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MARION COUNTY TRANSPORTATION DEPT  
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DATE: 07/21/2006 01:16:26 PM

FILE #: 2006117428 OR BK 04508 PGS 1246-1341

RECORDING FEES 817.50

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**TABLE OF CONTENTS  
FOR  
COMMUNITY DECLARATION  
FOR  
STONE CREEK**

Article 1 - Definitions .....	1
Section 1. Definitions .....	1
Section 2. Interpretations .....	6
Article II – Development Plan .....	7
Section 1. Operation, Maintenance and Repair of Common Areas .....	7
Section 2. Paved Surfaces.....	7
Section 3. Potable Water, Wastewater and Reclaimed Water Development Agreement.....	8
Section 4. Retention Walls. ....	8
Section 5. Boundary Walls .....	9
Article III – Property Rights .....	9
Section 1. Owners' Easement of Enjoyment .....	9
Section 2. Delegation of Use .....	10
Section 3. Easements for Homes .....	10
Section 4. Easements for Utilities, Drainage and Sprinklers .....	10
Section 5. Prohibition of Certain Activities .....	11
Section 6. Use of the Common Area .....	11
Section 7. Signs Prohibited .....	11
Section 8. Animals .....	11
Section 9. Rules and Regulations.....	11
Section 10. Title to Common Area .....	12
Section 11. Easements Reserved in Common Area .....	12
Section 12. Declarant and Association Easement .....	12
Section 13. [Intentionally Deleted] .....	13
Section 14. Association Easement .....	13
Section 15. Owners Easements .....	13
Section 16. Easement Over the Grassed Area .....	13
Section 17. Easements Reserved in Common Area for Use in Connection with Other Homeowner Associations and/or Condominiums....	13
Section 18. Use of Undeveloped Properties .....	13
Section 19. Owner's Easement in Golf Course Areas.....	13
Article IV – Membership and Voting Rights .....	14
Section 1. Voting Rights .....	14
Section 2. Membership Classifications .....	14

(a) Class A .....	14
(b) Class B .....	14
(c) Class C .....	14
(d) Class D .....	14
Section 3. Turnover.....	15
Article V – Rights and Obligations of Owners and the Association .....	15
Section 1. Responsibilities .....	15
Section 2. Manager .....	15
Section 3. Personal Property for Common Use .....	15
Section 4. Insurance .....	16
Section 5. Implied Rights. ....	16
Section 6. Common Expense .....	16
Section 7. Lawn and Landscaping Maintenance .....	16
Section 8. Sprinkling System .....	16
Section 9. Suspension of Use Rights; Levy of Fines .....	16
Section 10. Surface Water/Stormwater Management System .....	17
Section 11. Waterbodies .....	18
Section 12. Drainage and Mitigation Areas .....	18
Article VI – Covenant for Maintenance Assessments .....	19
Section 1. Creation of the Lien and Personal Obligation for Assessments .....	19
Section 2. Purpose of Assessments .....	19
Section 3. Installment Assessments for Common Expenses .....	19
(a) Standard Increases .....	19
(b) Special Increases .....	19
(c) Duty of Board to Fix Amount .....	20
Section 4. Special Assessments .....	20
Section 5. Notice of Meeting and Quorum for Any Action Authorized Under Sections 3. ....	20
Section 6. Declarant's Common Expenses Assessment .....	20
Section 7. Exemption from Assessments.....	20
Section 8. Date of Commencement of Installment Assessments: Due Dates.....	21
Section 9. Lien for Assessments.....	21
Section 10. Effect of Nonpayment of Assessments; Remedies of the Association.....	21
Section 11. Foreclosure.....	21
Section 12. Homestead.....	22
Section 13. Subordination of the Lien to Mortgages.....	22
Section 14. Individual Assessments.....	22
Section 15. Certificate of Amounts Due/Resale Restrictions.....	22
Section 16. Uniform Rate of Assessment.....	22
Section 17. Cable Television.....	22
Section 18. Visual Security.....	23
Section 19. Internet Based Community Portal.....	23
Section 20. Property Taxes.....	23
Section 21. Acceleration of Assessments.....	23
Section 22. Working Capital Contribution.....	23
Section 23. Resale Capital Contribution.....	24
Section 24. Budgeting and Allocating Neighborhood Expenses.....	24
Section 25. Special Use Fees.....	24

Section 26. Reserves.....	24
Section 27. Assessments for Limited Common Area.....	24
Section 28. Bay Laurel Center Community Development District.....	25
Article VII – Architecture and Landscaping.....	25
Section 1. Members of the Architectural Review Committee.....	25
Section 2. Purpose and Function of ARC.....	25
Section 3. All Improvements Subject to Approval.....	25
Section 4. Standards for Review and Approval.....	26
Section 5. Design Standards and Design Review Manual for STONE CREEK.....	26
Section 6. Procedure for Review.....	26
Section 7. Duration of Approval.....	27
Section 8. Interior Alterations Exempt.....	27
Section 9. Declarant Exempt.....	27
Section 10. Exculpation for Approval or Disapproval of Plans.....	28
Article VIII – Land Use Plan.....	28
Section 1. PUD Master Plan of Development.....	28
Section 2. Deed Restrictions.....	28
Section 3. Withdrawal.....	29
Section 4. Annexation.....	29
(a) Additions to Properties and PUD Master Plan.....	29
(1) Additions to the Properties.....	29
(2) PUD Master Plan of Development.....	29
(b) Procedure for Making Additions to the Properties.....	29
(1) Additions in Accordance with a PUD Master Plan of Development.....	29
(2) Mergers.....	29
(c) General Provisions Regarding Additions to the Properties...	30
(d) Voting Rights of the Declarant as to Additions to the Properties.....	30
(e) Assessment Obligation of the Declarant as to Additions to the Properties.....	30
Section 5. Expansion or Modification of Common Areas.....	30
Article IX – Special Provisions to Comply with Requirements of HUD, FHA, VA, FNMA, GNMA.....	31
Section 1. Information.....	31
Section 2. Contracts.....	31
Section 3. Reserves.....	31
Section 4. Lender's Notices.....	31
Section 5. Fidelity Bonds.....	31
Section 6. Compliance with HUD, FHA, VA, FNMA, GNMA.....	31
Article X – General Provisions.....	32
Section 1. Duration.....	32
Section 2. Enforcement.....	32
Section 3. Severability.....	32
Section 4. Amendments.....	32
(a) General Restrictions on Amendments.....	32
(b) Amendments Prior to Turnover.....	32
(c) Amendments After Turnover.....	33

Section 5. Notice.....	33
Section 6. Assignments.....	33
Section 7. Approvals.....	33
Section 8. Mediation/Arbitration of Disputes.....	33
Section 9. Warranties.....	34
Section 10. Authority of the Board.....	34
Section 11. Sales and Administrative Offices.....	34
Section 12. Modification.....	34
Section 13. Promotional Events.....	34
Section 14. Additional Development.....	35
Section 15. Representations.....	35
Section 16. Reliance.....	35
Section 17. Construction Activities.....	35
Section 18. Sales by Declarant.....	36
Section 19. Warranties.....	36
Section 20. Title Documents.....	37
 Article XI – Exclusive Common Areas and Limited Common Areas.....	 38
Section 1. Exclusive Common Areas.....	38
(a) Purpose.....	38
(b) Designation.....	38
(c) Use by Others.....	38
Section 2. Limited Common Areas.....	38
(a) Purpose.....	38
(b) Designation.....	38
(c) Maintenance.....	39
 Article XII – Declarant and Association Liability.....	 39
 Article XIII – Use Restrictions.....	 40
Section 1. Alterations and Additions.....	40
Section 2. Cars and Trucks.....	40
(a) Parking.....	40
(b) Repairs and Maintenance of Vehicles.....	40
(c) Prohibited Vehicles.....	40
(d) Towing.....	40
Section 3. Commercial Activity.....	41
Section 4. Completion and Sale of Homes.....	41
Section 5. Cooking.....	41
Section 6. Decorations.....	41
Section 7. Disputes as to Use.....	41
Section 8. Fences, Walls and Hedges.....	41
Section 9. Garages.....	42
Section 10. Laundry.....	42
Section 11. Lawful Use.....	42
Section 12. Leases.....	42
Section 13. Minor's Use of Recreational Amenities.....	43
Section 14. Nuisances.....	43
Section 15. Oil and Mining Operations.....	43
Section 16. Pets.....	43
Section 17. Restrictions Affecting on Occupancy and Alienation.....	44
(a) Restrictions on Occupancy.....	44
Section 18. Signs and Flags.....	45

Section 19. Sports Equipment.....	45
Section 20. Swimming, Boating and Docks.....	46
Section 21. Wetlands and Mitigation Areas.....	46
Section 22. Window Treatments.....	46
Section 23. Declarant Exempt.....	46
Article XIV – Recreational Amenities.....	46
Section 1. Recreational Amenities.....	46
Section 2. Rights of Owners.....	47
Section 3. Construction of the Recreational Amenities.....	47
Section 4. Commercial Space.....	48
Section 5. Operations.....	48
Section 6. General Restrictions.....	48
(a) Responsibility for Personal Property and Persons .....	48
(b) Personal Property.....	48
(c) Activities.....	49
(d) Indemnification.....	49
(e) Attorneys' Fees.....	49
Section 7. Violation of Recreational Amenities Rules and Regulations... ..	49
(a) Basis for Suspension.....	49
(b) Types of Suspension.....	49
Articles XI – Golf Course Areas.....	50
Section 1. Right to Use the Golf Course Areas.....	50
Section 2. Golf Course Area Hazards.....	50
Section 3. Title to Golf Course Areas.....	50
Section 4. Effect of Transfer of Golf Course.....	51
Section 5. Easement for Benefit of Golf Course Areas.....	51
Section 6. Additional Restrictions, Easements and Conditions.....	51
Section 7. Golf Course Area Encroachments.....	52
Article XVI – Party Walls.....	52
Section 1. General Rules of Law to Apply.....	52
Section 2. Sharing of Repair, Replacement and Maintenance.....	52
Section 3. Destruction by Fire or Other Casualty.....	52
Section 4. Weatherproofing.....	52
Section 5. Right to Contribution Runs with Land.....	52
Section 6. Number of Homes.....	52
Section 7. Negligent or Wilful Acts.....	52
Section 8. Enforcement.....	52
Article XVII – Specific Provisions Governing Class B Property (The Villas- Style Homes).....	53
Section 1. Responsibilities.....	53
(a) Responsibility of Association.....	53
(b) Responsibility of Owner.....	53
(c) Failure of Owner to Repair.....	53
Section 2. Lawn Maintenance.....	54
Section 3. Insurance.....	54
(a) Authority to Purchase; Named Insured.....	54
(b) Personal Property of Owner.....	54
(c) Coverage.....	54
(i) Casualty.....	54

(d) Flood Insurance.....	55
(e) Share of Proceeds.....	55
(f) Mortgagees.....	55
(g) Distribution.....	55
(h) Association as Agent.....	56
(i) Cost of Payment of Premiums.....	56
(j) Covered Item Insurance Coverage.....	56
(k) Class B Owners Duty to Purchase Covered Items Insurance.....	56
(l) Failure of Class B Owner to Purchase Covered Item Insurance.....	56
(m) Declarant Liability.....	57
(n) Additional Insured.....	57
(o) Termite Protection Program.....	57
Article XVIII – Master Association.....	57
Section 1. Master Association.....	57
Section 2. Membership in the Master Association.....	57
Section 3. Master Association Assessments.....	58
Section 4. Master ARB.....	58

