Person who is engaged from time to time by the Association to install, monitor, inspect, repair and replace the Association-Maintained Sewer Lines.

#### I.37 Turnover Date

. The term “Turnover Date” shall mean the **later** of five (5) years from the date hereof or the first to occur of the following: the date on which Developer and any Affiliates of Developer cease to own any

portion of Walker Springs or the date on which Developer elects, in its sole and absolute discretion, to relinquish (1) all rights to appoint and remove members of the Board pursuant to Section 4.02 below and (2) all voting rights in the Association reserved to Developer pursuant to Sections 4.03(a) and 4.03(c) below.

**I.38 Walker Springs**

. The term "Walker Springs" shall mean and refer to the master planned development which includes the Property.

**ARTICLE II**  
**PROPERTY SUBJECT TO THE DECLARATION**

**II.1 General Declaration**

. Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration and the Property, any part thereof and each Lot and Common Area thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of Developer and all Owners and Occupants of the Property and any Lot and Common Areas thereof. Furthermore, this Declaration shall apply only to the Property (and any Additional Property added to the terms and provisions hereof by Developer) but this Declaration shall not apply to any other real property owned by Developer unless the same is subjected specifically by written instrument to this Declaration.

**II.2 Additional Property**

(a) Subject to the remaining terms and conditions of this Section 2.02(a), Developer shall have the right, in its sole and absolute discretion, at any time and from time to time prior to the occurrence of the Turnover Date, to add and submit any Additional Property to the provisions of this Declaration in accordance with the remaining terms and provisions of this Section 2.02(a). Following the occurrence of the Turnover Date, the Association shall have the right to add and submit Additional Property to the provisions of this Declaration in accordance with the remaining terms and provisions of this Section 2.02(a). To the extent any Additional Property is specifically submitted to the terms and provisions of this Declaration pursuant to the provisions of this Section 2.02(a), then any such Additional Property shall constitute part of the Property.

(b) At any time prior to the Turnover Date, Additional Property may be submitted to the provisions of this Declaration by an instrument containing the information set forth in Section 2.02(d) below executed by the then owner of the applicable Additional Property and Developer.

(c) At any time after the occurrence of the Turnover Date, Additional Property may be submitted to the provisions of this Declaration by an instrument containing the information set forth in Section 2.02(d) below executed by the then owner of the applicable Additional Property and the Association acting solely by the Board.

(d) Any instrument executed pursuant to Section 2.02(b) or 2.02(c) above adding Additional Property to the terms of this Declaration shall be in a form required for the execution of deeds and recorded in the Probate Office, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot) and shall

refer to this Declaration, contain a statement that such Additional Property is conveyed or subject to the provisions of this Declaration or only specified portions thereof, contain a legal description of such Additional Property and set forth any other or different covenants, conditions and restrictions which may apply to, regulate or control the use, occupancy and improvement of such Additional Property.

(e) From and after the date on which an amendment to this Declaration is recorded in the Probate Office submitting any Additional Property to the terms and provisions of this Declaration, the number of votes in the Association shall be increased by the number of Lots within the Additional Property which are added and submitted to this Declaration so that there shall continue to be one vote in the Association per Lot within the Property. In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration or to impose any of the covenants, conditions or restrictions set forth in this Declaration upon any real property owned by Developer situated adjacent to or in close proximity with the Property. Notwithstanding anything provided in this Declaration to the contrary, the provisions of this Section 2.02 may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Developer, the rights reserved by Developer to add Additional Property to this Declaration pursuant to this Section 2.02 shall not be deemed to inure to the benefit of any transferee or purchaser of the Property, the Additional Property or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to this Section 2.02 of this Declaration and if Developer elects to add Additional Property to this Declaration, then this Declaration may be amended solely by Developer in accordance with the provisions of this Section 2.02 without any requirement that the consent or approval of any Owner or Mortgagee be obtained.

### II.3 Right of Developer to Modify Restrictions with Respect to Lots Owned by Developer

. With respect to any Lot owned by Developer, Developer may, by deed, contract or other instrument filed for record in the Probate Office, modify any of the provisions of this Declaration as the same apply to any such Lot. To the extent any mixed uses within Walker Springs include single-family residential uses, Developer may (but without any obligation to do so), in its sole and absolute discretion, elect to subject such residential uses to the terms and provisions of this Declaration.

### II.4 Mutuality of Benefit and Obligation

. The provisions of this Declaration are made for the mutual and reciprocal benefit of each Lot and are intended to create mutual, equitable servitudes upon and in favor of each Lot, to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of each Lot within the Property and to create a privity of contract and estate between the Owners, their respective heirs, successors and assigns.

### II.5 Additional Covenants

. Developer may, in its sole and absolute discretion, create additional restrictive covenants, in addition to the terms and provisions of this Declaration, for any portions of the Property. Furthermore, other owner associations may be created for portions of the Property subject to any such additional covenants. Only those portions of the Property which are specifically subjected to and encumbered by any such additional restrictive covenants shall be bound by the terms and provisions thereof or shall be allowed to have any membership interest in any such additional owners' associations which may be established from time to time by Developer. In the event of any conflict or ambiguity between the terms and provisions of any such additional restrictive covenants and the terms and provisions of this Declaration, the terms and provisions of this Declaration shall at all times control.

### II.6 Intentionally Deleted

## II.7 Development of Property

. At all times prior to the Turnover Date, Developer shall have the right, but not the obligation, to make improvements and changes to all Common Areas and to all Lots owned by Developer, including, without limitation, installation and maintenance of any improvements in or to the Common Areas, changing the location of the boundaries of any Lots owned by Developer or the boundaries of any of the Common Areas, changing the boundaries of any portion of the Property owned by Developer, including any Additional Property owned by Developer, the installation and maintenance of any water, sanitary sewer, storm sewer and any other utility systems and facilities within any of the Common Areas, converting and changing any Lots or any portion thereof owned by Developer into Common Areas, streets, roadways, alleys, paths, parks or other uses and exercising the rights reserved in Sections 2.08, 2.09 and 8.11 by removing or exempting any portion of the Property and any Lots or Common Areas from the terms and provisions of this Declaration. The exercise by Developer of any of the rights set forth in this Section 2.07 may be exercised solely by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained. Each Owner, by acceptance of a deed to any Lot, acknowledges and agrees that Developer or Affiliates thereof may either own or may in the future own real property situated adjacent to or in close proximity with the Property, which real property will not be subject to any of the terms and provisions of this Declaration unless Developer, in its sole and absolute discretion, elects to add such real property to the terms and provisions of this Declaration pursuant to the provisions of Section 2.02 above. In addition, Developer reserves the right, in its sole and absolute discretion, to cause any portion of the Property owned by Developer to be rezoned at any time and from time to time without any requirement that the consent or approval of any Owner or Mortgagee be obtained.

## II.8 Subdivision

. Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, one or more subdivision plats setting forth such information as Developer may deem necessary with regard to the Property, including, without limitation, the locations and dimensions of all Lots, Dwellings, Common Areas, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds and drainage basins. Any such subdivision plats and any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, the rights reserved by Developer pursuant to this Section 2.08 may be exercised by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained (other than the Owner or Mortgagee of any Lot which is being subdivided or re-subdivided) and shall include, without limitation, the right to divide and re-subdivide, combine, subdivide and re-subdivide any Lots, Dwellings, Common Areas and other portions of the Property owned by Developer, and amend from time to time and at any time Exhibit A to this Declaration to reflect any such subdivision or re-subdivision of any portion of the Property.

## II.9 Removal of Property from Declaration

. Notwithstanding anything provided in this Declaration to the contrary, at any time on or prior to the occurrence of the Turnover Date, Developer reserves the right, in its sole and absolute discretion, without the consent or approval of any Owner (other than the Owner of that portion of the Property being removed from the Declaration), Occupant, Mortgagee or the Association, to amend this Declaration in order to remove and exclude any real property from the definition of the Property and the terms and provisions of this Declaration. The rights reserved by Developer pursuant to this Section 2.09 shall include, without limitation, the right to amend from time to time and at any time Exhibit A to this Declaration to reflect the removal of any real property from the definition of Property, without being required to obtain the consent or approval of any Owner, Occupant, Mortgagee or the Association.

## ARTICLE III

**EASEMENTS**

**III.1 Grant of Non-Exclusive Easements to Common Areas**

(a) Subject to the rights of the Association to limit and prohibit access to and the use of the Common Areas and the Recreational Facilities, if any, as provided in Sections 3.01(b) and 11.01 below, and all of the terms and provisions of the Rules and Regulations, Developer does hereby grant to each Owner and Occupant the non-exclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with Developer, its successors and assigns, the ARC and the Association and their respective successors and assigns, and all other Owners, Occupants and other parties having any rights or interest therein. Subject to the rights of the Association to limit and prohibit access to and the use of the Common Areas and the Recreational Facilities, if any, as provided in Sections 3.01(b) and 11.01 below, and all of the terms and provisions of the Rules and Regulations, the easement and rights granted pursuant to this Section 3.01(a) are and shall be permanent and perpetual, are non-exclusive, are appurtenant to and shall pass and run with title to each Lot.

(b) Subject to the limitations, restrictions, terms and provisions set forth in this Section 3.01(b), in Sections 4.06(d) and Section 11.01 below and in the Rules and Regulations, Developer does hereby grant to each Owner and the respective family members of each Owner the right and privilege to use and enjoy the Recreational Facilities in common with Developer, its successors and assigns, all other Owners and their respective family members and any other parties who have rights to use the Recreational Facilities, as determined by the Board from time to time. Notwithstanding anything provided herein to the contrary, access to and the use and enjoyment of the Recreational Facilities, if any, shall be subject to any and all Rules and Regulations established from time to time by the Board, shall be limited to the Owners, their spouses and their dependent children (as may be defined from time to time by the Board, in its sole discretion) and any other persons authorized by the Board from time to time to use the same and may be suspended or permanently revoked by the Board for any Owner or the respective family members of any Owner who (1) violates any of the Rules and Regulations applicable to the use and enjoyment of the Recreational Facilities or (2) fails to timely pay all Assessments due and payable by such Owner to the Association. Subject to the limitations, restrictions, terms and provisions set forth in this Section 3.01(b), in Sections 4.06(d) and Section 11.01 below, and in the Rules and Regulations, the easement and rights granted pursuant to this Section 3.01(b) are and shall be permanent and perpetual, are non-exclusive, are appurtenant to and shall pass and run with title to each Lot.

**III.2 Reservation of General Access and Maintenance Easement**

Developer does hereby establish and reserve for itself and its successors and assigns, and does hereby grant to the ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant over, across, through and upon each Lot for the purpose of providing ingress to and egress from each Lot for inspecting each Lot and any Improvements thereon in order to determine compliance with the provisions of this Declaration and the performance of the respective duties of Developer, the ARC and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the ARC and the Association pursuant to any of the terms or provisions of this Declaration; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Dwelling directly affected thereby and mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Property; provided, however, that such easement shall not impose any duty or obligation upon Developer, the ARC or the Association to perform any of the foregoing actions.

### III.3 Reservation of Easements With Respect to Common Areas

(a) Developer does hereby establish and reserve, for itself and its successors and assigns, and does hereby grant to the ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant, over, across, under, through and upon all of the Common Areas for the purpose of constructing Improvements in and to any Lots and any improvements to the Common Areas, installing, maintaining, repairing and replacing any other improvements to the Property or to the Common Areas, including, without limitation, sidewalks, walkways, signage and traffic directional signs and doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall Developer, the ARC or the Association have any obligation to undertake any of the foregoing.

(b) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns the permanent right to change, modify and realign the boundaries of any of the Common Areas, including the removal of the designation of Common Areas from any portion of the Property and the right to convey such formerly designated Common Areas to any Owners or third parties. Developer hereby establishes and reserves for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns a permanent and perpetual non-exclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy all of the Common Areas and all improvements thereon for such purposes as Developer deems appropriate, the right to grant to third parties rights to use the Common Areas and the right to grant to third parties, other real property and the owners of such real property rights to use any of the Common Areas. Developer further reserves the right, but shall not have any obligation, to convey by quitclaim deed to the Association at any time and from time to time any portion of the Property or any Improvements thereto to be utilized as Common Areas, as Developer, in its sole discretion, may determine.

### III.4 Reservation of Easement for Utilities

Subject to the remaining terms and provisions of this Section 3.04, Developer does hereby establish and reserve for itself and its successors and assigns, and does hereby grant to the Association and its successors and assigns a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon all portions of the Property, including all Common Areas and all Lots which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating all master television, telecommunication or cable systems, security and similar systems and any other utilities necessary or convenient for the use of any portion of the Property or other real property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sanitary sewer services, storm drains and sewers, drainage systems, retention ponds, lakes, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any sewer service and any other utility service to any portion of the Property or any other real property. The easements established and reserved in this Section 3.04 shall include the right to cut and remove trees, undergrowth, shrubbery and other vegetation, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided in this Section 3.04 to the contrary, the utilization of any of the easements and rights established, reserved and granted pursuant to this Section 3.04 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot, Developer shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any other utility service which may utilize any of the easements and rights reserved and established pursuant to this Section 3.04 to take reasonable action to repair any damage caused by such Persons during the exercise of any rights established and reserved herein, and

(iii) the establishment, reservation and grant of easements pursuant to this Section 3.04 shall not create any obligation, responsibility or liability of Developer or the Association to undertake any of the actions allowed or permitted pursuant to the terms of this Section 3.04.

### III.5 Easements for Signs, Walks, Trails, Walls and Fences

(a) Developer does hereby establish and reserve for itself and its successors and assigns, and does hereby grant to the Association and its successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width lying parallel to and running along the common exterior boundary between each Lot and any public or private roadway which is directly adjacent to and abuts such Lot for the purpose of constructing, installing, maintaining, repairing, operating, replacing and the use of sidewalks, walkways, trails, bicycle and jogging paths and lanes, traffic directional signs and related improvements; provided, however, that neither Developer nor the Association shall have any obligation to construct any of the foregoing improvements.

(b) Developer does hereby establish and reserve for itself and its successors and assigns, and does hereby grant to the Association and its successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land fifteen (15) feet in width running parallel to and along the boundary of any Lot which constitutes the perimeter boundary of the Property for the purpose of constructing, installing, maintaining, repairing, operating and replacing a perimeter wall, fence, mound or berm and landscaping around the perimeter boundary of the Property; provided, however, that neither Developer nor the Association shall have any obligation to construct any such perimeter wall, fence, mound or berm or landscaping and to the extent Developer or the Association desires to exercise the easement rights reserved in this Section 3.05, then Developer shall have the further right, at any time and from time to time, to alter, change, modify, terminate and remove any improvements constructed by Developer or the Association on any portion of the Property pursuant to this Section 3.05.

### III.6 Reservation of Environmental Easement

Developer does hereby establish and reserve for itself and its successors and assigns, and does hereby grant to the Association, the ARC and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across, through and upon all Lots for the purpose of taking any action necessary to effect compliance with the Architectural Standards and any watershed, soil erosion or environmental rules, regulations and procedures from time to time affecting or otherwise promulgated or instituted by any Governmental Authorities or the Board. The easement and right established, reserved and granted herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water and the right to take any other action which may be required in order to satisfy the requirements of the Architectural Standards or any Governmental Authorities, including, without limitation, any watershed, soil erosion, storm water discharge or environmental rules, regulations or procedures affecting the Property. Except in the case of an emergency situation or a perceived emergency situation, the exercise by Developer, the Association or the ARC of the rights established, reserved and granted in this Section 3.06 shall not unreasonably interfere with the use or occupancy of any Dwelling.

### III.7 No implied Easements

No easements for light, air or view are created in favor of any Lot situated on any Lot and no such easements shall be implied from any of the terms and provisions of this Declaration.

## ARTICLE IV

## ASSOCIATION

### IV.1 Membership

The Owner of each Lot shall be a member of the Association. For purposes of determining membership in the Association, only one (1) membership in the Association shall be allowed per each Lot, regardless of the number of Dwellings situated on any Lot. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot; provided, however, that Developer shall be deemed a member of the Association and shall have one (1) vote for each Lot within the Property owned by Developer, in the event any Lot is owned by more than one (1) person, then the Owner of such Lot shall, by written notice to the Board, designate only one (1) representative to serve as a member of the Association, which representative shall exercise all voting rights attributable to the Lot owned by such Owner and no Mortgagee shall become a member of the Association until such time, if at all, that the Mortgagee becomes an Owner by virtue of foreclosure of its Mortgage and title to such encumbered Lot is vested in Mortgagee pursuant to a duly recorded deed. The transfer or conveyance of fee title to any Lot (other than by a Mortgage as security for the payment of an obligation), shall automatically include the transfer of all membership rights of such Owner in the Association with respect to the Lot transferred and conveyed, notwithstanding any failure of the transferor to endorse to his transferee any certificates, assignments or other evidence of such membership. Membership in, or the rights and benefits of, the Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separately and apart from the ownership of a Lot. Each member of the Association shall at all times comply with the provisions of this Declaration, the Certificate of Formation, the Bylaws and all Rules and Regulations which may from time to time be adopted by the Board or the members of the Association.