Exhibits:

"A" – Property  
 "B" – Articles of Incorporation  
 "C" – Bylaws  
 "D" – Common Areas  
 "E" – SWFWMD Permit  
 "F" – Class A Property  
 "G" – Class B Property  
 "H" – Class C Property

**COMMUNITY DECLARATION**  
**FOR**  
**STONE CREEK**

THIS DECLARATION is made on the date hereinafter set forth by PULTE HOME CORPORATION, a Michigan corporation (the "Declarant") and joined in by the STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation (the "Association").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property in Marion County, Florida, more particularly described on **Exhibit "A"** attached hereto and incorporated herein by reference; and

WHEREAS, Declarant desires to create an exclusive residential community known as "STONE CREEK" on the **Exhibit "A"** land; and

WHEREAS, STONE CREEK is intended to provide housing primarily for persons fifty-five (55) years of age or older, and shall be operated as an age restricted community in compliance with all applicable federal and state laws; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities in the community and for the maintenance of the common properties; and, to this end, the Declarant desires to subject the real property described in **Exhibit "A"** to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of such property and each owner of such property; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the community, to create an agency to which should be delegated and assigned the powers of maintaining and administering the common properties and facilities, administering and enforcing the covenants and restrictions, and collecting and disbursing of the assessments and charges hereinafter created; and

WHEREAS, the Declarant has incorporated under the laws of the State of Florida, as a not-for-profit corporation, STONE CREEK COMMUNITY ASSOCIATION, INC., for the purpose of exercising the functions stated above, which association is not intended to be a Condominium Association as such term is defined and described in the Florida Condominium Act (Chapter 718 of the Florida Statutes).

NOW, THEREFORE, the Declarant hereby declares that the real property described in the attached **Exhibit "A"** shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants, restrictions, easements, conditions, charges and liens hereinafter set forth as modified and amended from time to time which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest therein or any part thereof, their respective heirs, personal representatives, successors and assigns, as well as occupants, guests and invitees, and shall inure to the benefit of each Owner thereof.

**ARTICLE I**

**DEFINITIONS**

Section 1. Definitions. When used in this Declaration, unless the context shall prohibit or otherwise require, the following capitalized terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such capitalized terms:

"Age-Qualified Occupant" shall mean person who is fifty-five (55) years of age or older who has designated their Home as the Age-Qualified Occupant's primary residence. Occupancy as a primary residence shall be established by the mailing address for the individual, official address on file for voter registration or driver's license or other means to establish legal residency under Florida law.

"Architectural Review Committee" or the "ARC" shall mean the person or persons designated from time to time to perform the duties of the Architectural Review Committee as set forth herein, and their successors and assigns.

"Articles" shall mean the Articles of Incorporation of STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, attached hereto as **Exhibit "B"** and made a part hereof, including any and all amendments or modifications thereof.

"Association" shall mean STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and assigns.

"Board" shall mean the Board of Directors of the Association.

"Bylaws" shall mean the Bylaws of the Association attached hereto as **Exhibit "C"** and made a part hereof, including any and all amendments or modifications thereof.

"Common Area" shall mean those portions of the Property, and improvements thereon, if any, which the Association has the obligation to maintain for the common use, benefit and enjoyment of all Owners, except that any Limited Common Area may be improved, maintained, used and enjoyed for the common recreation, health, safety, welfare, benefit and convenience of only certain Owners, and their guests and invitees, designated by this Declaration. The Common Areas to be owned by the Association include without limitation those described on **Exhibit "D"** attached hereto and incorporated herein by reference. After the date hereof, Declarant may add additional real property and/or interests in real property located within the Property which Declarant determines is reasonably necessary for the development or maintenance of the Common Areas or which any governmental organization or agency may require the Association to maintain. The term "Common Area" shall include the Exclusive Common Area and Limited Common Area, as defined below. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM BEING IN DECLARANT'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM.

"CDD" shall mean any community development district now or hereinafter formed pursuant to Chapter 190, Florida Statutes, including without limitation, the Circle Square Woods Community Development District, Candler Hills East Community Development District, Bay Laurel Center Community Development District and Indigo East Community Development District.

"Common Expense" shall mean any expense for which an Installment Assessment or Special Assessment may be made against the Owners and shall include, but in no way be limited to, the expenses of upkeep and maintenance of the Common Area as described in **Exhibit "D"** and the operation and maintenance of the Surface Water Management System ("SWMS") described in Southwest Florida Water Management District ("SWFWMD") permit number(s) 43028696.000 (the "SWFWMD Permit") attached hereto as **Exhibit "E"** and made a part hereof. Assessments payable to the Master Association also shall be Common Expenses of the Association.



"Declarant" shall mean PULTE HOME CORPORATION, a Michigan corporation, its successors and assigns. It shall not include any person or party who purchases a Home from PULTE HOME CORPORATION, nor shall it include any person or party who purchases a Parcel from PULTE HOME CORPORATION, unless such purchaser of a Parcel specifically is assigned such rights by the Declarant.

"Declaration" shall mean this COMMUNITY DECLARATION FOR STONE CREEK and any amendments or modifications thereof hereafter made from time to time.

"Exclusive Common Area" shall mean a portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods, as more particularly described in Article XI.

"FHA" shall mean the Federal Housing Administration.

"First Mortgagee" shall mean an Institutional Lender who holds a first mortgage on a Home and who has notified the Association of its holdings.

"FNMA" shall mean the Federal National Mortgage Association.

"GNMA" shall mean the Government National Mortgage Association.

"Golf Course Areas" shall mean those areas of land shown and designated on any recorded subdivision plat of the Properties as Golf Course Areas or which are designated as Golf Course Areas by the Declarant in any supplement to this Declaration recorded in the public records. "Golf Course Areas" include without limitation, the golf course facilities and play areas such as a clubhouse, pro shop, maintenance buildings, dry or wet retention areas, ponds, golf course greens and fairways, paved areas, restaurants or other appurtenance thereto which may or may not be constructed by the Declarant. Golf Course Areas are not and shall not be deemed to be "Common Areas" or "Recreational Amenities." Declarant may in its sole discretion maintain, transfer and assign legal ownership of the Golf Course Areas to another person or entity. This Declaration shall not encumber the Golf Course Areas, and the Golf Course Areas shall not be subject to assessment by the Association. Declarant will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means) the Golf Course Areas, but such identification shall not be required. Without limiting the generality of any other provision in this Declaration, in the event that Declarant determines that a particular portion of the Properties is or is not Golf Course Areas hereunder, such determination shall be binding and conclusive.

"Golf Course Owner" shall mean the owner of the Golf Course Areas, its successors and assigns. Presently, the Club Owner is the Declarant.

"Governing Documents" shall mean and refer to the Master Governing Documents, this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Association. In the event of conflict or inconsistency among Governing Documents, to the extent permitted by law, the Master Governing Documents, this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Association, in that order, shall control. The lack of a provision in one Governing Document with respect to a matter for which provision is made in another Governing Document shall not be deemed a conflict or inconsistency between such Governing Documents.

"Home" shall mean a residential home and appurtenances thereto constructed on a Parcel within the Properties. A Home shall include, without limitation, a condominium unit, villa and single family home. The term Home may not reflect the same division of property as reflected on a plat. A Home shall be deemed created and have perpetual existence upon the issuance of a final or temporary Certificate of Occupancy for such residence; provided, however, the subsequent loss of such Certificate of Occupancy (e.g., by casualty or remodeling) shall not affect the status of a Home, or the obligation of

Owner to pay assessments with respect to such Home. The term "Home" includes any interest in land, improvements, or other property appurtenant to the Home.

"HUD" shall mean the U.S. Department of Housing and Urban Development.

"Immediate Family Members" shall mean the spouse of the Owner and all unmarried children twenty-two (22) years and younger of either the Owner or the Owner's spouse. If an Owner is unmarried, the Owner may designate one other person who is living with such Owner in the Home in addition to children of the Owner as an adult Immediate Family Member. No unmarried child or other person shall qualify as an Immediate Family Member unless such person is living with the Owner within the Home.

"Individual Assessment" shall mean any assessment arising out of either or both of the following events and specifically assessed against the appropriate Owner(s) and their respective Lot: (i) any expenses of the Association occasioned by the action or inaction of any Owner, less than all of the Owners or by the family, tenants, agents, guests or invitees of any Owner; and (ii) any expenses specifically related to any Owner or less than all of the Owners arising out of the provision by the Association of any maintenance, repair or replacement of any Common Area, or any other improvements within the Properties, the maintenance, repair and replacement responsibility of which lies with any Owner, less than all of the Owners or the Association under the provisions of this Declaration.

"Installment Assessment" shall mean any monthly, quarterly or yearly assessment (as determined by the Board of Directors) or charge for the purpose of operating the Association and accomplishing any and all of its purposes as determined in accordance herewith, including without limitation, payment of Common Expenses and collection of amounts necessary for the operation of the Association.

"Institutional Lender" shall mean the owner and holder of a mortgage encumbering a Home or Recreational Amenities, which owner and holder of said mortgage shall be any federally or state chartered bank, insurance company, HUD or VA or FHA approved mortgage lending institution, FNMA, GNMA, recognized pension fund investing in mortgages, and any federally or state chartered savings and loan association or savings bank.

"Institutional Mortgage" shall mean any mortgage given or held by an Institutional Lender.

"Lessee" shall mean the lessee named in any written lease respecting a Home who is legally entitled to possession of any Home within STONE CREEK. An Owner and Lessee shall be jointly and severally liable for all assessments.

"Limited Common Area" shall mean any portion of the Common Area designated as Limited Common Area by Declarant from time to time pursuant to the provisions of this Declaration.

"Limited Common Area Expense" shall mean Common Expenses incurred by the Association for maintenance, operation and other services required or authorized to be performed by the Association with respect to any Limited Common Area.

"Lot" shall mean the least fractional part of the subdivided lands within any duly recorded plat of any subdivision which prior to or subsequently to such platting is made subject hereto and which has limited fixed boundaries and an assigned number, letter or other name through which it may be identified; provided, however, that "Lot" shall not mean any Common Area. Once improved, the term Lot shall include all improvements thereon and appurtenances thereto.

"Master Association" shall mean the Circle Square Ranch Master Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

"Master Declarant" shall mean On Top of the World Communities, Inc., a Florida corporation (formerly known as On Top of the World, Inc., a Florida corporation) and its designated successors and assigns as further defined in the Master Declaration.

"Master Declaration" shall mean the Master Declaration of Covenants, Conditions and Restrictions for Circle Square Ranch recorded in OR Book 03730, Page 0849--932 of the Public Records of Marion County as amended from time to time.

"Master Properties" shall mean the "Properties" subject to the Master Declaration as provided in Article II, Section 1 of the Master Declaration.

"Master Governing Documents" shall mean the "Governing Documents as defined in Article I, Section 31 of the Master Declaration.

"Neighborhood" shall mean a group of Homes designated in this Declaration or in a Supplemental Declaration(s) as a separate Neighborhood for purposes of sharing Exclusive Common Areas and/or receiving other benefits or services from the Association which are not provided to all Homes within the Properties. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property.