### IV.2 Board

The Board shall have the rights and duties set forth in the Certificate of Formation and the Bylaws. Developer hereby retains and shall have the sole and exclusive right to appoint and remove, with or without cause, any and all members of the Board and any and all officers of the Association until the occurrence of the Turnover Date. From and after the Turnover Date, the number of members of the Board shall increase to five (5) and the Owners shall have the exclusive right to appoint and remove all five (5) members of the Board in accordance with the terms and provisions of the Bylaws. As used throughout this Declaration, all actions required or permitted to be taken by the Association shall, unless otherwise expressly provided herein to the contrary, be by the majority vote of the members of the Board. Each Owner, by acceptance of a deed to a Lot, vests in Developer the sole and absolute authority to appoint and remove all of the members of the Board and all of the officers of the Association until the occurrence of the Turnover Date.

### IV.3 Voting Rights

(a) **Notwithstanding anything provided to the contrary in this Declaration, the Certificate of Formation or the Bylaws, Developer shall, subject to the remaining terms and provisions of this Section 4.03(a), have the sole and exclusive right to exercise all voting rights in the Association until the Turnover Date; provided, however, that any Special Assessments must be approved by the Owners in accordance with the terms and provisions of Section 8.04 below and certain amendments to this Declaration are subject to the terms and provisions of Section 10.02 below.** Each Owner, by acceptance of a deed to any Lot, shall be deemed to have irrevocably and unconditionally agreed to the foregoing terms and provisions of this Declaration and shall further be deemed to waive any and all voting rights in the Association prior to the Turnover Date other than as specifically set forth in Sections 8.04 and 10.02 hereof.

(b) With respect to those two (2) matters described in Section 4.03(a) above which must be approved or voted on by the Owners prior to the occurrence of the Turnover Date and at all times following the Turnover Date, the Owner of each Lot who is “in good standing”, as defined in the Bylaws, shall be entitled to one (1) vote in any matter submitted to the members of the Association for approval. No Owner, whether one or more persons, shall have more than one membership and one vote per Lot owned and, to the extent any Lot contains more than one Dwelling, then such Lot shall be entitled to only one (1) vote regardless of the number of Dwellings situated on such Lot. Such voting rights shall continue to apply to each Lot upon the addition of any of the Additional Property to this Declaration. Only those Owners who hold legal title to a Lot shall be entitled to vote on any matter submitted to the members of the Association for approval. For purposes of this Section 4.03, at all times prior to and after the Turnover Date, Developer shall be deemed the Owner of, and entitled to, all voting rights attributable to any Lots owned by Developer.

(c) Each Owner, by acceptance of a deed to a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the resubdivision of any Lot by Developer pursuant to Section 2.07 above, the submission of any Additional Property to the terms of this Declaration, the exemption of any Lots from the payment of Annual Assessments or Special Assessments or the exercise by Developer of any of its rights under Sections 2.07 or 2.08 above. In no event, whether as a result of there being multiple ownership interests in any Lot or otherwise, shall more than one vote be allowed for any one Lot. Fractional voting shall not be permitted.

(d) Notwithstanding anything provided herein to the contrary, the Association shall have the right to suspend any Owner’s voting rights or privileges in the Association pursuant to the terms and provisions of Section 11.01 below. To the extent any Owner is not “in good standing”, as defined in the Bylaws, then the voting rights of such Owner shall be suspended and shall not be counted or included in determining whether a quorum is present or whether the applicable number of votes have been cast in any vote of the Owners, as more particularly described and provided in the Bylaws.

#### IV.4 Duties and Powers of Association

(a) In addition to the rights, duties, responsibilities and obligations of the Association otherwise set forth in this Declaration, the Association shall have the power to do, cause to be done and otherwise perform or cause to be performed any of the duties and powers set forth in the Certificate of Formation and the Bylaws. The Association may exercise any other right or privilege granted to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The powers and authority granted herein and in the Certificate of Formation and Bylaws of the Association may be exercised by the Board, acting through the officers of the Association, without further consent or action on the part of the Owners. Subject to the conditions, restrictions and other provisions of this Declaration, all agreements, actions and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Property.

(b) In performing its responsibilities hereunder, the Association, through the Board, shall have the right and authority to delegate to such persons of its choice, including third party management companies which may be Affiliates of Developer, such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or

desirable for the proper operation of any portion of the Common Areas, whether such personnel are furnished or employed directly by the Association or by independent contract with the Association. All costs and expenses incident to the employment of a manager of the Association or any of the Common Areas shall be part of the Common Expenses. During the term of any such management agreement entered into by the Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Association, excepting any of such powers or duties specifically reserved to the Board or the officers of the Association by this Declaration, the Certificate of Formation or the Bylaws. Such manager may be any Person and may be bonded in such manner as the Board may require, with the cost of such bond to be part of the Common Expenses. In addition to the foregoing, the Association may pay for and the Board may hire and contract for such legal, accounting and other professional services as are necessary or desirable in connection with the administration and operation of the Property and the Association or the enforcement of this Declaration, the Certificate of Formation, the Bylaws, the Architectural Standards or any rules and regulations of the Association.

#### IV.5 Meetings of Members of Association

Annual and special meetings of the Owners (members of the Association) shall be held in accordance with the terms and provisions of the Bylaws.

#### IV.6 Recreational Facilities

(a) The Association, acting through the Board, shall have the right, at its option, to elect to provide the Recreational Facilities, in which event the following terms and provisions shall be applicable to all Owners and the Association:

(i) At the closing of the purchase by the First Owner of any Lot, such First Owner and each subsequent Owner of such Lot thereafter shall be obligated to pay to the Association an Amenity Fee in such amount as may be determined (and changed) from time to time by the Board. All Amenity Fees shall be utilized by the Association in accordance with the remaining terms and provisions of this Section 4.06(a). The Amenity Fee charged by the Association to the First Owner of a Lot may be greater than or less than the fee charged to any subsequent Owners of such Lot. The amount of the Amenity Fee shall be determined (and shall be subject to change from time to time) by the Board, in its sole and absolute discretion;

(ii) Subject to the provisions of Section 4.06(a)(iv) below, all Amenity Fees collected by the Association shall be utilized by the Association to pay for (1) the costs of constructing, installing, obtaining and providing the Recreational Facilities which the Association determines, in its sole and absolute discretion, to construct, install, obtain or provide for the benefit of the Owners, (2) any other costs and expenses incurred by the Association in connection with the operation, use, maintenance, repair, upkeep and replacement of any Recreational Facilities and (3) any of the other uses or purposes specified or authorized in this Section 4.06(a);

(iii) The Association, acting through the Board, shall determine both the time(s) at which any Recreational Facilities will be constructed and what types of Recreational Facilities will be constructed. Developer and the Association do **not** make any representations or warranties concerning what the Recreational Facilities will consist of or when any Recreational Facilities will be constructed or completed by the Association. All decisions concerning whether the Association will undertake the

construction or installation of any Recreational Facilities, the determination and collection of Amenity Fees, what the Recreational Facilities will consist of and when construction of any of the Recreational Facilities will be commenced or completed, will be made by the Board;

(iv) All Amenity Fees collected by the Association shall be retained by the Association in a separate account, separate and apart from the other funds of the Association. The Amenity Fees paid to the Association shall be utilized solely for the following purposes and in the order set forth below:

First to pay in full all costs to construct, install, obtain and provide Recreational Facilities;

Second, to extent Annual Assessments are insufficient to pay the same, to pay the costs to own, operate, use, maintain, repair, upkeep and replace the Neighborhood Amenities;

Third, to establish reserves for future Recreational Facilities or for the alteration, improvement, operation, use, maintenance, repair, upkeep and replacement of the Recreational Facilities;

Fourth, the Board may, in its sole discretion, elect to use the Amenity Fees to pay any Common Expenses incurred by the Association from time to time; and

Fifth, the Board may, in its sole discretion, elect to apply any portion of the Amenity Fees then held by the Association as a credit against any subsequent years' Annual Assessments due and payable by any Owners;

(v) The costs and expenses of operating, maintaining and repairing any of the Recreational Facilities shall constitute Common Expenses which shall be paid by the Owners through the payment of Annual Assessments in the manner provided in Section 8.03 below; and

(vi) The Association may engage Developer or any Affiliates thereof to construct the Recreational Facilities, in which event the Amenity Fees shall be paid to the party constructing any of the Recreational Facilities (which payment may include any costs incurred by any such parties in constructing the Recreational Facilities which have not been previously reimbursed to any such parties) to construct, install, and furnish the Recreational Facilities.

(b) The Amenity Fees shall constitute Individual Assessments which, if not timely paid to the Association by any Owner, shall be enforceable by the Association in the manner set forth in Article VIII below.

(c) The Association may elect to suspend the collection of Amenity Fees at any time and may exempt any Lots from the payment of Amenity Fees at any time.

(d) The Board, shall have the right, from time to time, to adopt as part of the Rules and Regulations additional rules and regulations for the use of any of the Recreational Facilities,

including, without limitation: authorizing third parties who are not Owners to utilize any of the Recreational Facilities on such terms as the Board may, in its sole and absolute discretion, determine; adopting limitations or restrictions on the number of (and frequency of use by) guests of Owners who may use the Recreational Facilities; limiting the use of certain of the Recreational Facilities only to the Owners and immediate family members of any Owners; establishing hours and days that the Recreational Facilities will be open and available for use; requiring an Owner to be responsible for any damages to the Recreational Facilities caused by such Owner or such Owner's family members or guests; and such other rules and regulations which the Board may from time to time adopt, including, without limitation, adopting rules and regulations for use of the Recreational Facilities for private parties sponsored by an Owner and establishing fees and charges for such private parties.

(e) The obligations of all Owners to pay Amenity Fees and any other fees, costs and expenses described in Sections 4.06(a) and 4.06(b) above shall be mandatory as to all Owners and no Owner shall have the right or option to not pay any such fees or expenses even if such Owner does not utilize any of the Recreational Facilities provided for use by all Owners.

#### IV.7 Management of Association

(a) Developer or any of Developer's Affiliates may be employed as the manager of the Association and for the Property until the Turnover Date at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services for any real estate development in the southeastern United States of the size, quality and nature of Walker Springs.

(b) The Association may obtain materials or services from Developer or any of its Affiliates in connection with the management of the Association or any part of the Common Areas as herein contemplated; provided that the compensation for such materials or services is, in the opinion of the Board, comparable with the compensation of any non-affiliated third party providing similar materials or services which can be reasonably made available to the Association.

#### IV.8 Indemnification

The Association shall and does hereby indemnify, defend and agree to hold each and every member of the Board and each and every officer, agent, employee and representative (including any person designated by the Board to serve as a committee member on any committee established by the Board) of the Association harmless from and against any and all expenses, including court costs and reasonable attorneys' fees, suffered, paid or incurred by any of them in connection with any action, suit or other proceeding, including the settlement of any suit or proceeding to which such person may be made a party by reason of being or having been a member of the Board or an officer, agent, employee or representative (including any person designated by the Board to serve as a committee member on any committee established by the Board) of the Association. The members of the Board and the officers, agents, employees and representatives of the Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The members of the Board and the officers, agents, employees and representatives of the Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall and does hereby indemnify, defend and agree to forever hold each such member of the Board and each such officer, agent, employee and representative of the Association (including any person designated by the Board to serve as a committee member on any committee

established by the Board) harmless from and against any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any member of the Board or any officer, agent, employee or representative of the Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) may be entitled, including anything provided to the contrary in the Certificate of Formation or the Bylaws. The Association shall maintain adequate general liability and, to the extent financially feasible, officers' and directors' liability insurance in order to fulfill its obligations under this Section 4.08 and the costs of such insurance shall constitute a Common Expense.

#### IV.9 Turnover

(a) On or prior to the occurrence of the Turnover Date, all Common Areas, if any, owned by Developer shall be transferred and conveyed by Developer to the Association by quitclaim deed. Developer may, in its sole and absolute discretion, elect to transfer and convey to the Association by quitclaim deed any other real property owned by Developer at any time prior to or after the occurrence of the Turnover Date. Notwithstanding the foregoing, Developer shall, at its sole cost and expense, cause any real property conveyed to the Association to be conveyed free and clear of all liens and encumbrances other than taxes for the then current year and all subsequent years thereafter, the terms and provisions of this Declaration and all other easements, restrictions, rights-of-way, reservations and other matters of record and such other terms, covenants and agreements as may be required by Developer (which may include, by way of illustration, but not limitation, the reservation of easements and other rights as to such real property conveyed by Developer to the Association). The Association, by execution of this Declaration, agrees to accept conveyances by quit claim deeds of any and all real property which may be conveyed to it by Developer and, if requested by Developer, from any builders or developers of any portion of the Property and all such Property shall thereafter constitute and be deemed to be part of the Common Areas. In addition, on or before the Turnover Date, Developer shall transfer and assign to the Association and the Association shall assume all of Developer's rights and obligations under any and all agreements entered into by Developer on behalf of the Association or which benefit the Association. **Developer does not make, and has not made, any representations or warranties, either express or implied, as to the physical condition of any of the Common Areas or any other real or personal property which may be conveyed by either Developer or any third parties to the Association and the Association shall accept the Common Areas and any such other real or personal property in its then "AS IS" condition, "WITH ALL FAULTS".**

(b) Following the election of the Board by the Members after the Turnover Date in accordance with the terms of the Bylaws, Developer shall deliver to the newly elected Board the information required by *Ala. Code* (1975) Section 35-20-10.

### **ARTICLE V** **ARCHITECTURAL REVIEW AND ARCHITECTURAL STANDARDS**

#### V.1 Committee Composition

The ARC shall consist of not less than three (3) nor more than five (5) persons, each of whom shall be appointed or elected as provided in Section 5.02 below. The persons designated to serve on the ARC may, but shall not be required to be, Owners or Occupants. The regular term of office for each member of the ARC shall be one (1) year, coinciding with the fiscal year of the Association. Any member of the ARC may be removed with or without cause in the manner provided in Section 5.02 below.

#### V.2 Appointment and Removal of ARC Members

(a) **DEVELOPER RESERVES THE RIGHT AT ALL TIMES PRIOR TO THE OCCURRENCE OF THE TURNOVER DATE TO APPOINT AND REMOVE ALL MEMBERS OF THE ARC.** Any person appointed as a member of the ARC by Developer may be removed, with or without cause, at any time by Developer. In the event of the death or resignation of a member of the ARC who has been appointed by Developer, then the Developer shall appoint a substitute member of the ARC to fill such vacancy.

(b) Developer reserves the right, at any time prior to the occurrence of the Turnover Date, to elect, in a written notice given to the Association, to no longer retain the exclusive rights to appoint and remove members of the ARC as set forth in Section 5.02(a). Following the giving of such written notice by Developer to the Association, the Board shall, at all times thereafter, have the right to appoint and remove all persons who will serve on the ARC. Any person appointed as a member of the ARC by the Board may be removed, with or without cause, at any time by the Board. In the event of the death or resignation of a member of the ARC who has been appointed by the Board, then the Board shall appoint a substitute member of the ARC to fill such vacancy. Any person appointed by the Board to serve on the ARC shall be deemed an agent of the Association. The terms and provisions of this Section 5.02(b) shall not be effective until such time as Developer elects, in its sole and absolute discretion, to relinquish the right to appoint and remove members of the ARC, which election must be evidenced by a written notice provided by Developer to the Association in accordance with the terms and provisions of Section 5.02(a) above.

#### V.3 Procedure and Meetings

The ARC shall elect a chairman and he or she, or in his or her absence, any vice-chairman so elected, shall be the presiding officer at all meetings of the ARC. The ARC shall meet on a regular basis as well as upon call of the chairman or vice-chairman and all such meetings shall be held at such places as may be designated by the chairman or vice-chairman. The presence, either in person or by proxy, of a majority of the total number of members of the ARC shall constitute a quorum of the ARC for the transaction of business and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ARC shall constitute the action of the ARC on any matter which comes before it. The ARC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein. Any such costs and expenses incurred by the ARC which are not paid by Owners as part of the plan review fee established from time to time by the ARC shall constitute Common Expenses. Each member of the ARC may be paid a stipend or honorarium as may from time to time be determined by the Board and shall otherwise be entitled to a reimbursement of expenses incurred on behalf of the ARC, subject to the approval of such expenses by the Board. The ARC shall have the right from time to time to adopt and establish such rules and regulations as may be determined to be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the ARC, including, without limitation, the right to designate one (1) person to act on behalf of the entire ARC in all matters in which the ARC is granted the right to act under the terms of this Declaration.

#### V.4 Architectural Standards

The ARC is hereby authorized to promulgate and amend and modify from time to time written Architectural Standards governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Dwellings and any other Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other Improvements on a Lot are to be submitted to and approved by the ARC and any other matters affecting the construction, repair or maintenance of any Dwelling or other Improvements on any Lot. The Architectural Standards and any

and all amendments thereto adopted from time to time by the ARC shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

#### V.5 Approval of Plans and Specifications

(a) **IN ORDER TO PRESERVE THE ARCHITECTURAL AND AESTHETIC APPEARANCE AND THE NATURAL SETTING AND BEAUTY OF THE PROPERTY, TO ESTABLISH AND PRESERVE A HARMONIOUS DESIGN FOR THE PROPERTY AND TO PROTECT AND PROMOTE THE VALUE OF THE PROPERTY, THE LOTS, THE DWELLINGS AND ALL IMPROVEMENTS THEREON, NO IMPROVEMENTS OF ANY NATURE SHALL BE COMMENCED, ERECTED, INSTALLED, PLACED, MOVED ONTO, ALTERED, REPLACED, RELOCATED, PERMITTED TO REMAIN ON OR MAINTAINED ON ANY LOT BY ANY PERSON (OTHER THAN BY DEVELOPER), WHICH AFFECT THE EXTERIOR APPEARANCE OF ANY LOT UNLESS PLANS AND SPECIFICATIONS THEREFORE HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW. WITHOUT LIMITING THE FOREGOING, THE CONSTRUCTION AND INSTALLATION OF ANY DWELLINGS, SIDEWALKS, DRIVEWAYS, PARKING LOTS, MAILBOXES, DECKS, PATIOS, COURTYARDS, SWIMMING POOLS, TENNIS COURTS, GREENHOUSES, PLAYHOUSES, PLAY EQUIPMENT, AWNINGS, WEATHER VANES, WALLS, FENCES, EXTERIOR LIGHTS, GARAGES, GUEST OR SERVANT'S QUARTERS, GARAGES OR ANY OTHER OUTBUILDINGS OR IMPROVEMENTS, SHALL NOT BE UNDERTAKEN, NOR SHALL ANY EXTERIOR ADDITION TO OR CHANGE OR ALTERATION TO AN EXISTING DWELLING, GARAGE OR OTHER STRUCTURE ON A LOT BE MADE (INCLUDING, WITHOUT LIMITATION, PAINTING OR STAINING OF ANY EXTERIOR SURFACE), UNLESS THE PLANS AND SPECIFICATIONS FOR THE SAME HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW. NO INTERIOR PORTIONS OR AREAS WITHIN A DWELLING OR OTHER STRUCTURES LOCATED ON A LOT WHICH DO NOT CONSTITUTE LIVING SPACE MAY BE CONVERTED INTO LIVING SPACE UNLESS THE ARC, IN ITS SOLE AND ABSOLUTE DISCRETION, APPROVES THE SAME.**

(b) The ARC is hereby authorized and empowered to approve all plans and specifications and the construction of all Dwellings and other Improvements on any part of the Property, including, specifically, all Common Areas but specifically excluding any and all of those areas of the Property being developed by Developer for which no ARC approval shall be required. Prior to the commencement of any Dwelling or other Improvements on any Lot, the Owner thereof shall submit to the ARC two (2) copies of the plans and specifications and related data for all such Improvements, which shall include the following:

(i) An accurately drawn and dimensional plot plan showing all setbacks, easements, drives, and walkways and their relation to the boundaries of any Lot;

(ii) A foundation plan, floor plan, landscape plan, and exterior elevations of the Dwellings as they will actually appear after all back-filling and landscaping is done from finished-ground up;

(iii) A specifications list of proposed materials and samples of exterior materials and colors which cannot be adequately described on the plans, and of materials with which the ARC is unfamiliar;

(iv) The name and address of the Owner's contractor who will construct any Dwelling or other Improvements on the Lot; and

(v) The ARC may also require such additional information as reasonably may be necessary for the ARC to evaluate completely the proposed structure or improvement in accordance with this Declaration. All information submitted to the ARC shall be delivered to such address as may be established by the ARC from time to time.

(c) The ARC shall, in its sole and absolute discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. The ARC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the Architectural Standards, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Property, objection to the location of any proposed Improvements on any such Lot, objection to the landscaping plan for such Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole and absolute judgment of the ARC, would render the proposed Improvement inharmonious with the general plan of development contemplated for Walker Springs. The ARC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements. Approval of plans and specifications by the ARC for Improvements to one particular Lot shall not be deemed an approval or otherwise obligate the ARC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Lot. One copy of all plans, specifications and related data so submitted to the ARC shall be retained in the records of the ARC and the second copy shall be returned to the Owner submitting the same marked "approved", "approved as noted" or "disapproved". Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within such Owner's Dwelling without the necessity or requirement that the approval or consent of the ARC be obtained so long as such improvements and alterations do not affect the exterior appearance of such Dwelling and the Living Space within such Dwelling is not increased.

(d) The ARC may establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Such fee or fees shall be paid by the Owner who is seeking approval of plans and specifications. The ARC shall also have the right, in its sole and absolute discretion, to require the Owner of each Lot to deposit a construction escrow/security deposit with the ARC at the time the ARC approves the plans and specifications for any Improvements to such Owner's Lot. Such construction escrow/security deposit shall be held by the Association, shall serve as security for the full and faithful completion by such Owner of all Improvements to be made by such Owner on such Owner's Lot and the compliance with all of the terms, conditions and provisions of this Declaration and interest, if any, earned on said deposit shall belong to and remain the property of the Association; provided, however, that the Association shall not be obligated to maintain such escrow/security deposit in an interest bearing account or to pay any interest, if any, earned on the escrow/security deposit to any Owner. Any such escrow/security deposit shall be returned to the Owner who has deposited the same upon

completion of all Improvements on such Lot and the determination by the ARC, in its sole and absolute discretion, that all of the other terms and provisions of this Declaration have been satisfied and complied with in all respects by such Owner, his or her agents, employees and independent contractors. If the ARC, in its sole discretion, determines that such Improvements are not timely completed in accordance with the terms and provisions of this Declaration, or if, in the construction of such Improvements, such Owner or his or her agents, employees or independent contractors, fail to abide by all of the terms and provisions of this Declaration and any of the Architectural Standards, then the ARC shall have the right, in its sole and absolute discretion, to use all or any portion of such escrow/security deposit to complete, correct or remedy any such breach by such Owner or his or her agents, employees or independent contractors; provided, however, that application of such escrow/security deposit to the costs to complete, correct or remedy any such breach or violation shall not be deemed a release or waiver of any rights of the ARC or the Association to exercise any of their respective rights or remedies set forth in this Declaration. In addition to the foregoing, the ARC reserves the right, in its sole and absolute discretion, to require each Owner and/or such Owner's builder, to execute a soil erosion indemnity in favor of the ARC, the Association and Developer.

(e) In the event the ARC fails to approve in writing any proposed plans and specifications within thirty (30) days after such plans and specifications have been submitted, then the plans and specifications so submitted to the ARC will be deemed to have been disapproved.

(f) Any revisions, modifications or changes in any plans and specifications previously approved by the ARC must be approved by the ARC in the same manner specified above.

(g) If construction of the Dwelling or the Improvements has not substantially commenced (e.g., by clearing and grading, pouring of footings and otherwise commencing framing and other related construction work) within one (1) year of approval by the ARC of the plans and specifications for such Dwelling or other Improvements, then no construction may be commenced (or continued) on such Lot and the Owner of such Lot shall be required to resubmit all plans and specifications for any Dwelling or other Improvements to the ARC for approval in the same manner specified above.

(h) Each Owner acknowledges and agrees that building permits will not be issued by any Governmental Authority for any Improvements on a Lot until such time as the ARC has approved the plans and specifications for such Improvements.

(i) Any Owner of a Lot must utilize as the primary and exclusive contractor for the construction of any Dwelling on such Owner's Lot a homebuilder or general contractor who satisfies the requirements of the ARC, as determined by the ARC in its sole and absolute discretion.

#### v.6 Landscaping Approval

. In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the Property and in order to enhance the aesthetic appearance of the Property, no landscaping, grading, excavation or fill work of any nature shall be implemented or installed by any Owner (other than by Developer) on any Lot unless and until landscaping plans therefore have been submitted to and approved by the ARC. Notwithstanding the foregoing, an Owner may periodically remove, change, plant, and replant annual flowers in any flower beds on such Owner's Lot designated for annual flowers (as shown on landscaping plans approved by the ARC).

#### v.7 Construction Without Approval

. If any Improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot without ARC approval of the plans and specifications for the same or the ARC shall determine that any

approved plans and specifications for any Improvements or the approved landscaping plans for any Lot are not being complied with, then, in either event, the Owner of such Lot shall be deemed to have violated this Declaration and the ARC shall have the right to exercise any of the rights and remedies set forth in Section 5.12 below.

v.8 Inspection

. The ARC and any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any Lot or any Improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the ARC.

v.9 Subsurface Conditions

. The Property is located in an area which includes underground mines, tunnels, sinkholes and subsurface conditions which may result in sinkholes or other types of ground subsidence. The approval of plans and specifications by the ARC for any Dwelling or other Improvements on a Lot shall not be construed in any respect as a representation or warranty by the ARC or Developer to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot for the construction of any contemplated Improvements thereon. Each Owner, for such Owner and all Occupants of any Improvements situated on the Lot owned by such Owner, does hereby irrevocably and unconditionally waive and release Developer, its Affiliates, the ARC, the Association and each respective agent, employee, representative, shareholder, member, manager, partner, officer, director, or committee member in any of the foregoing entities or committees, and their respective successor and assigns, of and from any and all damage, loss, action, cause of action, liability, cost, expense or prejudice suffered, claimed, paid or incurred by any Owner or Occupant of such Owner's Lot or any Dwellings or other Improvements constructed thereon on account of the use of fill dirt or the possibility that underground mines, tunnels, sink holes and other subsurface conditions which may result in sinkholes or other types of ground subsidence exist on, upon or under any of the Lots.

v.10 Limitation of Liability

. Notwithstanding anything provided herein to the contrary, neither Developer, the ARC, the Association, nor any agent, employee, representative, member, shareholder, partner, officer, director or committee member of any of the foregoing entities or committees shall have any liability of any nature whatsoever for, and each Owner, by acceptance of a deed to any Lot, does hereby irrevocably and unconditionally waive and release Developer, the ARC, the Association and each agent, employee, representative, member, shareholder, partner, officer and director of any of the foregoing entities or committees from, any and all damage, loss, action, cause of action, liability, expense or prejudice suffered, claimed, paid or incurred by any Owner on account of any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article V, any defects, structural or otherwise, in any work done according to such plans and specifications, the failure of the ARC to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article V, the construction or performance of any work related to such plans, drawings and specifications, bodily injuries (including death) to any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Dwellings, Improvements or the personal property of any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural or otherwise, in any Dwellings or Improvements or the plans and specifications therefore, or any past, present or future soil and/or subsurface conditions, known or unknown (including,

without limitation, sinkholes, underground mines, tunnels and water channels and limestone formations on or under any Lot) and any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot, or any Improvements situated thereon.

**V.11 Commencement and Completion of Construction**

Within twelve (12) months from the date on which any Owner purchases a Lot from Developer, such Owner shall commence construction of a Dwelling on such Lot in accordance with the plans and specifications for such Dwelling which have been approved by the ARC (unless an extension is granted in writing by the ARC). Upon commencement of construction of any Dwelling, construction work thereon shall be prosecuted diligently and continuously and shall be completed within one (1) year of the commencement date of said construction (unless an extension is granted in writing by the ARC), such completion to be evidenced by a final certificate of occupancy issued by the appropriate Governmental Authorities.

**V.12 Enforcement and Remedies**

In the event any of the provisions of this Article V are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the ARC and the Association shall each have the right, at their option, to enjoin any further construction on any Lot and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ARC for such Improvements and/or through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to remedy or extinguish such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article V including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provisions of this Article V, shall be paid by such Owner, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Sections 8.01 and 8.07 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth in this Section 5.12 shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any other rights and remedies contained in this Declaration.

**V.13 Compliance Certification**

The ARC (or any authorized representative thereof) shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to an Owner a certificate in writing setting forth whether all necessary ARC approvals have been obtained and whether any Dwelling or other Improvement has been constructed in accordance with the provisions of this Declaration.

**ARTICLE VI  
USE, DEVELOPMENT AND OTHER PROPERTY RESTRICTIONS**

**VI.1 Use Restrictions**

(a) Except as otherwise provided to the contrary in this Section 6.01, each Lot shall be used for single-family residential purposes only; provided, however, that any portion of the Property

may be developed, used and improved for Common Areas to the extent approved by either Developer or the ARC; attached or detached townhouses, condominiums, duplexes, zero-lot-line homes and cluster, patio and garden homes and other types of residential dwelling purposes as may be approved by the ARC; and (iii) any other uses approved by the ARC.

(b) No trade or business may be carried on in or from any Lot; provided, however, that the use of any portion of a Dwelling as an office by an Owner shall not be considered a violation of this covenant if such use does not create regular customer, client or employee traffic. The leasing or rental of a Dwelling for residential purposes only shall not be considered a violation of this covenant so long as the lease is for not less than the entire Dwelling, the lease is for a term of at least six (6) months, the lease is otherwise in compliance with any Rules and Regulations promulgated and published from time to time by the Association and all of the terms and provisions of Section 6.01(c) below are satisfied

(c) Each Dwelling within the Property shall be subject to all of the following use restrictions:

(i) The leasing or subleasing of any Dwelling for a period of less than six (6) months is strictly and expressly prohibited;

(ii) The leasing or subleasing of only a portion (less than all) of a Dwelling is prohibited;

(iii) No signs of any type advertising the leasing or subleasing of a Dwelling may be placed on a Lot or any Common Areas;

(iv) No Dwelling may be leased, subleased or occupied, in whole or in part, by any person or entity under any type of lease-to-own arrangement, home exchange program or corporate leasing or corporate purchase program; and

(v) No Dwelling shall be offered for sale, lease or use by any Short-Term Rental Providers such as Airbnb, VRBO or other similar providers. As used herein, the following terms shall have the meanings set forth below:

(1) ***“Short-Term Rental Provider”*** means any platform or provider (including any internet or online service platform or provider) that offers Short-Term Rental services and arrangements, including booking and reservation services to guests and customers; and

(2) ***“Short-Term Rental”*** means any lease (including subleases, licenses, and other possessory interests, whether oral or written) of an individual Dwelling (or any portion thereof), for which the intended occupancy of the Dwelling is for a period or periods of six (6) months or less.

(d) In the event any Owner leases such Owner’s Dwelling (subject to the limitations and restrictions set forth in Section 6.01(c) above and the remaining provisions of this Section 6.01(d)), such Owner shall immediately notify the Association in writing of such leasing and provide to the Association the name and contact information for any such lessee/tenant and all Persons who will be Occupants of such Owner’s Dwelling as a result of such leasing and such other information as the Association may reasonably require. Furthermore, if the identity of any Occupants occupying any Dwelling which has been leased changes at any time, then the Owner of such Dwelling shall provide to

the Association within ten (10) days after a change in occupancy occurs the names and contact information for such new Occupants and any other such information reasonably required by the Association.

(e) In the event of any violation of the terms and provisions of this Section 6.01, the Association shall have the right to exercise all of the rights and remedies set forth in Section 6.17 of this Declaration.

(f) Notwithstanding anything provided herein to the contrary, the use restrictions set forth in this Section 6.01 shall not be applicable to any sales centers, model homes, or speculative homes within the Property which are owned or leased by Association or Developer.