"Neighborhood Association" shall mean any property owners' association, homeowners' association, condominium association or other such entity, their successors and assigns formed pursuant to Neighborhood Association governing documents to be imposed upon any portion of the Property. The formation of a Neighborhood Association shall not be required to designate a group of Homes as a Neighborhood.

"Neighborhood Assessments" shall mean assessments levied against the Homes in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses.

"Neighborhood Expenses" shall mean the actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners of property within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may specifically be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

"Occupy," "Occupies," or "Occupancy" shall mean staying overnight in a particular Home for at least ninety (90) total days in the subject calendar year. The term "Occupant" shall refer to any individual other than an Owner who Occupies a Home or is in possession of a Lot or Parcel, or any portion thereof or building or structure thereon, whether as a Lessee or otherwise, other than on a merely transient basis (and shall include, without limitation, a an individual who resides in the Home).

"Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Home which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include Declarant for so long as Declarant shall hold title to any Home or Parcel.

"Parcel" shall mean a platted or unplatted lot, tract, unit or other subdivision of real property upon which a Home has been, or will be, constructed, or upon which Common Area will be or has been situated. Once improved, the term Parcel shall include all improvements thereon and appurtenances thereto. The term Parcel, as used herein, may include more than one Home.

"Party Wall" shall mean any fence or wall built as part of the original construction of two or more Homes (other than Units) which is placed on the dividing line or platted Lot line between such

Homes.

"Property" or "the Properties" shall mean the real property described on **Exhibit "A,"** together with such additional property as is subjected to this Declaration. The terms "STONE CREEK" may be used in this Declaration interchangeably with "Property" or "the Properties."

"PUD Master Plan" shall mean the land use plan for STONE CREEK on file with the planning and zoning department of Marion County and as the same may be amended or modified from time to time.

"Qualified Occupant" shall mean any person (i) nineteen (19) years of age or older who Occupies a Home and was the original Occupant following purchase of the Home from the Declarant; or (ii) a person nineteen (19) years of age or older who Occupies a Home with an Age-Qualified Occupant.

"Recreational Amenities" shall mean the actual facilities, improvements and personal property which Declarant shall actually have constructed and/or made available to certain Owners pursuant to this Declaration. The Recreational Amenities are more specifically set forth in Article XIV herein. The Golf Course Areas are not "Recreational Amenities." PRIOR TO TURNOVER, THE RECREATIONAL AMENITIES ARE SUBJECT TO CHANGE AT ANY TIME AT DECLARANT'S SOLE AND ABSOLUTE DISCRETION.

"Roadway" shall have the meaning set forth in Article II, Section 2.

"Special Assessment" shall mean and refer to any assessment in addition to the Installment Assessments levied by the Association, in any fiscal year, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, or for the purpose of defraying, in whole or in part, the expenses for specific purposes of a nonrecurring nature which are not in the nature of capital improvements.

"Surface Water Management System" or "SWMS" shall mean the collection of devices, improvements, or natural systems whereby surface waters are controlled, impounded or obstructed. This term includes exfiltration trenches, Wetland Conservation Areas, mitigation areas, lakes, retention areas, water management areas, ditches, culverts, structures, dams, impoundments, reservoirs, drainage maintenance easements and those works defined in Section 373.403 (1)-(5) of the Florida Statutes. STONE CREEK Surface Water Management System includes those works authorized by SWFWMD pursuant to the SWFWMD Permit.

"Turnover" shall have the meaning set forth in Article IV, Section III.

"Unit" shall mean a condominium parcel, as that term is defined in Chapter 718, *Florida Statutes* (2004), herein called the "Condominium Act," pursuant to a recorded declaration of condominium affecting all or part of the Properties, and for which a certificate of occupancy has been issued.

"VA" shall mean the Veterans Administration.

"Voting Interest" shall mean the appurtenant vote of each Home located within STONE CREEK, which shall include the voting interests of the Declarant.

**Section 2. Interpretations.** Unless the context expressly requires otherwise, the use of the singular includes the plural, and vice versa; the use of one gender includes all genders; and the use of the term "including" or "include" is without limitation. Wherever any time period in this Declaration, the Articles or the Bylaws is measured in days, "days" means consecutive calendar days; and if such time period expires on a Saturday, Sunday or legal holiday, it shall be extended to the next succeeding

calendar day that is not a Saturday, Sunday or legal holiday. Unless the context expressly requires otherwise, the term "Common Area," "Common Property," "Lot," "Unit," "Parcel," "Home" and "Property" include any and all improvements, fixtures, trees, vegetation and other property from time to time situated thereon. Unless the context expressly requires otherwise, the terms "assessment" or "assessments" shall mean any assessments made in accordance with this Declaration and imposed, established and collected by the Association from time to time, including without limitation, Installment Assessments, Special Assessments, Individual Assessments, Neighborhood Assessments and Special Use Fees. This Declaration shall be construed liberally in favor of the party seeking to enforce its provisions to effectuate its purpose of protecting and enhancing the value, marketability and desirability of the Property as a residential community by providing a common plan for the development and enjoyment thereof. The headings used in this Declaration or any other document described in the preceding Sections of this Article are for indexing purposes only and are not to be used to interpret, construe or apply its substantive provisions.

## ARTICLE II

### DEVELOPMENT PLAN

Section 1. Operation, Maintenance and Repair of Common Areas. The Declarant, in order to insure that the Common Area and other land for which it is responsible hereunder will continue to be maintained in a manner that will contribute to the comfort and enjoyment of the Owners and provide for other matters of concern to them, has organized the Association. The purpose of the Association shall be to operate, maintain and repair the Common Area described on **Exhibit "D,"** and any improvements thereon, including without limitation, any SWMS, lakes, retention areas, culverts and/or related appurtenances which may be located within the Properties; to maintain and repair the Recreational Amenities (as defined herein); to maintain the decorative entranceways to the Properties, the decorative entranceways to certain Neighborhoods and fountains located within the Properties; to maintain and repair the surface of certain walls and fences bordering the Properties and bordering the streets within the Properties, including the entranceway; to maintain and repair any irrigation facilities servicing land which the Association is obligated to maintain; to pay for the costs of street lighting for Common Areas within the Properties or other areas designated by the Board of Directors; to maintain any Neighborhood Association property to the extent such property is not maintained by a Neighborhood Association; to enforce the covenants, conditions and restrictions of any Neighborhood Association; to provide for the maintenance, repair and replacement of certain improvements located within the Class B Lots (as further described herein, the Class B Lots shall mean the villa style Homes); and take such other action as the Association is authorized to take with regard to the Properties pursuant to its Articles of Incorporation and Bylaws, or this Declaration.

Section 2. Paved Surfaces. The Common Areas include paved asphalt roadways as described on **Exhibit "D"** (the "Roadway"). The Declarant hereby grants easements for ingress and egress over and across the Roadway to Owners, their guests, and invitees and to emergency vehicles. Without limiting any other provision of this Declaration, the Association is responsible for the maintenance, repair and/or resurfacing of all paved surfaces, including without limitation, the Roadway, pathways, bicycle paths, and sidewalks, if any, forming a part of the Common Areas. The Association shall not be responsible for repairing and replacing paved surfaces located within an Owner's Lot; however, the Association shall maintain such paved surfaces on such frequency as determined by the Board in its sole and absolute discretion. The Developer is authorized by this Section to construct, place or erect paving, curbing, irrigation facilities and landscaping throughout the Properties. Although pavement appears to be a durable material, it requires maintenance. Association shall have the right, but not the obligation, to arrange for an annual inspection of all paved surfaces by a licensed paving contractor and/or engineer. The cost of such inspection shall be a part of the Common Expenses of the Association. Association shall determine annually the parameters of the inspection to be performed, if any. By way of example, and not of limitation, the inspector may be required to inspect the Roadway and sidewalks annually for deterioration and to advise Association of the overall pavement conditions

including any upcoming maintenance needs. Any patching, grading, or other maintenance work should be performed by a company licensed to perform the work and shall be a Common Expense of the Association. CERTAIN ROADWAYS IN PROXIMITY TO STONE CREEK ARE PUBLIC ROADWAYS. EACH OWNER BY THE ACCEPTANCE OF A DEED TO THEIR HOME ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR THE DECLARANT HAVE ANY CONTROL WITH REGARD TO ACCESS AND USAGE OF PUBLIC ROADWAYS BY THE GENERAL PUBLIC.

Section 3. Potable Water, Wastewater and Reclaimed Water Development Agreement. The Bay Laurel Center Community Development District (the "BLCCDD") and its successors and assigns, has the sole and exclusive right to provide all potable water, wastewater, and reclaimed water facilities and services to the Property. All Owners or Occupants of any Home or non-residential improvement erected or located on the Property, and all subsequent or future Owners or purchasers or Occupants of the Property, or any portion thereof, including Common Areas, shall exclusively receive their potable water, wastewater and reclaimed water service from BLCCDD and shall pay for the same and shall abide by the terms and intent of the Standard Potable Water, Wastewater and Reclaimed Water Development Agreement (the "SDA"), and the UPAP (as defined in the SDA), for as long as BLCCDD provides such services to the Property. Further, all Owners or Occupants of any Home or non-residential improvement erected or located on the Property and all subsequent or future Owners or purchasers or Occupants of the Property, or any portion thereof, including Common Areas, agree, by occupying any premises on the Property or by recording any deed of conveyance with respect to the Property, that they will not construct, install or otherwise make available or use potable water, wastewater or irrigation water service from any source other than that provided by BLCCDD, and shall not obtain water use permits or construct or install potable or non-potable water wells on the Property. Further, all Occupants of any Home or non-residential improvement erected or located on the Property and all subsequent or future Owners or purchasers of the property, or any portion thereof, including Common Areas, agree that BLCCDD may require them to purchase and use a volume of reclaimed water equal to or greater than the volume of wastewater discharged from the Property on an equivalent average basis as determined by the BLCCDD. BLCCDD does not guarantee that any volume of reclaimed water will be available for the Property.

EACH OWNER BY THE ACCEPTANCE OF A DEED TO THEIR HOME ACKNOWLEDGES AND AGREES THAT THE IRRIGATION SYSTEM MAY UTILIZE A WATER SUPPLY FROM VARIOUS SOURCES. THE WATER FROM THESE SOURCES MAY OR MAY NOT HAVE A HIGH CONCENTRATION OF IRON WHICH CAN CAUSE STAINING. DECLARANT CANNOT DETECT IN ADVANCE WHICH WATER SUPPLY MAY STAIN WALLS, SIDEWALKS, DRIVEWAYS AND SURROUNDING AREAS. EACH OWNER ACCEPTS BY THE ACCEPTANCE OF A DEED TO THEIR HOME THAT IT MAY BECOME NECESSARY TO INSTALL A TREATMENT SYSTEM TO THE IRRIGATION WATER TO PREVENT STAINING ON THE HOME, AND OWNER SHALL BE RESPONSIBLE TO INSTALL SUCH TREATMENT SYSTEM. TO THE EXTENT THAT COMMON AREAS REQUIRE SUCH TREATMENT SYSTEM, IT SHALL BE PAID FOR BY THE ASSOCIATION AS A COMMON EXPENSE. EACH OWNER BY THE ACCEPTANCE OF A DEED TO THEIR HOME ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION, NOT DECLARANT, SHALL BE RESPONSIBLE FOR THE LONG TERM MAINTENANCE OF THE IRRIGATION SYSTEM.