(g) Notwithstanding anything provided in this Section 6.01 to the contrary, the Property or any portion thereof, including, specifically, any Lots constituting any portion of the Property, may be used and developed for any of the uses included in the definition of Common Areas and any other uses so long as such other uses have been approved in writing by the ARC.

(h) In no event shall any of the Lots be used for trailers and mobile homes; provided, however, that with ARC approval, construction trailers may be located on any of the Property during the construction of Improvements on the Property.

#### VI.2 Plan Approval

No Dwellings or other Improvements of any nature whatsoever shall be constructed on any Lot unless such Dwelling or Improvements have been approved by the ARC in the manner set forth in Article V of the Declaration.

#### VI.3 Underground Utilities

All utility lines, pipes, conduits and wiring constructed or installed or to be constructed or installed on any Lot for electrical, gas, telephone, water, sanitary sewer (to the extent available), cable television, security and any other utility service for such Lot shall be installed and maintained below ground.

#### VI.4 Building Setbacks

Minimum building setback lines for all Dwellings shall be established by the ARC as provided in Section 6.05 below.

#### VI.5 Approval of all Setback Lines by ARC

Prior to commencing any construction-related activities on any Lot (including any grading or clearing), the location of any Dwelling to be constructed thereon (or any alterations to the existing Dwelling situated thereon) shall be set forth on the site development plan for such Lot which must be approved by the ARC pursuant to the provisions of Section 5.05(b) above. Notwithstanding anything provided in Section 6.04 above to the contrary, the ARC may require building setback requirements different from those described in or established pursuant to applicable zoning ordinances.

#### VI.6 HEIGHT LIMITATIONS

The height of all Dwellings shall be compatible with all other Dwellings adjacent to such Lot. Attached and detached single-family Dwellings shall **not** exceed three (3) stories in height, as measured from the finished grade of the Lot on the front of the Dwelling facing a street or roadway; provided, however, that with respect to any condominiums constructed within the Property, the height of such condominium buildings may exceed three (3) stories but the actual height of such condominium buildings must be approved by the ARC. Towers, decks and outside porches shall be subject to the foregoing height limitations. Chimneys and roof finials are not subject to the foregoing height limitations.

**VI.7 MINIMUM AND MAXIMUM LIVING SPACE**

Minimum and maximum Living Space requirements for all Dwellings shall be established by the ARC, subject to any applicable zoning ordinances.

**VI.8 SOIL EROSION AND DRAINAGE**

Each Owner shall provide and maintain on his or her Lot adequate soil erosion measures and drainage facilities to accommodate any storm water runoff resulting from any Improvements being or having been constructed on such Owner's Lot. Each Owner may be required by the ARC to submit to the ARC for review and approval an erosion control plan as part of the plans to be submitted for ARC approval pursuant to the provisions of Section 5.05(b) above. Each Owner shall also insure that his or her Lot and any Improvements thereto are at all times in strict compliance with (a) all soil erosion protection requirements of all applicable Governmental Authorities, (b) all storm water drainage and runoff requirements and regulations of all applicable Governmental Authorities and (c) all other statutes, ordinances, codes, laws, permits, legislation, rules, regulations, requirements, and rulings of any Governmental Authority. Each Owner shall, in connection with the construction of any Dwelling or other Improvements on such Owner's Lot, be solely responsible for providing adequate storm water drainage improvements and facilities on such Owner's Lot which shall be sufficient to adequately channel any storm water which may either cross or come upon such Owner's Lot from adjoining Lots or Common Areas or which may originate and drain from such Owner's Lot and any Improvements thereto onto adjoining Lots and Common Areas. No Owner or any contractor of an Owner shall alter any natural drainage swales on a Lot without ARC approval. No Owner shall channel or discharge water from such Owner's Lot onto any adjacent Lot unless the discharged water will utilize the natural drainage swales on such other Lot. **Each Owner, by acceptance of a deed to his or her Lot, shall and does hereby indemnify, defend and agree to hold Developer, the ARC, the Association and their respective agents, employees, officers, directors, shareholders, members, managers and representatives, harmless from and against any and all fines, penalties, costs and expenses, including court costs and reasonable attorneys' fees and expenses, and any and all other amounts suffered, paid or incurred by Developer, the ARC, the Association and their respective agents, employees, officers, directors, shareholders, members, managers and representatives in connection with any action, suit or proceeding (including the settlement of any suit or proceeding) to which any such person may be made a party by reason of the breach by such Owner (or such Owner's Occupants, contractors, subcontractors, guests, agents, employees or invitees) of any of the terms and provisions of this Section 6.08.**

**VI.9 SEWER SERVICE FOR ALL LOTS**

(a) Sanitary sewer service for all Lots will be provided by either an Owner Gravity Sewer Line or Owner LPS Equipment. All LPS Lots must utilize Owner LPS Equipment which must be connected to the County Low-Pressure Sewer Main in accordance with the terms and provisions of Section 6.09(b) below. The Owner LPS Equipment, once installed on an LPS Lot, will be owned by the Owner of such LPS Lot and will be maintained by the Association (or its designated Sewer Service Company) subject to the remaining terms and provisions of this Section 6.09. All GSL Lots must utilize an Owner Gravity Sewer Line which must be connected to the City Gravity Sewer Main in accordance with the terms and provisions of Section 6.09(c) below. The Owner Gravity Sewer Line, once installed on a GSL Lot, will be owned by the Owner of such GSL Lot and will be maintained by the Association (or its designated Sewer Service Company) subject to the remaining terms and provisions of this Section 6.09.

(b) At the time of construction of a Dwelling on an LPS Lot, the Owner of such LPS Lot shall, at the sole cost and expense of such Owner (or such Owner's contractor or builder), construct and install on such Owner's LPS Lot the Owner LPS Equipment and the Electrical Connections in

accordance with the remaining terms and provisions of this Section 6.09(b). The Association's designated Sewer Service Company shall designate the types, manufacturer, size, and methods of installation of the Owner LPS Equipment and the Electrical Connections on each LPS Lot and such designated Sewer Service Company shall be the sole Person who shall install the Owner LPS Equipment on each LPS Lot. The Owner LPS Equipment shall be installed in accordance with all requirements of all applicable Governmental Authorities, including those of the City of Alabaster, Alabama and its successors and assigns. Each Owner (or such Owner's contractor or builder) shall contract directly with the Association's designated Sewer Service Company for the installation of all Owner LPS Equipment on such Owner's LPS Lot and each Owner (or such Owner's builder or contractor) shall be solely responsible for the payment of all such installation costs. Neither Developer nor the Association shall have any obligation to install any Owner LPS Equipment. Each Owner of an LPS Lot (or such Owner's builder or contractor) shall also be solely responsible, at such Owner's sole cost and expense, for (i) constructing, installing, maintaining, repairing, and replacing from time to time (1) the Electrical Connections for the operation of the Owner LPS Equipment on such Owner's LPS Lot and (2) all sanitary sewer lines and other equipment located within the Dwelling on such Owner's LPS Lot, including any such lines and equipment constructed or installed within the exterior walls of such Dwelling and (ii) providing at all times electrical service for the operation of the Owner LPS Equipment situated on such Owner's LPS Lot. Each Owner of an LPS Lot acknowledges and agrees that neither the Association, the Association's designated Sewer Service Company nor Developer shall have any obligation or liability of any nature to provide electrical service to the Owner's LPS Lot or to the Owner LPS Equipment situated on such Owner's LPS Lot, and each Owner of any LPS Lot, for such Owner and all Occupants of such Owner's LPS Lot, does hereby unconditionally waive, release and forever discharge the Association, its designated Sewer Service Company, Developer and the third-party engineer (the "Engineer") which has specified the minimum standards and requirements for the Owner LPS Equipment following consultation and approval of the same by the designated Sewer Service Company, from any and all actions, causes of action, claims, demands, agreements, covenants, suits, obligations, controversies, accounts, damages, costs, expenses, losses and liabilities of every kind or nature, known or unknown, suffered, paid or incurred by such Owner and any Occupants of such Owner arising out of or on account of (x) defects in the installation or any malfunction of any Electrical Connections providing electrical current to the Owner LPS Equipment situated on such Owner's LPS Lot or (y) loss of electrical service for the operation of the Owner LPS Equipment on such Owner's LPS Lot.

(c) At the time of construction of a Dwelling on a GSL Lot, the Owner of such GSL Lot (or such Owner's builder or contractor) shall, at the sole cost and expense of such Owner, construct and install on such Owner's GSL Lot the Owner Gravity Sewer Line in accordance with the remaining terms and provisions of this Section 6.09(c). The Owner Gravity Sewer Line shall be installed in accordance with all requirements of all applicable Governmental Authorities, including those of the City of Alabaster, Alabama (and its successors and assigns). Each Owner of a GSL Lot shall also be solely responsible, at such Owner's sole cost and expense, for constructing, installing, maintaining, repairing, and replacing from time to time all sanitary sewer lines and other equipment located within the Dwelling on such Owner's GLS Lot, including any such lines and equipment constructed or installed within the exterior walls of such Dwelling.

(d) Subject to the terms and provisions of this Section 6.09(d) and Sections 6.09(g), 6.09(h), Section 6.09(i) and 6.09(j) below, the Association shall be responsible for the routine maintenance, repair, upkeep and replacement of the Association-Maintained Sewer Lines once installed on each Lot; provided, however, that the Association shall have the right, in its sole and absolute discretion, to contract with a Sewer Service Company selected by the Association to perform all Association obligations relating to the Association-Maintained Sewer Lines. To the extent the Association enters into any such contract with a Sewer Service Company, then the Association shall provide written notice to all Owners and, following the giving of such notice, the Sewer Service Company

shall assume and perform all obligations of the Association relating to the Association-Maintained Sewer Lines and the Association shall have no further obligations to maintain, repair or replace any of the Association-Maintained Sewer Lines.

(e) All Sewer Maintenance Expenses shall constitute part of the Common Expenses which will be paid by all Owners as part of the Annual Assessments. The Sewer Maintenance Expenses are subject to change from time to time and at any time as reasonably determined by the Board, without any prior consent or approval of, or notice to, any Owners or Occupants.

(f) Developer does hereby grant to the Association, the Sewer Service Company and their respective successors and assigns, a permanent, perpetual and non-exclusive easement over, across, through, under and upon all of the Lots for the purposes of inspecting, repairing and replacing from time to time the Association-Maintained Sewer Lines situated on each Lot. The easement established, reserved and granted herein shall include the right to cut and remove trees, undergrowth, grass, shrubbery or other Improvements of any nature situated on any Lot, to grade, excavate or fill and otherwise take any and all action reasonably necessary to provide economical and safe maintenance, repair, and replacement of any portions of the Association-Maintained Sewer Lines situated on any Lot. Neither the Association nor the Sewer Service Company designated by the Association shall be obligated or required to repair or replace any trees, undergrowth, grass, shrubbery or other Improvements, including fences, of any nature damaged or destroyed as a result of the exercise of the foregoing easement rights.

(g) Each Owner, for such Owner and all Occupants of the Lot of such Owner, covenants and agrees to promptly report to the Association (or its designated Sewer Service Company) any malfunction of, or possible repairs which may be necessary to, any of the Association-Maintained Sewer Lines situated on such Owner's Lot.

(h) Notwithstanding anything provided to the contrary in this Section 6.09, to the extent any Association-Maintained Sewer Lines are damaged or destroyed by, or are in need of repair or replacement as result of, any of the following (collectively, the "Owner Causes/Casualty"):

(i) Any act or omission of any Owner or Occupant or any contractors or service providers of such Owner or any Occupant (including, without limitation, any landscaping and lawn service companies engaged by the Owner or Occupant of any Lot), as determined in the sole and absolute discretion of the Association's designated Sewer Service Company;

(ii) The failure of any Owner or Occupant to strictly comply with all rules and regulations established by the Association or the Sewer Service Company regarding the operation or use of the Association-Maintained Sewer Lines on such Owner's Lot, as determined in the sole and absolute discretion of the Association's designated Sewer Service Company; or

(iii) Any fire, casualty, weather conditions, or acts of God,

then, in any of the foregoing events, all costs and expenses paid or incurred by the Association (or its designated Sewer Service Company) in repairing or replacing the Association-Maintained Sewer Lines situated on such Owner's Lot shall be charged directly to the Owner of such Lot by the Association as an Individual Assessment, which Individual Assessment, together with interest and other costs and expenses paid or incurred by the Association as provided in Sections 8.05 and 8.07 below, shall be subject to the lien and enforcement rights set forth in this Declaration. Each Owner acknowledges and agrees that such Owner is responsible for obtaining and maintaining in full force and effect at all times fire and casualty

insurance coverage for such Owner's Lot and all Improvements thereto which should also include insurance coverage for damages to the Owner LPS Equipment or the Owner Gravity Sewer Line, as applicable, situated on such Owner's Lot.

(i) Each Owner, for such Owner and any Occupants of such Owner's Lot, covenants and agrees to abide by and otherwise comply with any and all rules and regulations established from time to time by the Association, the Sewer Service Company, the City of Alabaster, Alabama (and its successors and assigns) and all other Governmental Authorities in connection with the operation and use of any Owner LPS Equipment on an LPS Lot or the Owner Gravity Sewer Line on a GSL Lot.

**(j) Each Owner, for such Owner and any Occupants of such Owner's Lot, and their respective heirs, executors, personal representatives, administrators, successors and assigns, by acceptance of a deed to such Lot, and each Mortgagee, by acceptance of a Mortgage encumbering any such Lot, for themselves and their respective successors and assigns, do hereby:**

**(i) Irrevocably and unconditionally waive, release and forever discharge Developer, all Affiliates of Developer, the Engineer and the Association and their respective officers, directors, members, managers, partners, agents, representatives, successors and assigns, of and from any and all actions, causes of action, claims, demands, agreements, covenants, suits, obligations, controversies, accounts, damages, costs, expenses, losses and liabilities of every kind or nature, known or unknown, arising out of or on account of any defect in, malfunction of, or damages caused by any Owner Causes/Casualty or the loss of electrical service to such Owner's Lot or any Dwellings or other Improvements situated thereon; and**

**(ii) Shall and does hereby indemnify, defend and agree to hold Developer, all Affiliates of Developer, the Engineer, the Association and their respective agents, employees, officers, directors, shareholders, members, managers, representatives, and their respective successors and assigns (collectively, the "Indemnified Parties") harmless from and against any and all fines, penalties, costs and expenses, including court costs and reasonable attorneys' fees and expenses, and any and all other amounts suffered, paid or incurred by any of the Indemnified Parties in connection with any action, suit or proceeding (including the settlement of any suit or proceeding) to which any Indemnified Parties may be made a party by reason of (1) any acts or omissions of such Owner or any Occupants, contractors or invitees of such Owner, (2) the failure of such Owner or any Occupants of such Owner to fully and completely abide by and comply with all rules and regulations of the Sewer Service Company regarding the use, operation, maintenance, repair and replacement of the Association-Maintained Sewer Lines or any applicable laws, ordinances, statutes, rules regulations or requirements of any Governmental Authorities, (3) any Owner Causes/Casualty or (4) the loss of electrical service to such Owner's Lot or any Dwellings or other Improvements situated thereon.**

(k) Each Owner shall also be obligated to pay all impact fees, use fees, demand charges, and all other costs and expenses charged from time to time by the City of Alabaster, Alabama (or its successors and assigns) for sanitary sewer services provided to all Dwellings and other Improvements situated on such Owner's Lot (collectively, the "City Charges") of such Owner based on such billing standards and criteria established from time to time by the City of Alabaster, Alabama (or its successors and assigns). Such City Charges shall be in addition to the Sewer Maintenance Expenses and shall **not** be paid by the Association.

VI.10 CONSTRUCTION OF IMPROVEMENTS

(a) During the construction of any Improvements (including a Dwelling) on any Lot, such Lot shall be maintained in a clean condition, free of debris and waste material, all unused construction materials shall be stored, to the extent practicable, out of view from any roadways within or adjacent to the Property and all construction trash, debris and rubbish on each Lot shall be properly disposed of outside Everlee at least weekly. Used construction materials may be burned on-site only in accordance with the laws, ordinances, codes, statutes, rules or regulations of any applicable Governmental Authority; in no event, however, shall any used construction materials be buried on or beneath any Lot or any other portion of Everlee. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any roadways within or adjacent to the Property. Each Owner and each Owner's contractor, subcontractors, laborers and suppliers shall cause all such dirt, mud, gravel and other substances to be removed from the treads and wheels of all vehicles used in or related to the construction of Improvements on a Lot prior to such vehicles traveling on any roadways within or adjacent to the Property.

(b) During the initial construction of any Dwelling on a Lot, up to two (2) signs, in size and color to be approved by the ARC, may be posted on a Lot at a height not to exceed five (5) feet from the ground level advertising the Lot and Dwelling for sale or containing information identifying the builder of such Dwelling. No other signage, banners, flags or advertising posters shall be allowed on any portion of the Property. No signage shall be attached, nailed or otherwise adhered to any tree or other plant life.

(c) During the construction of any Improvements, construction equipment and the vehicles of all contractors, subcontractors, laborers, materialmen and suppliers shall not park within any of the Common Areas, utilize off-street parking only, enter the Lot on which such Improvements are being constructed only from the driveway for such Lot, and not damage trees or other vegetation on such Lot which, pursuant to the plans for such Lot as approved by the ARC pursuant to Section 5.06 above, are to be preserved. No construction trucks, equipment or machinery, including any trailers used for the transportation of construction equipment or machinery, shall be parked overnight on any roadways within the Property. Upon completion of construction of any Dwelling or other Improvements on a Lot, all construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from the Lot and such Lot shall be kept and maintained in a clean and uncluttered condition. All builders, contractors, subcontractors, laborers, suppliers, materialmen and other professionals involved in the construction of any Dwellings or other Improvements on a Lot shall be required to abide by and comply with all construction standards, guidelines and requirements adopted from time to time by the ARC as part of the Architectural Standards.

(d) All Dwellings and any other Improvements shall be constructed in compliance with this Declaration, the Rules and Regulations, the Architectural Standards and all applicable federal, state, county and local laws, ordinances, rules, regulations and zoning and building code requirements. Each Owner shall be solely responsible for obtaining from the appropriate Governmental Authorities all necessary permits and licenses and otherwise paying all required fees for the construction of any Improvements on such Owner's Lot including, without limitation, sewer impact fees and building permit and impact fees. Each Owner shall also be responsible for strict compliance with this Declaration, the Rules and Regulations, the Architectural Standards and all applicable watershed protection, soil erosion and other governmental requirements of all applicable Governmental Authorities, both during and after completion of construction of any Improvements on such Owner's Lot.

VI.11 **ACCESS TO OTHER PROPERTY AND SUBDIVISION AND INTERVAL OWNERSHIP**

(a) No portion of any Lot may be utilized to provide access, ingress to or egress from any property outside the boundaries of the Property without the express prior written consent of the ARC, which consent may be withheld by the ARC in its sole and absolute discretion.

(b) Subject to the remaining provisions of this Section 6.11(b), no Lot may be further subdivided into more than one (1) Lot unless such Lot is owned by Developer. Lots may be resubdivided to combine two (2) or more Lots into one (1) Lot or resubdivided to reflect the same number of Lots which existed immediately prior to any such resubdivision so long as the same is approved by the ARC. Nothing contained in this Section 6.11 shall be applicable to the subdivision, resubdivision, or combination of any Lots or other real property owned by Developer.

(c) No Lot shall be sold or owned under any time-sharing, time-interval or similar right-to-use programs. To the extent the ARC has approved the resubdivision or combination of any Lot as required by the terms and provisions of this Section 6.11, then such resubdivided or combined Lot shall constitute one (1) Lot (regardless of the number of Lots which existed immediately prior to the resubdivision or combination of such Lots) for Assessment purposes.

VI.12 **WATERFRONT LOTS AND RECREATIONAL FACILITIES**

(a) The Owner of each Lot which abuts or is contiguous to any lakes, streams, creeks, rivers, wetland areas or other water features (collectively, "Water Features") or whose Lot includes any Water Features (*i.e.*, a stream or creek running through any portion of such Owner's Lot) shall at all times maintain all such waterfront areas of such Owner's Lot in a safe and attractive condition.

(b) Owners and Occupants of any Lot situated adjacent to, or whose Lot may include, any Water Features, as well as their respective family members, guests, agents and invitees, shall refrain from any actions or activities which would interfere with the use of such Water Features by other Owners and Occupants, as determined by the ARC, in its sole discretion. Such prohibited activities shall include, without limitation, burning materials where the smoke would interfere with the reasonable use and enjoyment of any such Water Features, maintenance of dogs or other pets which interfere with the use of such Water Features due to loud barking or odors, playing of loud radios, televisions, stereos, or musical instruments, allowing trash, rubbish, weeds or undergrowth to remain or grow on any Lot which is unsightly, as determined by the ARC, in its sole discretion, or undertaking any activities or, in or adjacent to such Water Features which could, in the ARC's sole and absolute discretion, adversely affect those Water Features.

(c) In addition to the easements and rights established and reserved by Developer pursuant to Article III hereof, Developer does hereby establish and reserve for itself and the Association and their respective successors and assigns a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width lying parallel to and running along the common boundaries of any Lot lying directly adjacent to and contiguous with any Water Features, which easement shall allow and be used for the flow and drainage of surface water accumulating in, upon or as a result of the construction and maintenance of any such Water Features on or within the Property and to otherwise allow for the rise and fall of the water level of such Water Features.

(d) The Recreational Facilities, if any, provided by the Association for the use and benefit of all Owners and Occupants and the use of any lakes or water features within the Property by any Owners or Occupants are provided without lifeguards or other supervisory personnel and neither the Association nor Developer will provide any such lifeguards or supervisory personnel in connection with the utilization of the Recreational Facilities, if any, or such lakes or water features by any Person.

**(e) The Owner of each Lot, for such Owner and any Occupant of such Owner's Lot and their respective heirs, executors, personal representatives, administrators, successors and assigns, by acceptance of a deed to such Lot, and each Mortgagee, by acceptance of a Mortgage encumbering any such Lot, for themselves and their respective successors and assigns, do hereby:**

(i) Irrevocably and unconditionally waive, release and forever discharge Developer, the ARC, the Association and each Governmental Authority and their respective officers, directors, shareholders, members, managers, partners, agents, representatives, committee members and their respective successors and assigns, of and from any and all actions, causes of action, claims, demands, agreements, covenants, suits, obligations, controversies, accounts, damages, costs, expenses, losses and liabilities of every kind or nature, known or unknown, arising out of or on account of: (1) any loss, damage or injury to person or property, including death, as a result of any entry onto any Water Features, or the Recreational Facilities, if any, by any such Owner, Occupant, Mortgagee or any of their respective family members, guests, invitees, heirs, executors, personal representatives, administrators, successors and assigns; and (2) the rise and fall of the water level of any Water Features, including, without limitation, the flow of water onto and out of such Water Features which could result in or cause damage, by flooding or otherwise, to any Improvements or any other personal property situated on any portion of such Lot, or which would result in or cause any Improvements situated on or adjacent to any such Water Features to be unusable due to low or high water levels; and

(ii) Acknowledge and agree that: (1) neither Developer, the ARC, the Association, any Governmental Authority nor any of their respective agents, employees, shareholders, members, managers, partners, officers, directors, committee members, representatives, or their respective successors and assigns, shall provide any lifeguard or any other supervisory personnel or assistance in the conduct of any activities on or about any such Water Features or the Recreational Facilities, if any; (2) neither Developer, any Affiliates of Developer, the ARC, the Association, any Governmental Authority nor any of their respective agents, employees, representatives, shareholders, members, managers, partners, officers, directors or committee members of any of the foregoing entities or committees, or their respective successors and assigns, shall be responsible for the removal of, or providing any additional inspections or warnings for, any reptiles, snakes, other animals or insects on or within the Water Features; (3) the use of any such Water Features, and the Recreational Facilities, if any, by any such Owner or Occupant or any of their respective family members, guests, invitees or heirs, executors, personal representatives, administrators, successors and assigns, shall be at the sole risk and expense of the person or entity using such Water Features and Recreational Facilities, if any; (4) neither Developer, the Association, the ARC, any Governmental Authority nor any of their respective agents, employees, shareholders, members, managers, partners, officers, directors, committee members, representatives, successors or assigns, shall be obligated to take any action to maintain a specific water level for any such Water Features on, within or adjacent to the Property; and (5) any Water Features on, within or adjacent to the Property and the Recreational Facilities, if any, as with any other body of water, pose a potential threat of life threatening harm and each Owner or Occupant and

their respective family members, guests and invitees should exercise utmost care and safety precautions in and around any such Water Features, including specifically, the Recreational Facilities, if any.

(f) With respect to any Lots which abut or include any Water Features, the following shall be applicable:

(i) No machinery will be allowed within any of such Water Features. Any vegetative conditions established in and around such Water Features during construction (or which may be required by the ARC) shall be maintained on such Lot into the future unless otherwise approved by the ARC;

(ii) Site disturbance, including specifically, site disturbance adjacent to such Water Features must be minimized;

(iii) No sub-surface or surface drainage should be directed into the Water Features without filtration and/or detention as approved by the ARC; and

(iv) Water vegetation is encouraged around all Water Features. The ARC may require the planting of water vegetation on any Lot which abuts any Water Features. In addition, water vegetation shall not be removed from any Water Features without the prior written consent and approval of the ARC.

VI.13 **COMPLIANCE WITH GOVERNMENTAL REGULATIONS**

Each Owner and Occupant shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, requirements and code provisions of the applicable Governmental Authority having jurisdiction thereover.

VI.14 **INTENTIONALLY DELETED**

VI.15 **VARIANCES**

The ARC, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to any of the provisions of Article V above or this Article VI and any of the Rules and Regulations. Any variance request submitted to the ARC shall be in writing and, upon approval of the same by the ARC, shall be evidenced by a written variance executed by either the chairman or vice chairman of the ARC.

VI.16 **RULES AND REGULATIONS**

(a) In addition to the terms and provisions set forth in this Declaration, the Board may establish and enforce rules and regulations governing the use, improvement, maintenance and repair of all Lots and Common Areas. In addition, the Board may adopt rules and regulations which govern the use of any of the Common Areas by Owners, Occupants and any of their respective patrons and guests. Such rules and regulations shall be binding upon all Owners and Occupants and their respective patrons and guests. The Board shall also have the right to adopt, modify, change and alter additional rules and regulations without any action, consent or approval of, or any prior notice to, the Owners.

(b) In addition to the terms and provisions set forth in this Declaration, the Board may establish and enforce, without any action, consent or approval of, or any prior notice to, the Owners, additional rules and regulations governing the use, improvement, maintenance and repair of all Common

Areas, without any action, consent or approval of, or any prior notice to, the Owners. Such rules and regulations shall be binding upon all Owners and Occupants.

**VI.17 ENFORCEMENT AND REMEDIES**

In the event any of the provisions of this Article VI or any of the Rules and Regulations are breached or are not otherwise being complied with in all aspects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the Association or the ARC shall each have the right, at their option, to (a) enjoin such violation or noncompliance and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to extinguish or correct such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article VI or any of the Rules and Regulations, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of any noncompliance or the removal of such violation or in any judicial proceeding, together with any other costs or expenses incurred by the ARC or the Association in connection therewith, shall be paid by such Owner who has violated or breached any of the provisions of this Article VI or any of the Rules and Regulations, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Sections 8.01 and 8.07 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth in this Section 6.17 shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any other rights and remedies specified in this Declaration.

**ARTICLE VII  
MAINTENANCE RESPONSIBILITIES**

**VII.1 Responsibilities of Owners**

(a) Unless specifically identified herein as being the responsibility of the Association, the maintenance and repair of all Lots, Dwellings, all other Improvements situated thereon or therein and all lawns, landscaping and grounds on or within a Lot shall be the responsibility of the Owner of such Lot. Each Owner shall be responsible for maintaining such Owner's Lot in a neat, clean and sanitary condition, both inside and outside of any Dwelling or other Improvements thereto. Such responsibilities shall include, without limitation, maintaining at all times appropriate paint and stain finishes on all Dwellings and other Improvements and reroofing or replacing roofing shingles when the same become worn or would be replaced by a prudent Owner or as may be required by the ARC. No exterior changes, alterations or Improvements shall be made to any Lot without first obtaining the prior written approval of the same from the ARC.

(b) Each Lot shall be landscaped in accordance with plans and specifications approved by the ARC pursuant to Section 5.06(b) above. All areas of any Lot which are not improved by the construction of a Dwelling thereon shall at all times be maintained by the Owner thereof in a fully and well-kept landscaped condition utilizing ground cover and/or shrubbery, mulch and trees. The maintenance obligations set forth in this Section 7.01(b) shall apply to all portions of a Lot up to the edge of the pavement of the roadway abutting such Lot and shall be applicable at all times either prior, during or after the construction of any Improvements thereon. Grass, hedges, shrubs, vines and any other vegetation of any type on any Lot shall be cut and trimmed at regular intervals at all times in order to maintain the same in a neat, safe and attractive condition. Trees, shrubs, vines, plants and other vegetation which die shall be promptly removed and replaced with living plants of like kind and quantity. Dead vegetation, stumps, weeds, trash, refuse, rubbish, debris, garbage and waste material shall be

promptly removed from any Lot and properly disposed of outside of Walker Springs. In no event shall any dead trees, shrubs, vines, plants or other vegetation, leaves, grass clippings, limbs, dirt or any rubbish, debris, trash, refuse, garbage or waste be allowed to accumulate on any Lot nor shall any Owner or Occupant place, deposit or discard any of the foregoing items on or within any of the Common Areas or any other portion of Walker Springs.

(c) Subject to the provisions of Section 5.05 above, no Owner shall decorate, change or otherwise alter the appearance of any portion of the exterior of any Lot or the landscaping, grounds or other Improvements within a Lot unless such decoration, change or alteration is first approved, in writing, by the ARC.

## VII.2 Responsibilities of Association

(a) Except as otherwise provided in this Declaration to the contrary, the Association shall, to the extent it has received sufficient sums from the Owners through Assessments, maintain and keep in good repair and condition all portions of the Common Areas. The Association shall not be liable for injuries or damages to any person or property caused by the elements, acts of God or any Owner or other person, resulting from any surface or subsurface conditions or which may be caused by rain or other surface water which may leak or flow from any portion of the Common Area onto a Lot or resulting from thief, burglary or other illegal entry onto the Property or any Lot. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association or from any action taken by the Association to comply with any requirements of the Governmental Authorities.

(b) In the event that the Board determines that any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he, she or it is responsible hereunder or any maintenance, cleaning, repair or replacement for which the Association is responsible hereunder is caused by either the negligence or willful act of an Owner or Occupant, or their respective family members, guests, servants, employees, invitees or contractors, and the costs of such maintenance, cleaning, repair or replacement are not paid in full from insurance proceeds, if any, received by the Association with respect thereto, then, in either event, the Association, in addition to the exercise of any of the rights and remedies set forth in this Declaration, may give such Owner written notice of the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner and setting forth in reasonable detail what action is deemed necessary. Except in the event of emergency situations, such Owner shall have fourteen (14) days within which to complete the same in a good and workmanlike manner or, if the same is not capable of completion within such fourteen (14) day period, to commence such maintenance, cleaning, repair or replacement and to proceed diligently with the completion of the same in a good and workmanlike manner. In the event of emergency situations or the failure by any Owner to comply with the provisions hereof after such notice, the Association may provide (but shall not be obligated to provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, said cost shall be a personal obligation of such Owner, shall constitute an Individual Assessment to such Owner and shall be subject to the lien and foreclosure rights granted pursuant to Sections 8.01 and 8.07 below. If, and to the extent that, the Association undertakes any action pursuant to this Section 7.02(b) on behalf of any Owner, then all costs and expenses incurred by or on behalf of the Association, including, without limitation, reasonable administrative costs and expenses, attorneys' fees and court costs, if any, shall be due and payable by such Owner and such costs and

expenses shall be deemed to constitute Individual Assessments and shall be recoverable by the Association in accordance with the terms and provisions of this Declaration.

VII.3 MAINTENANCE OF STORM DRAINAGE FACILITIES

(a) Subject to the provisions of Section 7.02(b) above and Sections 7.03(c) and 7.03(d) below, to the extent the City does not maintain any underground storm water drainage pipes and headwalls (collectively, the "Underground Storm Drainage Piping and Headwalls") or any other storm water management or control devices or improvements, including, but not limited to ditches, swales, vegetation, berms, detention or retention ponds, underground detention systems, hydrodynamic separators, water quality devices, bio retention areas, outlet structures, maintenance shelves, access ways or roads and any other improvements associated with storm water management or control (collectively, with all Underground Storm Drainage Piping and Headwalls, the "Storm Water Facilities") which are located within any public or private storm water drainage easements created and shown on any final Subdivision Plats for the Property which were filed with the Probate Office by Developer or any of its Affiliates (collectively, the "Recorded Storm Drainage Easements"), then, subject to the remaining terms and provisions of this Section 7.03(a), the Association shall maintain, repair and replace all Storm Water Facilities located on or within any Recorded Storm Drainage Easements even if the same are located on or within the Lot lines of any one or more Lots; provided, however, that the Association shall have no obligation to inspect, operate, maintain, repair or replace any Storm Water Facilities (i) located on, under or within any publicly owned or dedicated right-of-way for which any Governmental Authority has accepted maintenance on such roadway or (ii) for which any Owner is responsible pursuant to the terms and provisions of Sections 7.03(c) and 7.03(d) below.