Section 4. Retention Walls. The Declarant may construct retention walls within the Properties. Such walls (the "Retention Walls") shall be maintained, repaired or replaced by the Owner or Owners of the Lot or Lots, whichever is applicable, located on the higher side of where the Retention Wall is located, or in the event that a Retention Wall is located within property maintained by a Neighborhood Association, the costs of such maintenance shall be a common expense of the Neighborhood Association. In the event of a disagreement between the Owners adjacent to the Retention Wall regarding which Owner is located on the higher side to determine maintenance obligations, the dispute shall be settled by the Board and all the Owners shall be bound thereby. The Board shall not be liable or accountable in damages or otherwise to any Owner or other person or party whomsoever or whatsoever by reason or on account of the Board's settlement of such dispute and, by acceptance of the deed to the Home, each Owner agrees to hold the Board harmless for from any such liability. The Association may

perform any such maintenance, repairs or replacement of the Retention Walls in the event that the Owner or Owners fail to perform any such required maintenance, repair or replacement; provided, however, the Association may assess the costs of such repair to the Owner or Owners, as applicable. Upon the occurrence of the foregoing, and after reasonable prior notice to such Owner, and a reasonable opportunity to be heard, the Association's Board by a vote of not less than a majority of the Board may undertake such maintenance, replacement or repairs and may assess by Individual Assessment the costs of such maintenance, replacement or repairs, as the case may be, against such Owner's Lot. Failure of the Association to undertake any such maintenance, replacement or repair on behalf of the Owner or Owners shall in no event be deemed a waiver of the right to do so thereafter. Notwithstanding anything contained in this Section, the Declarant neither commits to, nor shall hereby be obligated to, construct such Retention Walls. The Association shall maintain and repair at its expense and as a Common Expense any such Retention Walls located on Common Areas.

**Section 5. Boundary Walls.** The Declarant may construct a border wall along all or part of some or all of the publicly dedicated arterial and collector streets within the Properties or streets bounding its perimeter. Such walls (the "Boundary Walls") may be constructed either on dedicated rights of way, Common Areas, or other land adjacent to such rights of way, and may include a combination of berming, landscaping and vegetation or other material to provide for buffering to the extent desired by Declarant. Whether or not located on Common Areas, the Association shall maintain and repair at its expense such Boundary Walls, if any. The Declarant, for itself and its successors and assigns and for the Association hereby reserves an easement ten (10) feet wide running parallel to and adjacent to any arterial and/or collector roads and streets for the purpose of construction of a privacy wall or fence and name monuments for the Properties. Once such wall or fence or monuments, or both, have been erected, the Association shall have the obligation, at the Association's expense, which shall be a Common Expense, to maintain, repair and replace such wall or fence and monuments. The Association's right to replace Boundary Walls shall include the right to replace such Boundary Walls with the a same, similar or different Boundary Wall, including a Boundary Wall constructed of different materials and with a different design. The Declarant hereby grants the Association a non-exclusive perpetual easement over the Properties to permit the Association to undertake such Boundary Wall maintenance and painting as it may be responsible for pursuant to this Declaration. Owners other than Declarant shall not alter or modify such Boundary Wall, including without limitation, the color of such Boundary Wall. The specific rights granted by this Section are in addition to, and not exclusive of, those rights or remedies which may be otherwise available to the Association, or other parties. Notwithstanding anything contained in this Section to the contrary, Declarant neither commits to, nor shall hereby be obligated to, construct such Boundary Walls.

### **ARTICLE III**

#### **PROPERTY RIGHTS**

**Section 1. Owners' Easements of Enjoyment.** Every Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Home, subject to the following provisions:

(a) The right of the Association from time to time to establish, modify, amend and rescind reasonable Rules and Regulations regarding use of the Common Area;

(b) The right of the Association to charge reasonable admission and other fees for use of any facilities situated upon the Common Area;

(c) The right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any regular Installment Assessment levied under this Declaration against his or her Home remains unpaid for a period in excess of ninety (90) days, and for a period not to exceed sixty (60) days for any infraction of its published Rules and Regulations;

(d) The right of the Association to dedicate, transfer or mortgage all or any part of the Common Area; provided, however, Association may not convey, abandon, alienate, encumber, or transfer all or a portion of the Common Areas to a third party without (i) if prior to Turnover, the approval of (a) a majority of the Board; and (b) the consent of Declarant, or (ii) from and after the Turnover, the approval of (a) a majority of the Board; and (b) sixty-six and two-thirds (66 2/3%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present;

(e) The right of the Association to grant easements as to the Common Area or any part thereof;

(f) The right of the Association to otherwise deal with the Common Area;

(g) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas" as described in Article XI; and

(h) The right of certain Owners to the exclusive use of those portions of the Common Area designated as "Limited Common Area" as described in Article XI of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate his or her right of enjoyment and other rights in the Common Area to: (i) all family or household members of such Owner; or (ii) such Owner's tenants or contract purchasers; and (iii) all family or household members of such tenants or contract purchasers provided the foregoing actually reside upon such Owner's Home. Any delegation to tenants or invitees of any of the foregoing is subject to this Declaration and the Association's Rules and Regulations. Upon such delegation by an Owner, the Owner shall not be permitted to use the Common Areas, including without limitation, the Recreational Amenities.

Section 3. Easements for Homes. Each Owner of a Home shall have an easement of reasonable size and duration upon, over and across the Lot adjacent to it when any part of the Lot or appurtenant structure thereof (including, but not limited to, gabled ends) is constructed in such a manner so as to lie directly on or over the common side or rear Lot lines between such Homes, such easement being for the purpose of maintenance, repair and reconstruction of the Home or appurtenant structure originally constructed by Declarant and for rain water run-off as may be required. This easement shall apply only when necessary to accomplish the purposes set forth herein, and the Owner exercising such easement rights shall be liable for any damages to the adjacent Home arising thereby. Each Home on which such a Home or appurtenant structure, as described above, has been constructed is hereby benefited and burdened by reciprocal appurtenant easements for maintenance, repair and reconstruction as described above; for lateral and subjacent support; and for encroachments between each Home for the unwillful placement, settling or shifting of the improvements as originally constructed thereon, or reconstructed in accordance with this Declaration; provided, however, that in no event shall an easement for encroachment exist if such encroachment was caused by willful misconduct on the part of the Owner of any Home. Notwithstanding anything in this Section to the contrary, in no event shall any easement extend to a distance of more than five (5) feet, as measured from any point on the common boundary line between Homes along a line perpendicular to such boundary at such point.

Section 4. Easements for Utilities, Drainage and Sprinklers. Perpetual easements for the installation and maintenance of utilities and drainage facilities are hereby reserved to Declarant over all utility and drainage easement areas encumbered by recorded easements as of the date hereof (which easements shall include without limitation, the right of reasonable access over Lots to and from the easement areas). The Association shall have the right hereafter to convey such additional easements encumbering the Common Area as may be deemed necessary or desirable on an exclusive or non-exclusive basis to any person, corporation or governmental entity. Further, an easement is hereby reserved over all portions of the Properties for electrical apparatus, CATV facilities, or other apparatus for any utilities, now or hereafter installed to serve any portion of the Properties; provided, however, no such



apparatus or facilities shall be installed within a Lot so as to unreasonably interfere with the use thereof by the Owner, nor shall such facilities hinder the Association in the exercise of its right hereunder. The easement rights reserved pursuant to this paragraph shall not impose any obligation on Declarant to maintain any easement areas or install or maintain the utilities or improvements that may be located in, on or under such easements, or which may be served by them. Within such easement areas, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with access to, or the installation and maintenance of, the easement areas or any utilities or drainage facilities, or which may change the direction, or obstruct or retard the flow, of water through drainage channels in such easement areas or which may reduce the size of any water retention areas constructed in such easement areas. The Owner of any Home subject to an easement described herein shall acquire no right, title or interest in or to any poles, wires, cables, conduits, pipes or other equipment or facilities placed on, in, over or under the Properties which is subject to such easement. Subject to the terms of this Declaration regarding maintenance of Common Areas, the easement areas of each Home and all above-ground improvements in such easement areas shall be maintained continuously by and at the expense of the Owner of the Home, except for those improvements for which a public authority, the Association or utility company is responsible. With regard to specific easements of record for drainage, Declarant shall have the right, but without obligation, to alter the drainage facilities therein, including slope control areas, provided any such alteration shall not materially adversely affect any Home, unless the Owner of such Home shall consent to such alteration. Easements reserved pursuant to this Section shall include easements under each Home for the benefit of each respective Home Owner serviced by said easements, for all conduits, pipes, ducts, plumbing, wiring and all other facilities necessary for the furnishing of utility services to the Homes, which easements shall be maintained exclusively by the Association.

Section 5. Prohibition of Certain Activities. No damage to, or waste of, the Common Area or any part thereof, shall be committed by any Owner or any tenant or invitee of any Owner. No noxious, destructive or offensive activity shall be permitted on or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become an unreasonable annoyance or nuisance to any other Owner. No Owner may maintain, treat, landscape, sod, or place or erect any improvement or structure of any kind on the Common Area without the prior written approval of the Board of Directors.

Section 6. Use of the Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept or stored on any part of the Common Area, nor in any improvement thereon, except as specifically provided herein, without the prior written consent of the Association or in accordance with the Rules and Regulations adopted by the Association. Nothing shall be altered on, constructed in, or removed from the Common Area except with the prior written consent of the Association or in accordance with the Rules and Regulations adopted by the Association.

Section 7. Signs Prohibited. No sign of any kind shall be displayed in or on the Common Area, except as approved by the Association. This Section, however, shall not apply to the Declarant.

Section 8. Animals. No animals shall be permitted on or in the Common Area at any time, except as may be provided in the Rules and Regulations of the Association.