(c) Further, to the extent required by the City and subject to the provisions of Sections 7.03(c) and 7.03(d) below, the Association shall take all actions required to (i) operate, maintain and inspect any and all Storm Water Facilities within the Property for which the Association has agreed or is obligated to maintain in accordance with any plans required by the City, (ii) comply with any ordinances of the City regarding the maintenance and inspection of such storm water facilities, (iii) perform any inspections of such storm water facilities as may be required by the City or any other Governmental Authority, (iv) repair any deficiencies noted in such inspections, (v) provide to the City any repair or other plans required by the City, (vi) make any repairs to such storm water facilities as may be required by the City and (vii) pay any costs incurred by the City to inspect and correct any deficiencies noted by the City in the maintenance of such storm water facilities. All costs and expenses paid or incurred by the Association pursuant to Sections 7.03(a) and 7.03(b) shall constitute Common Expenses.

(d) Notwithstanding anything provided to the contrary in Section 7.03(a) above, the Owner of any Lot which abuts or includes any Recorded Storm Drainage Easements on or within the Lot lines of such Owner's Lot shall be solely responsible for (i) maintaining, repairing and replacing any and all grass, trees and other landscaping situated on or above any Underground Storm Drainage Piping and Headwalls situated on such Owner's Lot and (ii) maintaining, repairing and replacing any and all other portions of such Owner's Lot, including all portions of such Owner's Lot lying within any such Recorded Storm Drainage Easements (other than any Underground Storm Drainage Piping and Headwalls), which obligations include, without limitation, (1) maintaining any open storm water drainage ditches, channels or drainage ways situated on such Owner's Lot, including any and all rock, fill and riprap on or within such open storm water drainage ditches, channels or drainage ways, (2) cutting and clearing or otherwise maintaining all plant life within any such open storm water drainage ditches, channels or drainage ways on such Owner's Lot and (3) clearing and removing all debris, trash or other matter which may from time to time enter onto, or remain in or upon, any such open storm water drainage ditches, channels or drainage ways on such Owner's Lot

(e) Notwithstanding anything to the contrary provided in 7.03(a) above, no Owner or Occupant shall place or deposit leaves, grass clippings, plant or landscaping material, trash, rubbish or other debris within any of the storm drains within the Property or within any of the open storm water drainage ditches, channels or drainage ways within the Property

## **ARTICLE VIII** **ASSESSMENTS**

### **VIII.1 Assessments and Creation of Lien**

Each Owner of a Lot, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Association Annual Assessments, as established and to be collected as provided in Section 8.03 below, Special Assessments, to be established and collected as provided in Section 8.04 below, and Individual Assessments which are established or assessed pursuant to Section 8.05 below. Notwithstanding the foregoing, but subject to the provisions of Section 8.06(b) below, Lots owned by Developer or any Affiliate thereof shall not be subject to any Assessments by the Association, whether Annual Assessments, Special Assessments or Individual Assessments. All Assessments, together with late charges and interest at the Applicable Rate, as provided in Section 8.07(a) below, and all court costs and attorneys' fees and expenses incurred by the Association to enforce or collect such Assessments shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 8.07(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he or she is the Owner of a Lot and his or her grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his or her grantor any amounts paid by such grantee to the Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 8.07(a) below, court costs and attorneys' fees and expenses incurred with respect thereto by the Association shall also be a personal obligation of the person who was the Owner of the Lot at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot, all of the co-owners shall be jointly and severally liable for the entire amount of such Assessments. All Assessments shall commence as to each Lot as provided in Section 8.06 below and be paid in such manner and on such dates as may be fixed by the Board. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Common Areas or any other portion of the Property or any other cause or reason of any nature. The Annual Assessments and Special Assessments shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property and otherwise for the general upkeep and maintenance of the Property, including, specifically, the Common Areas thereto, all as may be more specifically authorized from time to time by the Board. Notwithstanding anything provided herein to the contrary, each Owner and Occupant does hereby acknowledge and agree that certain portions of the Annual Assessments and the Special Assessments as well as certain Common Expenses to be incurred by the Association may not benefit all of the Owners and Occupants equally but that the levy of such Annual Assessments and Special Assessments and the incurrence of Common Expenses shall be deemed to be for the benefit of all of the Property.

### **VIII.2 Uniform Rate of Assessments**

(a) Both Annual and Special Assessments, as described in Sections 8.03 and 8.04 below, shall be assessed against each Lot at a uniform rate, with the Owner of each Lot being required to pay his or her prorata portion of such Annual Assessments and Special Assessments, as determined by a fraction, the numerator of which shall be the total number of Lots owned by such Owner and the denominator of which shall be the total number of Lots within the Property at the time such Annual Assessments or Special Assessments are levied.

(b) Notwithstanding anything provided in Section 8.02(a) above to the contrary, in the event any Additional Property is added to the Property, then each Lot within the Additional Property shall be subject to the same Annual Assessments and Special Assessments then being paid by the Owners of all other Lots in the Property, subject to proration for the actual number of days remaining in the calendar year in which such Additional Property was added to the Property, any Assessments which have been previously assessed by the Association to the Owners for the then applicable calendar year shall not be subject to recalculation and in no event shall the amounts previously paid as either Annual Assessments or Special Assessments during such calendar year by any Owners be subject to recalculation or refund as a result thereof.

(c) Each Owner of a Lot, by acceptance of a deed to such Lot, acknowledges and agrees that the Annual Assessments and Special Assessments payable by such Owner are subject to change, modification, increase or decrease, respectively, in the event that any Additional Property is added to the Property or any Lots are combined, subdivided or resubdivided pursuant to Section 2.08 above or the Rules and Regulations, any portion of the Property becomes Common Areas or any portion of the Property is exempted from the payment of Annual Assessments or Special Assessments as provided in Section 8.11 below.

### VIII.3 Computation of Annual Assessments

(a) The Board shall determine and approve annually an annual budget covering the estimated Common Expenses for the Property for the upcoming year, such budget to include a capital contribution or reserve account, if necessary, for the capital needs of the Association and the amount of Annual Assessments which shall be payable by each Lot. The amount set forth in such budget shall constitute the aggregate amount of Annual Assessments for all of the Property for the then applicable year and each Owner shall pay his or her prorata share of the same as provided in Section 8.02 above. As used herein, the term "Annual Assessments" with respect to each Lot shall mean the prorata portion of the Common Expenses payable each calendar year by each Owner in accordance with the provisions of this Section 8.03. A copy of the budget setting forth the amount of Annual Assessments to be levied against the Lots for the following year shall be delivered to each Owner upon written request of any such Owner.

(b) If any budget or the amount of Annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Association and all Common Expenses, then the Board may call a meeting of the Association for the purpose of approving Special Assessments as provided in Section 8.04 below. If the actual amount of Annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

(c) The Common Expenses to be funded by the Annual Assessments may include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Association for its employees, agents, officers, members of the Board and any third party contractors;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by or on behalf of the Association;

(iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property, including, without limitation, street lighting, trash collection and security services;

(iv) The costs of any insurance policies purchased for the benefit of the Association as required or permitted by this Declaration, including, without limitation, fire, flood and other hazardous coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Association, including errors and omissions insurance, directors' and officers' liability insurance and any other liability insurance coverage for the benefit of the Association, the members of the Board, any officers, employees, agents or representatives of the Association (including members of the ARC);

(v) The expenses of maintaining, operating, repairing and replacing all portions of the Common Areas and any other amenities and facilities serving the Property which the Board, in its sole discretion, determines from time to time would be in the best interest of the Association to so maintain, operate, repair or replace;

(vi) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;

(vii) The expenses of the ARC which are not paid in full by plan review charges;

(viii) The costs and expenses for conducting, promoting and advertising recreational, social, cultural or other related programs, as well as street fairs, festivals and other events for the benefit of the Owners and Occupants;

(ix) The costs and expenses of installing, maintaining, repairing, purchasing, replacing and operating seasonal and holiday decorations and lighting for any of the Property;

(x) Sewer Maintenance Expenses;

(xi) All other fees, costs and expenses incurred by the Association in accordance with the terms and provisions of this Declaration or which the Board, in its sole and absolute discretion, determines to be appropriate to be paid by the Association, including, without limitation, taxes and governmental charges not separately assessed against Lots; and

(xii) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair and replacement of any portions of the Common Areas for which the Association is responsible to inspect, maintain, repair or

replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board and (4) for the payment of future Common Expenses.

(d) Annual Assessments may be payable monthly, quarterly, semi-annually, annually or at any other times as determined from time to time by the Board.

#### VIII.4 Special Assessments

. In addition to the Annual Assessments authorized in Section 8.03 above and the Special Assessments authorized in Sections 9.01(b) and 9.03(a)(i) below, the Board may levy in any year Special Assessments for Common Expenses or any extraordinary costs incurred or to be incurred by the Association, including, without limitation, costs which have been, are or will be incurred for capital improvements which are not paid for from Annual Assessments; provided, however, that any such Special Assessments (other than Special Assessments levied pursuant to Sections 9.01(b) and 9.03(a)(i) below) must be approved by a majority of the members of the Association (*i.e.*, Owners) who are “in good standing”, as defined in the Bylaws, voting at a duly convened meeting of the Association or in a ballot vote by the members of the Association held in accordance with the provisions of the Bylaws. As used herein, the term “Special Assessments” shall mean those assessments made to all Owners pursuant to this Section 8.04 or Sections 9.01(b) and 9.03(a)(i) below. The Board may make such Special Assessments payable in one lump sum or in installments over a period of time which may, in the Board’s discretion, extend beyond the then fiscal year in which said Special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 8.02 above.

#### VIII.5 Individual Assessments

. The Association may, in its sole discretion, at any time and from time to time levy and assess as individual assessments (collectively, “Individual Assessments”) against any Lot: Amenity Fees, as provided in Section 4.06 above, fines against an Owner and such Owner’s Lot in accordance with the terms and provisions of this Declaration, any costs or expenses, including, without limitation, collection costs, professional engineering and architectural fees and expenses, attorneys’ fees and expenses, court costs and any administrative costs and expenses incurred by or on behalf of the ARC or the Association as a result of the failure of any Owner, Occupant or their respective family members, agents, guests, servants, employees, invitees and contractors, to at all times observe and perform their respective duties and obligations under this Declaration, including, without limitation, any such costs and expenses incurred by the ARC or the Association pursuant to Sections 5.12, 6.17, 7.02(b), 8.07, 11.01 or 11.02 hereof, any fees, charges and other costs incident to the use of any of the Common Areas for which a charge for the use thereof has been established by the Board, and any costs, charges or other amounts payable by any Owner for any special services which the Association and such Owner may have contracted for which have been or will be provided to such Owner by the Association. The Individual Assessments provided for in this Section 8.05 shall be levied by the Board and the amount and due date of such Individual Assessment shall be specified by the Board in a notice to such Owner, which due date shall, except as provided in Section 4.06 above, be no earlier than 30 days from the date of such notice or billing invoice for such Individual Assessment.

#### VIII.6 Date of Commencement of Assessments; Payment of Assessments by Developer

(a) Subject to the provisions of Sections 8.06(b) and 8.11 below, Assessments shall commence as to each Lot on the day on which such Lot is conveyed to the First Owner and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board (as provided in Section 8.07(a) below), subject to proration for the remainder of the then calendar year in which such Lot was conveyed to the First Owner. Assessments for Lots within any portion of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot on the day on which such Lot is conveyed to the First Owner, subject to proration and adjustment according to the number of days then remaining in the calendar year in which such Additional Property was added to the terms of this Declaration. Notwithstanding anything provided herein to the contrary, at all times prior to the Turnover Date, Developer shall have the option, in its sole discretion, to either pay Annual Assessments on Lots owned by Developer or fund the actual cash deficits which may exist between the total amount of Annual Assessments assessed to all other Owners and the actual costs incurred by the Association for Common Expenses (exclusive of funding of reserves) in any particular year; provided, however, that Developer shall have no obligations to fund any reserves established from time to time by the Association or the Board. To the extent Developer elects to fund the actual cash deficits, then such funding may occur at any time during a calendar year (which may be at the end of any calendar year), as determined by Developer, in its sole and absolute discretion. From and after the Turnover Date or at such time as Developer no longer has any interest in any Lot, Developer shall have no further obligation of any nature to pay any Assessments or otherwise fund any deficits relating to the Common Expenses or the maintenance of the Common Areas.

(b) At such time as a Dwelling has received a final certificate of occupancy and the conveyance of the same to the First Owner, Annual Assessments and Special Assessments, if any, for the calendar year in which such Dwelling receives a final certificate of occupancy and is conveyed to the First Owner shall be prorated on the basis of the number of days remaining in such calendar year following the date on which the Dwelling has been conveyed to the First Owner. All Lots, regardless of whether a Dwelling has been constructed and completed thereon, shall be subject to Individual Assessments.

#### VIII.7 Effect of Non-payment; Remedies of the Association

(a) Each Owner of a Lot is and shall be deemed to covenant and agree to pay to the Association all Assessments provided for herein. The Association shall provide written notice or a billing invoice to each Owner setting forth the amount of the Assessments due and payable by such Owner and the due date for payment of such Assessments (which due date shall, with respect to Annual Assessments and Special Assessments only, be at least 30 days from the date of such notice or billing invoice). Any Individual Assessments levied or assessed against any Owner shall be separately assessed by a written notice or billing invoice sent directly by the Association to such Owner and such Individual Assessment shall be due and payable no later than 30 days from the date of such notice or billing invoice. In the event any Assessments or any portions thereof are not paid in full by the due date for such Assessments, then the Owner of such Lot shall be deemed in default hereunder and a late fee in the amount of \$25.00 (which amount shall be subject to increase from time to time and at any time, as determined by the Board, in its sole discretion) shall automatically be levied and assessed against such Owner and such Owner's Lot. In addition, if any Assessments or any portion thereof (including late fees) are not paid in full within 30 days following the due date for the payment of such Assessments, then the unpaid portion of the Assessment (including the late fee) shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the 30th day following the due date of such Assessments until the same has been paid in full. In the event the Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees and expenses, court costs and

all other expenses paid or incurred by the Association. The lien and equitable charge upon each Lot for Assessments shall also include all late fee charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect any unpaid Assessments.

(b) In the event any Assessments are not paid by any Owner within 30 days following the due date for the payment of such Assessments, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board or through any of its officers or authorized representatives, may at any time thereafter undertake any or all of the following remedies:

(i) The Association may commence and maintain a suit at law against an Owner for a personal money judgment to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the then applicable late fee charge and interest at the Applicable Rate, together with attorneys' fees and expenses, court costs and all other expenses paid and incurred by the Association in collecting such unpaid Assessments; and/or

(ii) The Association may enforce the lien created pursuant to Sections 8.01 and 8.07(c) hereof in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot, with power of sale, in favor of the Association, which secures the payment to the Association of any and all Assessments levied against or upon such Lot, all late fees or charges, interest at the Applicable Rate and all attorneys' fees and expenses, court costs and all other expenses paid or incurred by the Association in collecting any Assessments. If any portion of any Assessments remains unpaid for more than 30 days following the due date for the payment of such Assessments, then:

(i) At any time thereafter, the Association, through the Board or any officer or authorized representative thereof, shall provide written notice of the Assessment and lien to such defaulting Owner, which written notice shall state the date and amount of delinquency and shall be given by personal delivery or first-class United States mail, postage prepaid. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand; and

(ii) At least thirty (30) days prior to recording a statement of lien, the Association shall give written notice (the "Lien Notice") to such defaulting Owner in the manner set forth in Section 12.15 below (except that such Lien Notice, shall be given by certified mail to such defaulting Owner) stating that the statement of lien will be recorded in the Probate Office. At any time after the expiration of thirty (30) days following the giving of the Lien Notice (but within the twelve (12) months from the date such Assessment was due), the Association shall file a statement of lien and perfect its lien against the Lot of such delinquent Owner, which statement of lien shall be executed by any member of the Board or any officer of the Association having personal knowledge of the facts, contain the following information and be recorded in the Probate Office:

- (1) The name of the Association;
- (1) The name of the defaulting Owner;
- (2) The legal description and street address, if any,

of the Lot upon which the lien claim is made;

(3) The total amount claimed to be due including the due date of any Assessments, together with late charges, interest at the Applicable Rate, collection costs and attorneys' fees and expenses incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(4) A statement that the claim of lien is made by the Association pursuant to this Declaration and is claimed against such Lot in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Association and may be foreclosed in the same manner as a foreclosure of a mortgage on real property containing a power of sale under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (1) grant to and vest in the Association and its agents, the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Association and its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

(d) In addition to the other rights and remedies provided herein, in the event any Owner fails to pay any Assessments within 30 days from the statement billing date for such Assessments, then the Association shall have the right to suspend the privileges of such Owner, his or her Occupants, family members, guests and invitees from using any of the Recreational Facilities, if any.

#### VIII.8 Subordination of Lien

Notwithstanding anything provided herein to the contrary, the lien for Assessments and other charges authorized herein with respect to any Lot is and shall be subordinate to the lien of any Mortgage held by any Mortgagee, but only to the extent that the Mortgage held by any such Mortgagee is recorded in the Probate Office prior to the filing of a claim of lien by the Association pursuant to Section 8.07(c) above. When a Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall (a) not be liable for the then unpaid portion of any Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Mortgagee was recorded in the Probate Office prior to the filing of a claim of lien by the Association pursuant to Section 8.07(c) above, but (b) be liable for all Assessments and other charges levied, assessed or incurred with respect to such Lot from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all Assessments and other charges levied, assessed or incurred by the Association and the Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by Mortgagee on such Owner's Lot.

#### VIII.9 Certificates

The Association (or any officer or authorized representative thereof) shall, within thirty (30) days from the date of written request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner or any prospective purchaser of a Lot a certificate in writing setting forth

whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

#### VIII.10 Transfer Fees

(a) Subject to the remaining terms and provisions of this Section 8.10 and the provisions of Section 8.11 below, at the closing of the transfer of title of each Lot to the First Owner of such Lot, the First Owner of such Lot shall contribute and pay to the Association a transfer fee equal to one (1) month of the Annual Assessments then payable by such Lot for the then current calendar year. Such contribution shall be paid directly to the Association and may be utilized by the Association for the payment of any costs and expenses and shall not be considered to be a prepayment of any Annual Assessments.

(b) Subject to the remaining terms and provisions of this Section 8.10, at the closing of each subsequent conveyance of any Lot by any Owner (other than Developer or any Affiliates of Developer) to a third party purchaser (other than Developer or any Affiliates of Developer), each such third party purchaser of any Lot shall also be required to contribute and pay to the Association an amount equal to one (1) month of the Annual Assessment then payable by such Lot for the then current calendar year, which contribution may be utilized by the Association for the payment of any costs and expenses of the Association and shall not be considered a prepayment of any Annual Assessments.

(c) Notwithstanding anything provided in this Declaration to the contrary, the transfer fees specified in Sections 8.10(a) and 8.10(b) above shall not be applicable to the Association, to the extent the Association purchases a Lot in any foreclosure proceeding pursuant to the provisions of Section 8.07 above or the transfer and conveyance of any Lots to Developer or any Affiliates of Developer.

#### VIII.11 Exemptions from Assessments

Notwithstanding anything to the contrary in this Declaration, Developer may (a) designate any Lot as being exempt from the payment of Annual Assessments, Special Assessments or any transfer fees pursuant to Section 8.10 above, (b) by deed, contract or other written instrument reduce the amount of Annual Assessments or Special Assessments which may be payable by any Lot within the Property or (c) postpone the date on which Annual Assessments, Special Assessments or transfer fees pursuant to Section 8.10 above shall become due.

### **ARTICLE IX** **CASUALTY, CONDEMNATION AND INSURANCE**

#### IX.1 Damage or Destruction to Common Areas

(a) In the event of any damage or destruction to any of the Common Areas by fire or other casualty, then, subject to the terms and provisions of this Article IX, the Association shall promptly repair, replace and restore the damaged portions of the Common Areas to the condition to which they existed immediately prior to such fire or other casualty.

(b) Notwithstanding anything to the contrary provided in Section 9.01(a) above, in the event the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient to fully repair, replace and restore the damaged portions of the Common Areas, and such

deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be in an amount sufficient to provide funds to pay the remaining costs necessary to repair, replace or restore the Common Areas to the condition as existed immediately prior to such fire or other casualty and levied against each Owner equally as provided in Section 8.02 above. Any and all insurance proceeds received by the Association on account of any damage to or destruction of any of the Common Areas or any sums paid to the Association under or by virtue of such Special Assessments shall be held by and for the benefit of the Association and shall be disbursed by the Association in payment for the costs of such repair or restoration in such manner as may be determined by the Board. In no event shall the Owner or Mortgagee of any Lot be entitled to any portion of the proceeds of insurance payable as a result of the damage to or destruction of any portion of the Common Areas.

#### IX.2 Damage or Destruction to Lots and Dwellings

. In the event of any fire or other casualty which damages or destroys any portion of any Lot, then the Owner of such damaged Lot shall promptly repair and otherwise restore such Lot to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the terms and provisions set forth in Articles V and VI above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. Any such restoration or repair shall be commenced within one hundred eighty (180) days following the occurrence of such fire or other casualty (or such longer period of time as may be approved by the ARC) and shall be diligently prosecuted to completion without further delay in accordance with all of the terms and provisions of this Declaration.

#### IX.3 Condemnation of Common Areas

(a) In the event of the taking of all or any portion of any of the Common Areas as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then the award from such taking or sale in lieu thereof shall be paid to the Association and shall be disbursed or held as follows:

(i) To the extent the Common Areas subject to such taking can either be restored or replaced, then, to the extent practicable, the Board is hereby empowered, authorized and directed to take such action, including the purchase of any remaining lands within the Property or the utilization of any other Common Areas within the Property, to restore, rebuild or replace, as the case may be, those portions of the Common Areas subject to such taking. If the award is insufficient to fully defray the cost of such repair or replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be (1) in an amount sufficient to provide funds to pay the remaining costs of repair, restoration or reconstruction and (2) levied against each Owner equally as provided in Section 8.02 above; and

(ii) To the extent the Common Areas subject to such taking cannot be restored or replaced or additional lands within the Property cannot be purchased by the Association in order to repair, replace or restore the Common Areas so taken or if the Board shall determine that the portions of the Common Areas so taken should not be

replaced or restored, then in any such event, the net award from such taking shall be retained by and for the benefit of the Association.

(b) If any portion of the award from any taking remains after restoration or replacement of any of the Common Areas, the remainder of such award shall be retained by and for the benefit of the Association, without any claim thereto by any Owner. Except as specifically provided in Section 9.03(c) below, no Owner or Mortgagee of any Lot shall be entitled to any portion of the award made to the Association as a result of the taking of any portion of the Common Areas.

(c) If any such taking or sale in lieu thereof includes all or any part of a Lot and also includes any part of the Common Areas, then the award from such taking shall be equitably apportioned in accordance with the decision of a court of competent jurisdiction and such award shall be disbursed separately to the Association and to the Owners so affected by such taking; provided, however, that the Owners of any Lot which is subject to any such taking and the Board may mutually agree on the amount of such apportionment, which mutual agreement shall be binding on all Owners.

#### IX.4 Condemnation of Lots and Dwellings

In the event that all or any portion of a Lot or Dwelling is taken as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then, to the extent practicable, the Owner of such Lot shall promptly repair, reconstruct, rebuild and otherwise restore the remaining portions of the Lot as nearly as practicable to the condition to which the same existed immediately prior to such taking; provided, however, that any such restoration shall be subject to all of the terms and conditions set forth in Articles V and VI above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. In the event the restoration of such Lot impracticable or would otherwise violate any of the terms and provisions of this Declaration, then such Owner shall promptly clear away any remaining Improvements damaged or destroyed by such taking and shall leave such Lot and any remaining Improvements thereon in a clean, orderly, safe and sightly condition.

#### IX.5 Insurance

(a) The Board shall have the authority to obtain and maintain at all times any and all insurance coverages, in such form and with such insurance carriers as the Board may from time to time deem appropriate for the benefit of the Association including, without limitation, extended coverage, flood, vandalism, malicious mischief, public liability, workmen's compensation, employer's liability insurance, directors' and officers' liability insurance and any and all other types of insurance coverage as determined by the Board in its sole and absolute discretion.

(b) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his or her Lot, Dwelling and all other Improvements situated thereon. Each Owner, by acceptance of a deed to or other conveyance of any interest in any Lot, does hereby waive and release the Association, the ARC, Developer and their respective agents, employees, representatives, partners, shareholders, members, managers, officers, directors and committee members from any and all liabilities or responsibilities or any other claims by or through such Owner, by way of subrogation or otherwise, for any loss or damage covered by (or which should be covered by) broad form fire and extended coverage insurance (or homeowner's insurance coverage) and comprehensive public or general liability insurance coverage maintained or which should be maintained by any Owner as required herein, even if such loss or damage has been caused by the fault or negligence of the Association, the ARC, Developer or any of their

respective agents, employees, representatives, partners, shareholders, members, managers, officers, directors or committee members.

**ARTICLE X**  
**TERM AND AMENDMENTS**

X.1 **Term**

The terms, covenants, conditions and restrictions set forth in this Declaration shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of fifty (50) years from and after the date hereof, after which time this Declaration shall be automatically renewed and extended for successive and continuous periods of ten (10) years each, unless, at any time after fifty (50) years from the date hereof, an agreement executed by at least seventy-five percent (75%) of those Owners "in good standing", as defined in the Bylaws, who are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws, agreeing to terminate or modify this Declaration has been recorded in the Probate Office; provided, however, that the rights of way and easements established, granted and reserved in Article III hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

X.2 **Amendments Prior to Turnover Date**

Until the occurrence of the Turnover Date, Developer may, in its sole discretion, amend this Declaration by a written instrument filed and recorded in the Probate Office without obtaining the approval of the Association, any Owner, Occupant or Mortgagee; provided, however, that in the event any amendment proposed by Developer materially and adversely alters or changes the rights of any Owner to the use of his or her Lot, as determined solely by Developer, in its reasonable discretion, then such amendment shall be valid only upon the written consent or ballot vote of both (a) Developer and (b) at least fifty-one percent (51%) of those Owners (including Developer who shall have the voting rights attributable to any Lots owned by Developer) who are "in good standing" and are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws. Notwithstanding anything provided to the contrary in this Section 10.02, each Owner, by acceptance of a deed to any Lot, and each Mortgagee, by acceptance of a Mortgage encumbering any Lot, acknowledges and agrees that (i) the addition of Additional Property to this Declaration pursuant to Section 2.02 above and the amendment of this Declaration to add Additional Property to the terms and provisions hereof, (ii) any amendments to this Declaration made by Developer pursuant to Sections 2.03 and 2.07 above and (iii) any amendments to this Declaration to reflect the resubdivision of any Lots pursuant to Section 2.08 above, shall not and do not constitute a material and adverse alteration or change in or to the rights of any Owner to the use of such Owner's Lot and shall not require the consent or approval of the Association, any Owner, Occupant or Mortgagee. Any amendments to this Declaration made pursuant to this Section 10.02 shall be certified by Developer and shall be effective upon recording of the same in the Probate Office. Each Owner, by acceptance of a deed to a Lot, and each Mortgagee, by acceptance of a Mortgage on any Lot, agrees to be bound by all amendments permitted by this Section 10.02. Except as specifically provided in Section 10.04 below and in this Section 10.02 (with respect to any amendments proposed by Developer which materially and adversely alter or change the rights of an Owner to the use of his or her Lot), at all times prior to the Turnover Date, only Developer shall have the right to amend this Declaration. Any amendments or changes to the Rules and Regulations shall not be governed by the provisions of this Section 10.02.

X.3 **Amendments after Turnover Date**

. Subject to the provisions of Section 13.03 below, after the occurrence of the Turnover Date, amendments to this Declaration shall, subject to the provisions of Section 10.04 below, be proposed and adopted only by the affirmative vote of at least fifty-one percent (51%) of those Owners (including Developer who shall have the voting rights attributable to any Lots owned by Developer) who are “in good standing”, as defined in the Bylaws, who are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws. Any other attempt to amend this Declaration shall be deemed null and void. Any and all amendments which have been approved in accordance with the terms and provisions of this Section 10.03 shall be executed by all parties whose consent to the same is required; provided, however, that in the alternative, the sworn statement of the President of the Association or by the Chairman of the Board, if any, stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without joinder of any of the Owners. Any such amendment shall be effective upon recording of the same in the Probate Office. Any amendments or changes to the Rules and Regulations shall not be governed by the provisions of this Section 10.03.

#### X.4 Restrictions on Amendment

. Notwithstanding anything provided herein to the contrary, (a) none of the terms and provisions of Articles II and III hereof may be amended or modified in any respect without the prior written consent and approval of Developer and (b) the provisions of Section 4.06 above may not be amended or modified without the prior written consent of at least seventy-five percent (75%) of all of the Board of Directors.

### ARTICLE XI DENIAL OF USE PRIVILEGES AND REPURCHASE OPTION

#### XI.1 Authority and Enforcement

. In addition to the other rights and remedies provided elsewhere in this Declaration, in the event any Owner or Occupant or their respective agents, contractors or invitees, violates any of the provisions of this Declaration, the Architectural Standards, the Certificate of Formation, the Bylaws or any of the Rules and Regulations, then the Board shall have the power and right, at its option, to (a) impose monetary fines which shall constitute an Individual Assessment, (b) suspend an Owner’s right, if any, to vote in the Association and (c) suspend or terminate an Owner’s or Occupant’s privilege (and the privilege of such Owner’s or Occupant’s family members, guests and tenants) to use all or any of the Recreational Facilities, if any. Any action to be taken by the Board pursuant to this Section 11.01 shall be subject to the satisfaction of the terms and provisions of Section 11.02 below.

#### XI.2 Procedure

(a) In the event any of the terms or provisions of this Declaration, the Architectural Standards, the Certificate of Formation, the Bylaws or any Rules and Regulations are violated by any Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine on any Owner pursuant to Section 11.01 or suspend or terminate the privileges to use any of the Recreational Facilities pursuant to Section 11.01 unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations setting forth the information required by Section 11.02(b) below and providing such Owner the opportunity to appear and be heard and be represented by counsel before the Board.

(b) Any notices required by Section 11.02(a) above shall specify:

(i) The alleged violation;

(ii) The action required to abate such violation;

(iii) A time period of not less than fourteen (14) days during which the violation may be abated and corrected by such Owner without further sanction if such violation is a continuing one or, if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the Architectural Standards, the Certificate of Formation, the Bylaws or any of the Rules and Regulations may result in the imposition of sanctions; and

(iv) To the extent the Board proposes the imposition of a fine, such notice shall set forth the date, which shall be no earlier than ten (10) days from the date of such written notice, time and place at which such Owner may appear with counsel before the Board and be heard.

The foregoing procedure set forth in this Section 11.02 shall only be applicable to the possible imposition of fines against an Owner (as provided in Section 11.01(a) above) or the suspension or termination of the privileges to use any of the Recreational Facilities (as provided in Section 11.01(c) above) and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Declaration.

#### XI.3 Non-exclusive Remedies

Notwithstanding anything provided to the contrary in this Declaration, rights and remedies granted to Developer, the ARC and the Association pursuant to the terms and provisions of this Declaration upon the occurrence of any default by any Owner or the failure of any Owner to timely and completely perform all obligations required to be performed hereunder by any Owner are in addition to and shall not be deemed to limit the other rights and remedies set forth in this Declaration or which Developer, the ARC or the Association would have the right to exercise at law or in equity.