Section 9. Rules and Regulations. No Owner or other permitted user shall violate the Rules and Regulations (the "Rules and Regulations") for the use of the Common Area, as the same are from time to time adopted by the Board. THE RULES AND REGULATIONS SHALL NOT APPLY TO DECLARANT OR TO ANY PROPERTY OWNED BY DECLARANT, AND SHALL NOT BE APPLIED IN A MANNER WHICH WOULD PROHIBIT OR RESTRICT THE DEVELOPMENT OR OPERATION OF THE PROPERTY OR ADVERSELY AFFECT THE INTERESTS OF DECLARANT. WITHOUT LIMITING THE FOREGOING, DECLARANT AND/OR ITS ASSIGNS, SHALL HAVE THE RIGHT TO: (I) DEVELOP AND CONSTRUCT HOMES, COMMON AREAS AND THE RELATED IMPROVEMENTS WITHIN STONE CREEK, AND MAKE ANY ADDITIONS, ALTERATIONS, IMPROVEMENTS, OR CHANGES THERETO; (II) MAINTAIN SALES OFFICES (FOR THE SALE AND RE-SALE OF (A) HOME AND (B) RESIDENCES

AND PROPERTIES LOCATED OUTSIDE OF STONE CREEK), GENERAL OFFICE AND CONSTRUCTION OPERATIONS WITHIN STONE CREEK; (III) PLACE, ERECT OR CONSTRUCT PORTABLE, TEMPORARY OR ACCESSORY BUILDINGS OR STRUCTURE WITHIN STONE CREEK FOR SALES, CONSTRUCTION STORAGE OR OTHER PURPOSES; (IV) TEMPORARILY DEPOSIT, DUMP OR ACCUMULATE MATERIALS, TRASH, REFUSE AND RUBBISH IN CONNECTION WITH THE DEVELOPMENT OR CONSTRUCTION OF ANY PORTION OF STONE CREEK; (V) POST, DISPLAY, INSCRIBE OR AFFIX TO THE EXTERIOR OF ANY PORTION OF THE COMMON AREAS OR PORTIONS OF STONE CREEK OWNED BY DECLARANT, SIGNS AND OTHER MATERIALS USED IN DEVELOPING, CONSTRUCTING, SELLING OR PROMOTING THE SALE OF ANY PORTION STONE CREEK; (VI) EXCAVATE FILL FROM ANY LAKES OR WATERWAYS WITHIN AND/OR CONTIGUOUS TO STONE CREEK BY DREDGE OR DRAGLINE, STORE FILL WITHIN STONE CREEK AND REMOVE AND/OR SELL EXCESS FILL; AND GROW OR STORE PLANTS AND TREES WITHIN, OR CONTIGUOUS TO, STONE CREEK AND USE AND/OR SELL EXCESS PLANTS AND TREES; AND (VII) UNDERTAKE ALL ACTIVITIES WHICH, IN THE SOLE OPINION OF DECLARANT, ARE NECESSARY FOR THE DEVELOPMENT AND SALE OF ANY LANDS AND IMPROVEMENTS COMPRISING STONE CREEK.

Section 10. Title to Common Area. All or portions of the Common Areas may be dedicated by Plats, created in the form of easements, or conveyed by written instrument recorded in the public records, or by Fee Simple Deed from the Declarant to the Association. The dedication, creation by easement, or conveyance shall be subject to easements, restrictions, reservations, conditions, limitations, and declarations of record, real estate taxes for the year of conveyance, zoning, land use regulations and survey matters. Association shall be deemed to have assumed and agreed to pay all continuing obligations and service and similar contracts relating to the ownership operation, maintenance, and administration of the conveyed portions of Common Areas and other obligations relating to the Common Areas imposed herein. Association shall, and does hereby, indemnify and hold Developer harmless on account thereof. Association shall accept any and all transfer of permits from Declarant, or any other permittee of any permit required by a governmental agency in connection with the development of STONE CREEK, as modified and/or amended. Association shall cooperate with Declarant, or any other permittee of such permits, as modified and/or amended, with any applications, certifications, documents or consents required to effectuate any such transfer of permits to Association. THE COMMON AREAS, PERSONAL PROPERTY AND EQUIPMENT THEREON AND APPURTENANCES THERETO SHALL BE DEDICATED OR CONVEYED IN "AS IS, WHERE IS" CONDITION WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESSED OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION, FITNESS OR MERCHANTABILITY OF THE COMMON AREAS BEING CONVEYED.

Section 11. Easements Reserved in Common Area. The Declarant hereby reserves unto itself, its successors and assigns, whether or not expressed in the deed thereto, the right to grant easements over any of the Common Area for the installation, maintenance, replacement and repair of drainage, water, sewer, electric and other utility lines and facilities, provided such easements benefit land which is or will become part of the Properties. The Declarant shall further have the right, but without obligation, to install drainage, as well as water, sewer and other utility lines and facilities in, on, under and over the Common Area, provided such lines and facilities benefit land which is or will be within the Properties. The Declarant further reserves unto itself, its successors and assigns whether or not expressed in the deed thereto, the right to grant easements over any of the Common Area for the purpose of ingress and egress to and from, and for utilities to serve, any properties which Declarant or its successors or assigns may now own or hereafter acquire which are adjacent to the Properties. The Association shall join in or separately execute any easements for the foregoing purposes which the Declarant shall direct or request from time to time.

Section 12. Declarant and Association Easement. In addition to the aforementioned easements, Declarant reserves for itself, the Association, the ARC (as defined herein), and their respective grantees, successors, legal representatives and assigns, an easement for ingress and egress to, over and across each Lot and the right to enter upon each Lot for the purpose of exercising its and

their rights and obligations under this Declaration. Entry into any Lot, absent emergency conditions, shall not be made without the consent of the Owner or occupant thereof for any purpose, except pursuant to a valid order of court. An Owner shall not arbitrarily withhold consent to such entry for the purpose of discharging any duty or exercising any right granted by this Article, provided such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner.

Section 13. [Intentionally Deleted]

Section 14. Association Easement. A non-exclusive easement is hereby established over all portions of the Common Areas, for ingress and egress to and from all portions of the Properties, and for maintenance of the Common Area and all Homes for the benefit of the Association, the ARC and their respective contractors, agents and licensees.

Section 15. Owners Easements. Owners of Homes shall have a non-exclusive easement over the Homes of other Owners for the purpose of delivery of bulky items and for the purpose of major improvements or repairs. In the event the user of such easement damages the Homes over which he or she traverses, such user shall be responsible for the repair of the damages. In the event the Homes constructed on adjacent Homes share a common sidewalk, both Owners of the adjacent Homes and their guests, tenants and invitees, shall have a non-exclusive easement for ingress and egress over all sidewalks as constructed. In the event such common sidewalk shall require repair, replacement or maintenance, it shall be the obligation of the Association to repair, replace, or maintain such sidewalks, and such repair, replacement or maintenance shall be a Common Expense.

Section 16. Easement Over the Grassed Area. The Association and its contractors shall have an easement over grassed portions of the Common Areas for lawn maintenance which maintenance shall include, without limitation, fertilizing, pruning, mowing, spraying of insecticide and resodding, if necessary, as well as any related functions. This easement shall extend to equipment of those maintaining lawns and grassed areas. Although the ultimate responsibility for lawn maintenance rests with each Neighborhood Association, the Neighborhood Association, whether in a condominium form of governance or otherwise may delegate such responsibility to the Association; provided, further, in connection with such delegated responsibility, the Association and its contractors shall have an easement over grassed portions of Neighborhoods for lawn maintenance which maintenance shall include, without limitation, fertilizing, pruning, mowing, spraying of insecticide and resodding, if necessary, as well as any related functions

Section 17. Easements Reserved in Common Area for Use in Connection with Other Homeowner Associations and/or Condominiums. Declarant hereby reserves unto itself, its successors and assigns, the right to grant easements over any of the Common Area not occupied by a building to be used for, by or in connection with any homeowners association development which may hereafter be erected on land now or hereafter owned by Declarant within the Properties, or as may become necessary in providing such developments with utility services, drainage or irrigation facilities. Neither this reservation of rights, nor anything else herein contained is intended to, nor shall it, constitute or be deemed to constitute a commitment, warranty or representation by Declarant to hereafter construct or develop such other homeowners association developments and Declarant hereby declares that it neither makes nor gives any such commitment, warranty or representation.

Section 18. Use of Undeveloped Properties. For so long as there is any undeveloped property eligible for inclusion in the Properties, Declarant reserves the right to develop such property as single family detached properties, fee simple townhomes, condominium, common area or other uses.

Section 19. Owner's Easement in Golf Course Areas. Rights to use the Golf Course Areas and the improvements thereto will be on such terms and conditions as may be promulgated from time to time by the Golf Course Owner. Neither ownership of a Lot, nor membership in the Association, confers any ownership, ownership rights, easement, easement rights, license or use rights in the Golf Course

Areas or improvements thereto. Declarant reserves in the Golf Course Owner and to itself, if applicable, the absolute right to identify guests, invitees, or permissive users of the Golf Course Areas, to discontinue the operation of the Golf Course Areas and to otherwise control operation of, and use of, the Golf Course Areas and improvements thereto.

## ARTICLE IV

### MEMBERSHIP AND VOTING RIGHTS

Section 1. Voting Rights. Every Owner shall be a member of the Association, subject to and bound by the Association's Articles of Incorporation, Bylaws, Rules and Regulations and this Declaration. The foregoing does not include persons or entities that hold a leasehold interest or an interest merely as security for the performance of an obligation. Ownership, as defined above, shall be the sole qualification for membership. When any Home is owned of record by two or more persons or other legal entity, all such persons or entities shall be members; provided, however, no more than one (1) vote shall be cast in connection with a Home. An Owner of more than one Home shall be entitled to one membership for each Home owned. Membership shall be appurtenant to and may not be separated from ownership of any Home and shall be automatically transferred by conveyance of that Home. The Declarant shall be a member so long as it owns one or more Parcels.

Section 2. Membership Classifications. The Association shall have four (4) classes of voting membership, Class A, Class B, Class C and Class D. All votes shall be cast in the manner provided in the Bylaws. The three (3) classes of voting memberships, and voting rights related thereto, are as follows:

(a) Class A. Class A members shall be Owners of Homes located within the real property described in **Exhibit "F"** (the "Class A Property"); provided, however, the Declarant shall not be a Class A member. When more than one person or entity holds an interest in any Home, the vote for such Home shall be exercised as such persons determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to such Home nor shall any split vote be permitted with respect to such Home. Every Owner of a single family detached Home within the Properties shall be a Class A member. Every Home within the Properties, the Owner of which is a Class A member, shall be entitled to one (1) vote.

(b) Class B. Class B members shall be Owners of Homes located within the real property described in **Exhibit "G"** (the "Class B Property"); provided, however, the Declarant shall not be a Class B member. When more than one person or entity holds an interest in any Home, the vote for such Home shall be exercised as such persons determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to such Home nor shall any split vote be permitted with respect to such Home. Every Owner of a villa style Home within the Properties shall be a Class B member. Every Home within the Properties, the Owner of which is a Class B member, shall be entitled to one (1) vote.

(c) Class C. Class C members shall be Owners of Homes located within the real property described in **Exhibit "H"** (the "Class C Property"); provided, however, the Declarant shall not be a Class C member. When more than one person or entity holds an interest in any Home, the vote for such Home shall be exercised as such persons determine, but in no event shall more than the number of votes hereinafter designated be cast with respect to such Home nor shall any split vote be permitted with respect to such Home. Every Owner of a Home within the Properties that is a condominium unit shall be a Class C member. Every Home within the Properties, the Owner of which is a Class C member, shall be entitled to one (1) vote.

(d) Class D. Declarant shall be the Class D member, and shall be entitled to nine (9) votes for each Lot or Home owned; provided, however, that as to land which is annexed or added

pursuant to this Declaration, Declarant shall be entitled to fourteen (14) votes per acre or fraction thereof contained within a Parcel, until such time as the Parcel is platted or submitted to condominium form of ownership, whereupon Declarant shall be entitled to nine (9) votes per Home in lieu of the votes per acre. Notwithstanding the foregoing, from and after Turnover, the Declarant shall be entitled to one (1) vote for each Home or Lot owned.