### **ARTICLE XII** **MISCELLANEOUS PROVISIONS**

#### XII.1 Control by Developer

**NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THIS DECLARATION, THE CERTIFICATE OF FORMATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE PROPERTY, EACH OWNER, BY ACCEPTANCE OF A DEED TO ANY LOT, AGREES THAT UNTIL THE TURNOVER DATE, DEVELOPER SHALL HAVE THE SOLE AND EXCLUSIVE RIGHT AND AUTHORITY TO (a) APPOINT AND REMOVE ALL OF THE MEMBERS OF THE BOARD AND (b) EXERCISE ALL VOTING RIGHTS IN THE ASSOCIATION (EXCEPT TO THE EXTENT OTHERWISE PROVIDED TO THE CONTRARY IN SECTION 10.02 ABOVE).**

#### XII.2 Legal Expenses

In addition to all of the other rights and remedies set forth in this Declaration, in the event either Developer, the Board, the Association, the ARC or any of their respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of this Declaration, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in this Declaration shall be paid for by the Owner against whom such action was initiated. The Association and its agents and representatives, including the ARC, and the Board are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstances to restrain or enjoin any violation or breach of this Declaration or to otherwise seek

monetary damages as a result of any expenses incurred by the Association to cure any such violation or breach by any Owner.

**XII.3 Severability**

. If any provision of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

**XII.4 Captions and Headings**

. The captions and headings contained in this Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Declaration. The table of contents, cover page and any index to this Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

**XII.5 Pronouns and Plurals**

. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

**XII.6 Binding Effect**

. The terms and provisions of this Declaration shall be binding upon each Owner, Occupant and Mortgagee and their respective heirs, executors, administrators, personal representatives, successors and assigns and shall inure to the benefit of Developer, the Association, the ARC, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**XII.7 Conflict or Ambiguity**

. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction against one party as a result of that party having drafted this Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguities shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein. In the event of any conflict, ambiguity or inconsistency between the *Code of Alabama*, any laws, regulations or ordinances of any applicable Governmental Authorities, this Declaration, the Certificate of Formation, the Bylaws or any Rules and Regulations adopted from time to time by the Association, then the provisions of the *Code of Alabama*, any laws, regulations or ordinances of any applicable Governmental Authorities, this Declaration, the Certificate of Formation, the Bylaws and any Rules and Regulations adopted by the Association, in that order, shall prevail and each Owner, by acceptance of a deed or other conveyance to a Lot, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict, ambiguity or inconsistency.

**XII.8 No Reverter**

. No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer.

**XII.9 Interpretation**

. In all cases, the provisions set forth and provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Developer or the Board, will best

effect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date hereof. This Declaration shall be construed under and in accordance with the laws of the State of Alabama.

**XII.10 Rights of Third Parties**

. This Declaration shall be recorded for the benefit of Developer, the Association, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or its operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.

**XII.11 No Trespass**

. Whenever the Association, Developer, the ARC and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot, the entering thereon and the taking of such action shall not be deemed a trespass.

**XII.12 No Partition**

. Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Property.

**XII.13 Standards for Review**

. Whenever in this Declaration the ARC or the Association has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of the ARC or the Association, as the case may be.

**XII.14 Oral Statements**

. Oral statements or representations by Developer, the Association, the ARC, any of their respective employees, agents, representatives, successors or assigns, or any real estate brokers, licensees or agents representing Developer shall not be binding on Developer, the Association or the ARC.

**XII.15 Notices**

. Each Owner shall be obligated to furnish to the Association, in writing, the address, if other than the Lot of such Owner, to which any notice to such Owner under this Declaration is to be given and, if no address other than such Lot shall have been designated in writing, then all notices and demands shall be mailed or delivered to the Lot of such Owner. Any Owner may, for the purposes of notices hereunder, specify in writing to the Association that all notices be submitted to such Owner by facsimile transmission or through the Internet utilizing a specific electronic mailbox address for that particular Owner. Subject to the provisions of Section 8.08(c) above, all notices required or permitted to be given to any Owner pursuant to the terms and provisions of this Declaration shall be deemed to have been sufficiently given or served upon any Owner when either deposited in the United States mail for first-class delivery with postage prepaid and addressed to the last address furnished by such Owner to the Association (or if no address has been furnished, then to the Lot of such Owner), in which case notice shall be deemed given upon deposit of same in the United States mail, delivered to the Dwelling, if any, situated on an Owner's Lot in which event notice shall be deemed given upon personal delivery of such notice to the mailbox or when attached to the front door of such Lot, sent by facsimile transmission to a facsimile number provided in writing by such Owner to the Association, which notice shall be deemed to

have been given upon transmission of such facsimile notice or sent by Internet to an electronic mailbox address provided in writing by such Owner to the Association, which notice shall be deemed to have been given upon transmission of such electronic mail by the Association. All notices to the Association (or to the ARC) shall be delivered or sent to the following address:

Walker Springs Association, Inc.  
c/o Newcastle Development, LLC  
121 Bishop Circle  
Pelham, AL 35124  
Attention: President

or to such other address as the Association (or the ARC) may from time to time specify in a notice to the Owners. All notices to Developer shall be sent or delivered to Developer at the following address or facsimile number (or to such other address or facsimile number as Developer may notify the Association):

Newcastle Development, LLC  
121 Bishop Circle  
Pelham, AL 35124  
Attention: President

XII.16 Assignment

. Developer shall have the right, in its sole and absolute discretion, to assign any and all of the rights, powers, reservations, easements and duties contained herein to any person or entity who shall thereupon have the same rights, powers, reservations, easements and duties as Developer hereunder. Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot by Developer to a third party shall constitute or be deemed to constitute a transfer of any of the rights reserved herein to Developer unless express reference is made in such instrument of conveyance to the specific rights created in this Declaration which Developer has transferred to any such third party.

XII.17 Further Assurances

. Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, which may be reasonably requested by Developer, the Association or the ARC for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.

XII.18 No Waiver

. All rights, remedies and privileges granted to Developer, the Association and the ARC pursuant to the terms and provisions of this Declaration shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure by Developer, the ARC or the Association at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

XII.19 Deeds Subject to Covenant

. Each conveyance of a Lot shall be subject to the terms and conditions of this Declaration regardless of whether such conveyance contains a reference to this Declaration.

XII.20 Indemnity for Damages

. Each and every Owner and future Owner, by accepting a deed to any Lot, agrees to indemnify Developer, all Affiliates of Developer, and the Association for any damage caused by such Owner, the Occupants of such Owner and any contractors, agents or employees or such Owner, to roads, streets, gutters, sidewalks, walkways or other aspects of public ways, including all surfacing thereon, or to water drainage or storm sewer lines, or sanitary sewer lines constructed by Developer or any Affiliates of Developer within the Property, or for which Developer, or the respective Affiliates of Developer have responsibilities at the time of such damage. Upon the purchase of any Lot by an Owner, each Owner accepts knowledge of this Declaration, and ratifies the covenants contained herein and hereby releases the right to prosecute Developer and any Affiliates of Developer for any conveniences which such Owner deems inadequate or unbecoming of such Owner's needs or desires.

XII.21 Perpetuities

. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George Herbert Walker Bush, former President of the United States.

**ARTICLE XIII**  
**DISPUTE RESOLUTION**

XIII.1 Agreement to Resolve Disputes Without Litigation

(a) Developer, the ARC, the Association and their respective officers, directors, and committee members, all Lot Owners, and all Persons subject to this Declaration (collectively, "Bound Party"), agree that it is in the best interest of all concerned to resolve disputes involving the Property, Developer, the ARC, the Association and/or the Owners without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to directly or indirectly file suit in any court with respect to a Claim (hereinafter defined), and to submit such Claim to the alternative dispute resolution procedures set forth in Section 13.02.

(b) As used in this Article XIII and subject to the remaining terms and provisions of this Section 13.01(b), the term "Claim" shall refer to any claim, grievance or dispute arising out of or relating to:

(i) The interpretation, application, or enforcement of this Declaration, the Architectural Standards, all Rules and Regulations adopted by the Association, the Certificate of Formation or the Bylaws (collectively, the "Governing Documents"); or

(ii) The rights, obligations and duties of any Bound Party under the Declaration or any Governing Documents.

Notwithstanding anything provided to the contrary in this Section 13.01(b), the following shall **not** be considered "Claims" unless **all** parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 13.02:

(1) Any action, whether by suit or otherwise, by the Association to collect Assessments or other amounts due from any Owner;

(5) Any action, whether by suit or otherwise, by the Association to obtain a temporary restraining order (or emergency equitable relief) against any Owner and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of any of the Governing Documents;

(6) Any suit between Owners, which does not include Developer, the ARC, or the Association as a party, if such suit asserts a Claim which would constitute a cause of action Any suit in which any indispensable party is not a Bound Party; or

(7) Any suit as to which any applicable statute of limitations would expire within one hundred eighty (180) days of giving the Notice required by Section 13.02(a) unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article XIII.

### XIII.2 Dispute Resolution Procedures

(A) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") to each Respondent and to the Board stating plainly and concisely:

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

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

(iii) The Claimant's proposed resolution or remedy; and

(iv) The Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

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

(c) Mediation. If the parties have not resolved the Claim through negotiation within thirty (30) days of the date of the Notice described in Section 13.02(a) (or within such other period as the parties may agree upon), the Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency or individual providing dispute resolution services in the State of Alabama selected by both sides if the Association is a party. If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim. If the parties do not settle the Claim within

thirty (30) days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be required to initiate arbitration proceedings on the Claim, as set forth in Section 13.02(e) below. Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally all fees charged by the mediator.

(D) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

(E) Arbitration; No Trial by Jury. Any dispute between an Owner or the Association, as one of the parties, against Developer or any Affiliates of Developer, as the other party ("Dispute"), and any Claims which remain after the conclusion of the dispute resolution procedures described in Section 13.02 above, shall be resolved by final and binding arbitration by a single arbitrator in Birmingham, Alabama in accordance with the Commercial Arbitration Rules of the American Arbitration Association then in effect and shall not be submitted to a lawsuit or other proceedings in any Alabama state court or any federal court. EACH PARTY ACKNOWLEDGES THAT HE OR SHE IS KNOWINGLY WAIVING THE RIGHT TO A TRIAL EITHER BEFORE A JUDGE OR A JURY RELATING TO ALL CLAIMS AND DISPUTES. All disputes concerning the arbitrability of any Claim or the enforceability or scope of this provision shall be subject to the same binding arbitration. The parties shall bear equally the cost of the arbitrator, and each party shall otherwise bear its own costs; provided, however, that the prevailing party shall be entitled to recover all of its costs in such arbitration, including reasonable attorneys' fees and expenses. The arbitrator shall follow the law applicable to any Claim and shall be empowered to award any damages or other relief which would be available under law applicable to any such Claim. The determination of the arbitrator shall be final, binding on the parties, and non-appealable and may be entered in any court of competent jurisdiction to enforce it. The parties acknowledge and agree that the transactions contemplated by, and relating to, the Property, which may include the use of materials and components which are obtained from out-of-state and which otherwise include the use of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act, 9 U.S.C. § 2.

### XIII.3 Initiation of Litigation by Association

. In addition to compliance with the foregoing alternative dispute resolution procedures, the Association shall not initiate any judicial or administrative proceedings unless first approved by the affirmative vote of the Members in "good standing", as defined in the Bylaws, entitled to cast at least seventy-five percent (75%) of the total number of all votes in the Association, except that no such approval shall be required for actions or proceedings involving the following:

(A) Initiated to enforce the provisions of this Declaration, including, but not limited to, collection of Assessments and foreclosure of liens;

(b) Initiated to challenge taxation or condemnation proceedings involving the Common Areas;

(c) Initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or

(d) To defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section 13.03 shall not be amended unless such amendment to this Declaration is approved by the same percentage of votes necessary to institute proceedings.

**[The remainder of this page has been intentionally left blank.]**

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed as of the day and year first above written.

**NEWCASTLE DEVELOPMENT LLC**, an  
Alabama limited liability company

By: *Donald M Woodruff III*  
Printed Name: DONALD M WOODRUFF III  
Title: CFO

STATE OF ALABAMA        )  
                                      :  
COUNTY OF SHELBY     )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Donald M woodruff III, whose name as CFO of NEWCASTLE DEVELOPMENT, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 13<sup>th</sup> day of February, 2026.

*Stephanie Bishop*  
Notary Public  
My Commission Expires: 2/5/30





**EXHIBIT A**

**Legal Description of Property**

**EXHIBIT B**

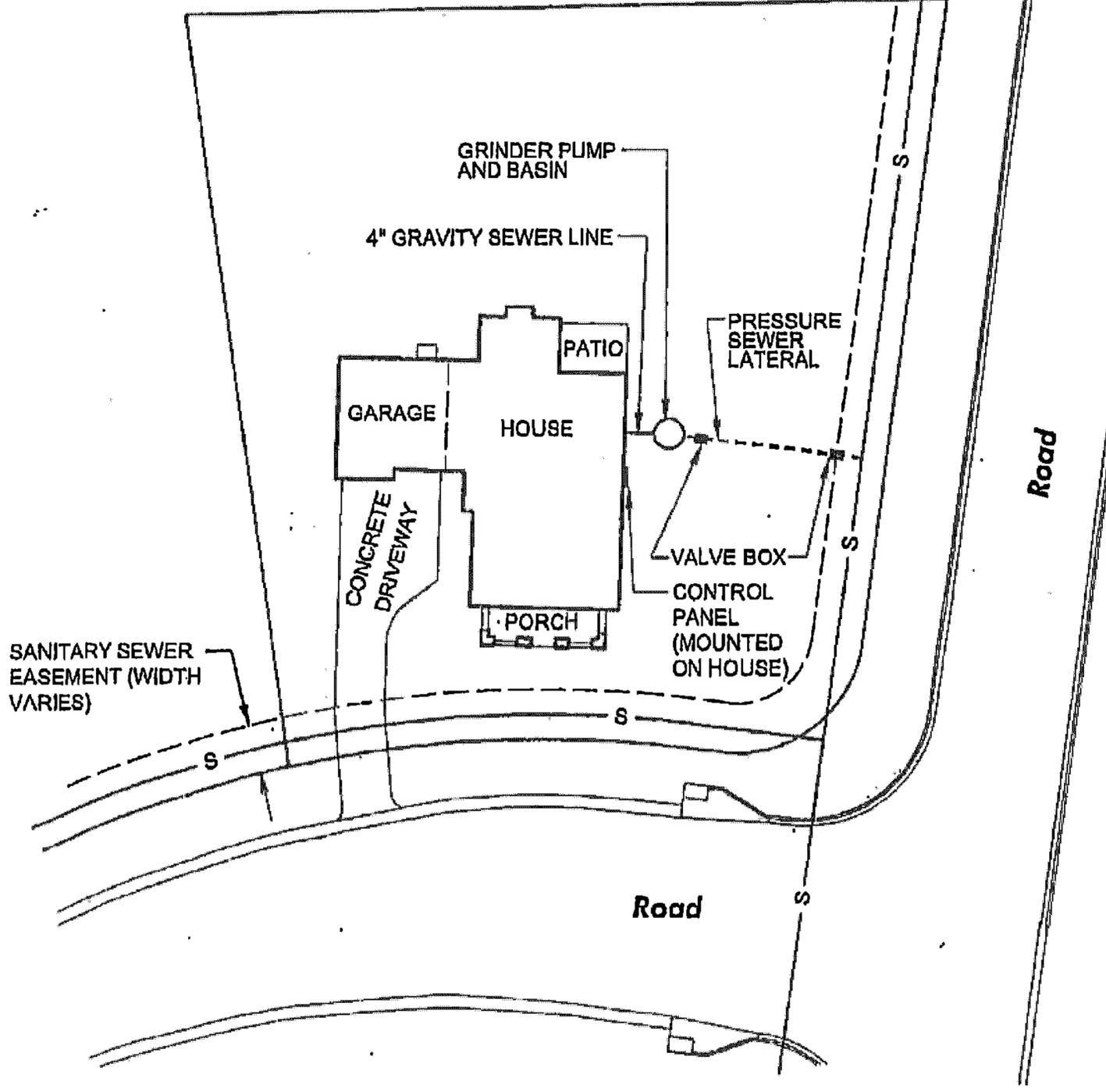
**OWNER LPS EQUIPMENT**

**NOTE:**

THE HOME OWNER IS RESPONSIBLE FOR MAINTENANCE OF THE GRAVITY SEWER LINES IN THE HOUSE.

THE LOCATION OF THE PUMP, CONTROL PANEL AND VALVE BOXES MAY VARY FROM THIS TYPICAL EXAMPLE.

CITY OF ALABASTER ENVIRONMENTAL SERVICES DEPARTMENT LOW PRESSURE SEWER MAIN (CITY SEWER MAIN)



Filed and Recorded

Official Public Records

Judge of Probate, Shelby County Alabama, County

Clerk

Shelby County, AL

02/18/2026 08:40:56 AM

\$217.00 BRITTANI

20260218000044960



*Alvin S. Boyd*