**Section 3. Turnover.** "Turnover" shall mean the transfer of operation of the Association by the Declarant to Owners other than the Declarant. The Turnover of the Association by the Declarant shall occur at the Turnover meeting. The purpose of the Turnover meeting shall be to elect directors to the Association. No more than sixty (60) days and no less than thirty (30) days prior to the Turnover meeting, the Association shall notify in writing all Class A, Class B, Class C and Class D members of the date, location, and purpose of the Turnover meeting. The Turnover meeting shall take place within three (3) months of the occurrence of the following events, whichever occurs earliest:

(a) When 90% of the Homes contemplated by the PUD Master Plan are conveyed to Owners other than Declarant; or

(b) On December 31, 2020; or

(c) Declarant makes the election, in its sole and absolute discretion, to give written notice to the Association of its decision to cause the Turnover to occur.

Notwithstanding the foregoing, if at any time or times subsequent to any such conversion, additional land is added by the Declarant pursuant to this Declaration, such additional land shall automatically be and become Class D Parcels, Lots or Homes, as applicable. In addition, if following such addition of land, the total votes allocable to all land within the Properties then owned by the Declarant shall exceed the remaining total votes outstanding in the remaining Class A and Class B membership (i.e., excluding the Declarant), then any Class D property owned by the Declarant shall be entitled to nine (9) votes for each Lot or Home owned by the Declarant. Any such reconversion shall not occur, however, if either occurrence (b) or (c) above shall have taken place.

## **ARTICLE V**

### **RIGHTS AND OBLIGATIONS OF OWNERS AND THE ASSOCIATION**

**Section 1. Responsibilities.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area, and shall keep the same in good, clean and proper condition, order and repair. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area, and performance of its other obligations hereunder.

**Section 2. Manager.** The Association may obtain, employ and pay for the services of an entity or person, hereinafter called the "Manager," to assist in managing its affairs and carrying out its responsibilities hereunder to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable, whether such personnel are furnished or employed directly by the Association or by the Manager. Any management agreement must be terminable for cause upon thirty (30) days notice, be for a term not to exceed three (3) years, and be renewable only upon mutual consent of the parties.

**Section 3. Personal Property for Common Use.** The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Association's Articles or Bylaws.

Section 4. Insurance. The Association at all times shall procure and maintain adequate policies of public liability insurance, as well as other insurance that it deems advisable or necessary. The Association additionally may, in its sole discretion, cause all persons responsible for collecting and disbursing Association moneys to be insured or bonded with adequate fidelity insurance or bonds. In addition, the Association shall be responsible for procuring and maintaining adequate insurance for Class B Homes as provided in Article XVII.

Section 5. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration, its Articles or Bylaws, or by law and every other right or privilege reasonably implied from the existence of any right or privilege granted herein or therein or reasonably necessary to effectuate the exercise of any right or privileges granted herein or therein.

Section 6. Common Expense. All expenses and costs incurred by the Association in performing the rights, duties, and obligations set forth in this Declaration, the Articles of Incorporation or the Bylaws, are hereby declared to be Common Expenses and shall be paid by Class A, Class B and Class C members. All Neighborhood Expenses incurred by the Association in performing the rights duties and obligations set forth in this Declaration shall be paid by the Owners of the applicable Neighborhood. Assessments payable to the Master Association also shall be Common Expenses of the Association.

Section 7. Lawn and Landscaping Maintenance. All lawn and landscaping maintenance in the Common Area in the Properties shall be the responsibility of the Association. Lawn maintenance shall include cutting, sprinkling, pest control, replanting and related maintenance. Such maintenance shall include the maintenance of landscaped areas and shrubbery. The expense of such lawn and landscaping maintenance shall be a Common Expense. In addition, the Association shall be responsible for lawn and landscaping maintenance for the Class B Property as provided in Article XVII.

Section 8. Sprinkling System. The Association is hereby granted a non-exclusive easement over, on, under, across and through the Properties for the purpose of maintaining, repairing, replacing and operating such of the irrigation facilities as may have been or may hereafter be installed by the Declarant in connection with its development of the Properties. No easement pursuant to this Section shall exist, however, as to any portion of the Properties occupied by any building or improvement constructed by the Declarant as part of a Home, Common Area facility or other improvements thereon. Declarant reserves the right to install, operate and maintain irrigation and sprinkling equipment on any Common Area or within landscaped rights of way which the Association is obligated to maintain under this Declaration. The Association shall be obligated to maintain, operate, replace and repair such irrigation and sprinkling equipment at its own expense and such shall be a Common Expense.

Section 9. Suspension of Use Rights; Levy of Fines. The Association may suspend for a reasonable period of time the rights of an Owner or an Owner's tenants, guests, or invitees, or both, to use the Common Areas and facilities and may levy reasonable fines, not to exceed One Hundred and no/100 Dollars (\$100.00) per violation per day for each day of a continuing violation not to exceed One Thousand and no/100 Dollars (\$1,000.00) in the aggregate, against any Owner or any tenant, guest or invitee for failure to comply with the provisions of this Declaration, the Articles, Bylaws or Rules and Regulations promulgated by the Association. A fine or suspension may be imposed only after giving such Owner, tenant, guest or invitee at least fourteen (14) days written notice and an opportunity for a hearing before a committee of at least three (3) members of the Association appointed by the Board of Directors who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director or employee. The committee must approve a proposed fine or suspension by a majority vote. No suspension of the right to use the Common Area shall impair the right of an Owner or Owner's tenant to have vehicular ingress to and egress from such Owner's Home, including without limitation, the right to park. The failure to pay fines shall subject the Owner to any and all remedies available to the Association at law or in equity at the time of recording this Declaration or in the future.

Section 10. Surface Water/Stormwater Management System.

(a) The Association shall operate, maintain and manage the SWMS in a manner consistent with the SWFWMD Permit requirements and applicable District rules, and shall assist in the enforcement of the restrictions and covenants contained herein. Maintenance of the SWMS shall mean exercise of practices which allow the systems to provide drainage, water storage, treatment, conveyance or other surface water or stormwater management capabilities as permitted by SWFWMD. The Association shall be responsible for such maintenance and operation. Any repair or reconstruction of the SWMS shall be as permitted, or if modified, as approved by SWFWMD. The costs of the operation and maintenance of the Surface Water Management System shall be part of the Common Expenses of Association included in each Owner's pro rata portion of Installment Assessments.

(b) No structure of any kind shall be constructed or erected within, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of any drainage areas or the SWMS, nor shall any grading, alteration, or other modifications to these areas be made without the prior written permission of the Association, any governmental entity having jurisdiction and SWFWMD.

(c) No Owner shall in any way deny or prevent ingress and egress by the Declarant, the Association, the Marion County, or SWFWMD to any drainage areas or SWMS for maintenance or landscape purposes. The right of ingress and egress, and easements therefore are hereby specifically reserved and created in favor of the Declarant, the Association, SWFWMD, Marion County or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(d) No Home shall be increased in size by filling in any drainage areas or other portion of the SWMS. No Owner shall fill, dike, rip-rap, block, divert or change the established drainage areas or the SWMS without the prior written consent of the Association, Marion County, and SWFWMD.

(e) Any wall, fence, paving, planting or other improvement which is placed by an Owner within a drainage area, drainage easement, or the SWMS including without limitation, easements for maintenance or ingress and egress, shall be removed, if required by the Association or SWFWMD, the cost of which shall be paid for by such Owner as a Individual Assessment.

(f) SWFWMD and any governmental entity having jurisdiction shall have the right to enforce, by a proceeding at law or in equity, the provisions contained in this Declaration which relate to the maintenance, operation, and repair of the SWMS.

(g) No Owner of property within the Property may construct or maintain any building, Home, or structure, or perform any activity in the wetlands, buffer areas, and upland conservation areas described in the approved permit and recorded plat of the subdivision, unless prior approval is received from SWFWMD and Marion County.

(h) SWFWMD has the right to take enforcement action, including civil action for an injunction and penalties, against the Association to compel the Association to correct any outstanding problem with the SWMS or if applicable, in mitigation or conservation areas under the responsibility or control of the Association.

(i) If applicable, monitoring and management of the mitigation areas, described in the SWFWMD Permit, shall be the responsibility of the Association. Also, if applicable, the Association shall be responsible for successful completion of the mitigation in accordance with the success criteria described in the SWFWMD Permit.

(j) If the Association ceases to exist, all of the Owners shall be jointly and severally responsible for the operation and maintenance of the SWMS facilities in accordance with the requirements of the SWFWMD Permit.

(k) The Association and all Owners shall comply with all governmental regulations, including without limitation, those of SWFWMD. No owner of property within the Properties may construct or maintain any building, residence, or structure, or undertake or perform any activity to obstruct the drainage within the Lot line grading patterns as established in the permitted construction plans. Each property Owner at the time of construction of a building, residence, or structure shall comply with the construction plans for the SWMS approved and on file with SWFWMD. All Owners shall be responsible for maintaining designed flow paths for side and rear drainage as shown in the permitted plans. If the constructed flow path is disturbed or modified, the Association has the authority to enter the Lot and reconstruct the intended flow pattern and assess the Owner with the expense as an Individual Assessment.

HOMES MAY ABUT CONSERVATION AREAS WHICH ARE PROTECTED UNDER RECORDED CONSERVATION EASEMENTS. THESE AREAS MAY NOT BE ALTERED FROM THEIR PRESENT CONDITIONS EXCEPT IN ACCORDANCE WITH THE RESTORATION PROGRAM INCLUDED IN THE CONSERVATION EASEMENT, OR TO REMOVE EXOTIC OR NUISANCE VEGETATION, INCLUDING, WITHOUT LIMITATION, MELALEUCA, BRAZILIAN PEPPER, AUSTRALIAN PINE, JAPANESE CLIMBING FERN, CATTAILS, PRIMROSE WILLOW, AND GRAPE VINE. OWNERS ARE RESPONSIBLE FOR PERPETUAL MAINTENANCE OF SIGNAGE REQUIRED BY THE PERMIT ISSUED BY SWFWMD WHICH MAINTENANCE SHALL BE PERFORMED TO THE GREATEST DEGREE LAWFUL BY THE ASSOCIATION.

THE CONSERVATION AREAS ARE HEREBY DEDICATED AS COMMON AREAS. THEY SHALL BE THE PERPETUAL RESPONSIBILITY OF THE ASSOCIATION, AND MAY IN NO WAY BE ALTERED FROM THEIR NATURAL STATE. ACTIVITIES PROHIBITED WITHIN THE CONSERVATION AREAS INCLUDE, WITHOUT LIMITATION, CONSTRUCTION OR PLACING OF BUILDINGS ON OR ABOVE THE GROUND; DUMPING OR PLACING SOIL OR OTHER SUBSTANCES SUCH AS TRASH; REMOVAL OR DESTRUCTION OF TREES, SHRUBS, OR OTHER VEGETATION – WITH THE EXCEPTION OF EXOTIC/NUISANCE VEGETATION REMOVAL; EXCAVATION, DREDGING OR REMOVAL OF SOIL MATERIAL; DIKING OR FENCING; ANY OTHER ACTIVITIES DETRIMENTAL TO DRAINAGE, FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.

Section 11. Waterbodies. NEITHER THE DECLARANT NOR THE ASSOCIATION, MAKE ANY REPRESENTATION CONCERNING THE CURRENT OR FUTURE WATER LEVELS IN ANY OF THE WATERBODIES IN STONE CREEK; PROVIDED, FURTHER, THE DECLARANT NOR THE ASSOCIATION BEAR ANY RESPONSIBILITY IN ATTEMPT TO ADJUST OR MODIFY THE WATER LEVELS SINCE SUCH LEVELS ARE SUBJECT TO SEASONAL GROUNDWATER AND RAINFALL FLUCTUATIONS THAT ARE BEYOND THE CONTROL OF THE DECLARANT AND THE ASSOCIATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT THE WATER LEVELS OF ALL WATERBODIES MAY VARY. THERE IS NO GUARANTEE BY DECLARANT, OR ASSOCIATION THAT WATER LEVELS WILL BE CONSTANT OR AESTHETICALLY PLEASING AT ANY PARTICULAR TIME; AT TIMES, WATER LEVELS MAY BE NONEXISTENT. DECLARANT AND ASSOCIATION SHALL NOT BE OBLIGATED TO ERECT FENCES, GATES, OR WALLS AROUND OR ADJACENT TO ANY WATERBODY WITHIN STONE CREEK. NO FENCE OR OTHER STRUCTURE MAY BE PLACED WITHIN ANY LAKE MAINTENANCE EASEMENT. SWIMMING AND/OR BOATING WILL NOT BE PERMITTED IN ANY WATERBODY. NO PRIVATE DOCKS MAY BE ERECTED WITHIN ANY WATERBODY FORMING PART OF THE COMMON AREAS.

Section 12. Drainage and Mitigation Areas. It is anticipated that the Common Areas and Golf Course Areas may include one or more preserves, wetlands, wet retention area, dry retention areas



and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by Association or the Golf Course Owner, as applicable, in their natural state. A non-exclusive easement shall exist in favor of Declarant, Golf Course Owner, Association, their designees and any applicable water management district, state agency, county agency and/or federal agency having jurisdiction over drainage, irrigation and water management. A non-exclusive easement for ingress and egress and access throughout the Properties exists for such parties in order to construct, maintain, inspect, record data on, monitor, test, or repair, as necessary, any water management areas, conservation areas, mitigation areas, irrigation systems and facilities thereon and appurtenances thereto. No structure, landscaping, or other material shall be placed or be permitted to remain which may damage or interfere with the drainage or irrigation and/or installation or maintenance of utilities or which may obstruct or retard the flow of water and/or water management areas and facilities or otherwise interfere with any drainage, irrigation and/or easement provided for in this Section or the use rights set forth elsewhere in this Declaration.

## **ARTICLE VI**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to covenant and agree to pay to the Association: (1) Installment Assessments; (2) Special Assessments; (3) Individual Assessments; (4) Special Use Fees; and, if applicable (5) Neighborhood Assessments against all Homes in a Neighborhood to fund Neighborhood Expenses. Such assessments and charges, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a lien upon the property against which such assessment is made. Each such assessment or charge, together with interest, costs, and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties, and for the improvement and maintenance of the Common Area and the carrying out of the other responsibilities and obligations of the Association under this Declaration, the Articles and the Bylaws. Without limiting the generality of the foregoing, such funds may be used for the acquisition, improvement and maintenance of Properties, services and facilities related to the use and enjoyment of the Common Area, including the costs of repair, replacement and additions thereto; the cost of labor, equipment, materials, management and supervision thereof; the payment of taxes and assessments made or levied against the Common Area; the procurement and maintenance of insurance; the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful; the maintenance, landscaping and beautification of the Common Area and such public lands as may be designated by the Declarant or the Association; the employment of security personnel to provide services which are not readily available from any governmental authority; and such other needs as may arise.

Section 3. Installment Assessments for Common Expenses.

(a) Standard Increases. The Installment Assessment for Common Expenses shall be set by the Board of Directors. The Installment Assessment for Common Expenses may be increased each year by a majority vote of the Board of Directors not more than fifteen percent (15%) above the Installment Assessment for the previous year.

(b) Special Increases. The Installment Assessment for Common Expenses may be increased above the increase permitted by subsection 3(a) above by the approval of (i) a majority of the Board; and (ii) sixty-six and two-thirds percent (66 2/3%) of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present.

(c) Duty of Board to Fix Amount. The Board of Directors may fix the Installment Assessment for Common Expenses at an amount not in excess of the limitations on the Installment Assessment rate established in this Section.

Section 4. Special Assessments. In addition to the Installment Assessments authorized above, the Association may levy, in any fiscal year, a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including fixtures and personal property related thereto, or for the purpose of defraying, in whole or in part, the expenses for specific purposes of a nonrecurring nature which are not in the nature of capital improvements. No vote of the Voting Interests shall be required for such Special Assessments, and such Special Assessments may be established by the Association, from time to time, and shall be payable at such time or time(s) as determined by the Association. So long as the Declarant holds title to any Home, no Special Assessments shall be imposed without the prior written consent of the Declarant.

Section 5. Notice of Meeting and Quorum for Any Action Authorized Under Sections 3. Written notice of any members' meeting called for the purpose of taking any action authorized under Section 3(b) of this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting, the presence of members or of proxies entitled to cast twenty percent (20%) of all the votes of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence of members or of proxies entitled to cast ten percent (10%) of all the votes of membership. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Declarant's Common Expenses Assessment. Notwithstanding any provision of this Declaration or the Association's Articles or Bylaws to the contrary, prior to Turnover, the Declarant shall not be obligated for, nor subject to any Installment Assessment for any Parcel which it may own, provided, however, Declarant shall be responsible for paying the difference between the Association's expenses of operation otherwise to be funded by Installment Assessments and the amount received from Owners, other than the Declarant, in payment of the Installment Assessments levied against their Class A, Class B and Class C Homes. Such difference shall be called the "Deficiency," and shall not include any reserve for replacements, operating reserve, depreciation reserves, capital expenditures, Special Assessments, Individual Assessments, Special Use Fees, or Neighborhood Assessments. The Declarant may at any time, give thirty (30) days prior written notice to the Association terminating its responsibility for the Deficiency, and waiving its right to exclusion from Installment Assessments. Upon giving such notice, or from and after Turnover, whichever is sooner, each Home, Lot and/or Parcel owned by Declarant shall thereafter be assessed at twenty-five percent (25%) of the Installment Assessment established for Homes owned by Class A, Class B and Class C members other than Declarant. Declarant shall not be responsible for any reserve for replacements, operating reserves, depreciation reserves, capital expenditures, Special Assessments, Individual Assessments, Special Use Fees, or Neighborhood Assessments. Such Installment Assessment shall be prorated as to the remaining months of the year, if applicable. Declarant shall be assessed only for Homes which are subject to the operation of this Declaration. Upon transfer of title of a Home owned by Declarant, the Home shall be assessed in the amount established for Homes owned by Owners other than the Declarant, prorated as of and commencing with, the month following the date of transfer of title.

Section 7. Exemption from Assessments. The assessments, charges and liens provided for or created by this Article shall not apply to the Common Area, Golf Course Areas, any property dedicated to and accepted for maintenance by a public or governmental authority or agency, any property owned by a public or private utility company or public or governmental body or agency, and any property owned by a charitable or non-profit organization.

Section 8. Date of Commencement of Installment Assessments: Due Dates. The Installment Assessments for Common Expenses shall commence as to all Homes subject thereto upon the conveyance of the first Home from the Declarant to its purchaser. Subject to Section 6 above, the Installment Assessments for any land hereafter annexed or added to the Association pursuant to Article VIII hereof shall commence: (i) as to such Home as are within the annexed area as of the date of annexation, on the first day of the month following annexation; and (ii) as to such Home completed within the annexed area after the date of annexation, on the first day of the month following issuance of a certificate of occupancy therefore. The first Installment Assessment against any Home shall be adjusted and prorated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the Installment Assessment for Common Expenses against each Home not later than December 1<sup>st</sup> of each calendar year for the following calendar year, unless otherwise determined by the Board. Written notice of the Installment Assessment for Common Expenses shall be sent to every Owner subject hereto. The Board may from time to time determine when the Installment Assessments will be collected by the Association (i.e. monthly, quarterly, or annually). The due date for Special Assessments, Individual Assessments, Special Use Fees, or Neighborhood Assessments shall be as established by the Board of Directors. It is anticipated that Installment Assessments will be collected monthly.

Section 9. Lien for Assessments. All sums assessed to any Home pursuant to this Declaration, together with interest and all costs and expenses of collection, including reasonable attorneys' fees, shall be secured by a continuing lien on such Home in favor of the Association. The lien for assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by an Institutional Lender, or which is guaranteed or insured by the FNMA, FHA or VA. Except for liens for all sums secured by a first mortgage in favor of an Institutional Lender, all other lienors acquiring liens on any Home after the recordation of this Declaration in the public records of Marion County shall be deemed to consent that such liens shall be inferior to liens for assessments, as provided herein, whether or not such consent is specifically set forth in the instruments creating such liens. The recordation of this Declaration in the public records of Marion County, Florida, shall constitute constructive notice to all subsequent purchasers and creditors of the existence of the lien hereby created in favor of the Association and the priority thereof. The lien for assessments provided herein is effective from and after the recording of such lien in the public records of Marion County, but shall relate back to the date that this Declaration was recorded. The Association may assess against any Owner, as an Individual Assessment, the costs of collection incurred in connection with the collection of assessments, or any other costs incurred by the Association in connection with the enforcement of the terms of the Declaration against an Owner.

Section 10. Effect of Nonpayment of Assessments; Remedies of the Association. Assessments and installments on such assessments paid on or before the date when due, shall not bear interest, but all sums not paid on or before the date when due shall bear interest at the rate of eighteen (18%) percent per annum (or the maximum allowable rate by law, whichever is greater) from the date when due until paid and there shall also be assessed as an administrative late fee in an amount not to exceed the greater of \$25.00 or 5% of each installment of the assessment for each delinquent installment that the payment is late. All payments on accounts shall be first applied to fines levied by the Association, then to interest accrued by the Association, then to any administrative late fee, then to costs and attorneys' fees, and then to the delinquent assessment payment first due. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Home. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Home.

Section 11. Foreclosure. The lien for sums assessed pursuant to this Declaration may be enforced by judicial foreclosure by the Association in the same manner in which mortgages on real property may be foreclosed under Florida law. In any such foreclosure, the Owner shall be required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The Owner shall also be required to pay to the

Association any assessments against the Home which shall become due during the period of foreclosure, and the same shall be secured by the lien foreclosed and accounted for as of the date the Owner's title is divested by foreclosure. The Association shall have the right and power to bid at the foreclosure or other legal sale to acquire the Home foreclosed, and thereafter to hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof. In lieu of foreclosing its lien, the Association, at its election, shall have the right to collect amounts due it by suit for collection brought against the Owner personally obligated for payment.

Section 12. Homestead. By acceptance of a deed thereto, the Owner and spouse thereof, if married, of each Home shall be deemed to have waived any exemption from liens created by this Declaration or the enforcement thereof by foreclosure or otherwise, which may otherwise have been available by reason of the homestead exemption provisions of Florida law, if for any reason such are applicable. This Section is not intended to limit or restrict in any way the lien or rights granted to the Association by this Declaration, but to be construed in its favor.

Section 13. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage which is given to or held by an Institutional Lender, or which is guaranteed or insured by the FHA or VA. The sale or transfer of any Home pursuant to foreclosure of such a first mortgage or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Home Owner from liability for any assessments thereafter becoming due or from the lien thereof. The Association shall, upon written request, report to any such First Mortgagee of a Home any assessments remaining unpaid for a period longer than thirty (30) days after the same shall have become due, and shall give such First Mortgagee a period of thirty (30) days in which to cure such delinquency before instituting foreclosure proceedings against the Home; provided, however, that such First Mortgagee first shall have furnished to the Association written notice of the existence of its mortgage, which notice shall designate the Home encumbered by a proper legal description and shall state the address to which notices pursuant to this Section are to be given. Any such First Mortgagee holding a lien on a Home may pay, but shall not be required to pay, any amounts secured by the lien created by this Article VI. Mortgagees are not required to collect assessments.

Section 14. Individual Assessments. Any cost or expense required to be paid by an Owner related solely to such Owner or its Home, and any and all other accrued, liquidated indebtedness of any Owner to the Association arising under any provision of this Declaration or any applicable future Declaration, including any indemnity contained herein, or by contract express or implied, or because of any act or omission of any Owner or of any Owner's family, household members or invitees, also shall be assessed by the Association against such Owner's Home after such Owner fails to pay the same when due or upon demand and such default continues for thirty (30) days after written notice.

Section 15. Certificate of Amounts Due/Resale Restrictions. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Home have been paid. A properly executed certificate of the Association as to the status of assessments on a Home shall be binding upon the Association as of the date of its issuance.

Section 16. Uniform Rate of Assessment. Installment Assessments shall be uniform for all Lots in a designated class. Special Assessments shall be fixed at a uniform rate for all Lots and may be collected on such frequency as determined by the Board of Directors. Neighborhood Assessments shall be uniform as to all Lots within the assessed Neighborhood.

Section 17. Cable Television. Declarant may, but shall not be obligated to, coordinate and establish an agreement with one or more cable television service companies for the provision of cable television services to the community and all Homes included therein. If such agreement is established, the fees for the cable television service payable to the service provider may be a Common Expense

payable by the Association and may be included within the annual budget for which the Installment Assessments are levied each year. No Owner may avoid or escape liability for any portion of the Installment Assessments by election not to utilize the cable television service.

Section 18. Visual Security. Declarant may, but shall not be obligated to, coordinate and establish an agreement with one or more cable television service companies for the provision of a visual security service channel to the community and all Homes included therein. If such agreement is established, the fees for the visual security service channel payable to the service provider may be a Common Expense payable by the Association and may be included within the annual budget for which the Installment Assessments are levied each year. No Owner may avoid or escape liability for any portion of the Installment Assessments by election not to utilize the visual security service channel.

Section 19. Internet Based Community Portal. Declarant may, but shall not be obligated to, coordinate and establish an agreement with one or more service providers for the provision of an internet based community portal to the community and all Homes included therein. If such agreement is established, the fees for the internet based community portal payable to the service provider shall be a Common Expense payable by the Association and may be included within the annual budget for which the Installment Assessments are levied each year. No Owner may avoid or escape liability for any portion of the Installment Assessments by election not to utilize the internet based community portal.

Section 20. Property Taxes. Because the interest of each Owner in the Common Area is an interest in real property appurtenant to each Home, and because no person other than an Owner has the right to the beneficial use and enjoyment of the Common Area, Declarant intends that the value of the interest of each Owner in the Common Area entitled to its use be included in the assessment of each such Home for local property tax purposes. Declarant further intends that any assessment for such purposes against the Common Area shall be for a nominal amount only, reflecting that the full value thereof is included in the several assessments of the various Homes. If the local taxing authorities refuse to so assess the Common Area with the result that local real property taxes in any given year are assessed to the Association with respect to the Common Area, then the amount of such excess may be specially assessed by the Board of Directors, in its discretion, in the following manner: the amount of such excess with respect to the Common Area shall be divided by the number of Homes within the Property, and the quotient shall be the amount of such Individual Assessment against each Home. In the Board's discretion, such Individual Assessment may be payable in a lump sum within thirty (30) days after notice or may be amortized without interest over such number of months as the Board deems advisable. Each year the Board shall determine whether such Individual Assessment shall be levied, and its amount, within forty-five (45) days after receiving notice of the amount of taxes due. Such Individual Assessment is not an increase in the Installment Assessment subject to the limitations of this Article.

Section 21. Acceleration of Assessments. In the event of nonpayment of any assessment on or before the date when due, at its option, the Association may accelerate the Installment Assessments due to the end of the budget year, regardless of whether Installment Assessment installments are not yet due and payable, whereupon the entire budget year's Installment Assessments shall be immediately due and payable, and, at its option, the Association may declare all other sums, including Special Assessments, Individual Assessments, Special Use Fees, fines, interest and administrative late fees, immediately due and payable.

Section 22. Working Capital Contribution. There shall be a working capital contribution fee equal to two (2) months' Installment Assessments, which fee shall be paid by each Owner that purchases a Home from the Declarant. The working capital contribution shall be paid at the time of closing and transfer of title on their Home and shall be used by the Association to establish an initial reserve account or to be used for any normal operating expenses of the Association. Amounts paid as working capital contributions are not to be considered as advance payments of regular Installment Assessments.

Section 23. Resale Capital Contribution. There shall be collected upon every conveyance of an ownership interest in a Home by an Owner other than Declarant a resale capital contribution (the "Resale Capital Contribution") in the amount of two hundred and fifty and No/100 Dollars (\$250.00) payable to Association. The Resale Capital Contribution shall not be applicable to conveyances from Declarant. After the Home has been conveyed by Declarant, Resale Capital Contribution shall be a recurring assessment payable to Association upon all succeeding conveyances of a Home. The amount of the Resale Capital Contribution and the manner of payment shall be determined by resolution of the Board from time to time; provided, however, all Homes shall be assessed a uniform amount. The Resale Capital Contribution shall be paid at the time of closing and transfer of title on their Home and shall be used by the Association to establish an initial reserve account or to be used for any normal operating expenses of the Association. Amounts paid as Resale Capital Contribution are not to be considered as advance payments of regular assessments.

Section 24. Budgeting and Allocating Neighborhood Expenses. The Board may prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Association is hereby authorized to levy Neighborhood Assessments against all Homes in a Neighborhood to fund Neighborhood Expenses. Each such budget shall include any costs for additional services and any contribution to be made to a reserve fund adopted by the Board. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments, and the amount required to be generated through the levy of Neighborhood and Special Assessments in such Neighborhood. The Board may prepare a single budget for Neighborhoods with equal assessments and equal share of Exclusive Common Area.

Section 25. Special Use Fees. The Association shall have the right to establish from time to time, by resolution, rule or regulation, or by delegation to the Manager, specific charges, ticket, service and/or use fees and charges ("Special Use Fees"), for which one or more Owners (but less than all Owners) are subject, such as, costs of special services or facilities provided to an Owner relating to the special use of the Recreational Amenities, including the Clubhouse, or tickets for shows, special events, or performances held in the Clubhouse which are paid initially by the Association. Special Use Fees shall be payable at such time or time(s) as determined by the Board. Association shall have no duty to account for any Special Use Fees; all of such Special Use Fees shall be the sole property of Association and shall not offset or reduce the Installment Assessment payable by Owners. For those programs or events, if any, for which tickets are sold, Association may adopt Rules and Regulations as to entitlement of the tickets as Association deems necessary.

Section 26. Reserves. At such time as there are improvements in any Common Areas for which Association has a responsibility to maintain, repair, and replace, the Board may, but shall have no obligation to, include a "Reserve for Replacement" in the Installment Assessments in order to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements comprising a portion of the Common Area ("Reserves"). Assessments pursuant to this Section shall be payable in such manner and at such times as determined by Association, and may be payable in installments extending beyond the fiscal year in which the Reserves are approved. Prior to Turnover, Reserves shall be subject to the prior written approval of Declarant, which may be withheld for any reason. The Board also may, but shall have no obligation to, include a Reserve for the certain improvements within the Class B Lots that the Association maintains as capital items and the costs of such reserves shall be a Neighborhood Expense.

Section 27. Assessments for Limited Common Area. Notwithstanding anything in the foregoing to the contrary, the Installment Assessments for Common Expenses attributable to Limited Common Area shall be computed by dividing such budgeted Common Expenses by the sum of all Homes responsible for such Common Expenses and the resulting "Assessment per Home" and shall be assessed against, and paid by, only the Owners owning such Homes. All other costs and expenses

associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be assessed as an Individual Assessment only against the Owners identified as provided above as being authorized and entitled to utilize and realize the benefits of the Limited Common Area.

**Section 28. Bay Laurel Center Community Development District.** The Master Association shall be entitled to enter into arrangements with the Bay Laurel Community Development District, a community development district organized and existing pursuant to Chapter 190, Florida Statutes ("BLCCDD") that require the Master Association to include in its budgets for Master Association Common Expenses, Limited Common Expenses or Special Benefit Area Common Expenses (all as defined in the Master Declaration), as applicable, and to levy and collect in accordance with the Master Declaration, the charges from time to time allocated to the Subject Property (as defined in the Master Declaration) by the BLCCDD for the services and facilities made available to from time to time to the residents of the Subject Property by the BLCCDD. The allocations to the Subject Property of the charges imposed by the BLCCDD shall be based on the assessment methodology and budgets adopted and implemented from time to time by the BLCCDD. This is a covenant for the benefit of, and may be enforced by the Master Declarant. This covenant is included in compliance with Section 5 of the "Supplemental Agreement Regarding Declarations and Associations" recorded in OR Book 04194, Page 1708 of the Public Records of Marion County. The charges imposed and allocated to STONE CREEK by BLCCDD pursuant to any such arrangement will vary over time based upon various factors such as, but not limited to, increases in the number of Units (as defined in the Master Declaration) against which the charges are imposed and changes in the amounts, types, levels and costs of the services and facilities provided from time to time by BLCCDD.

## **ARTICLE VII**

### **ARCHITECTURE AND LANDSCAPING**

**Section 1. Members of the Architectural Review Committee.** The ARC shall consist of three (3) members. The initial members of the ARC shall consist of persons designated by the Declarant from time to time. Each of said persons shall hold office until all Homes planned for the Properties have been conveyed, or sooner at the option of the Declarant. Thereafter, each new member of the ARC shall be appointed by the Board of Directors and shall hold office until such time as such person has resigned or has been removed or a successor has been appointed, as provided herein. Members of the ARC may be removed at any time without cause. The Board of Directors shall have the right to appoint and remove all members of the ARC. So long as the Declarant owns a Parcel, the Declarant shall have the right to appoint and remove all members of the ARC.

**Section 2. Purpose and Function of ARC.** The purpose and function of the ARC shall be to (a) create, establish, develop, foster, maintain, preserve and protect within STONE CREEK a unique, pleasant, attractive and harmonious physical environment grounded in and based upon a uniform plan of development and construction with consistent architectural and landscape standards, and (b) review, approve and control the design of any and all buildings, structures, signs and other improvements of any kind, nature or description, including landscaping, to be constructed or installed upon all Properties and all Common Area within STONE CREEK. Neither the Declarant nor the ARC, or any of its members, shall have any liability or obligation to any person or party whomsoever or whatsoever to check every detail of any plans and specifications or other materials submitted to and approved by it or to inspect any improvements constructed upon Properties or Common Area to assure compliance with any plans and specifications approved by it or to assure compliance with the provisions of the Design Review Manual for STONE CREEK or this Declaration.

**Section 3. All Improvements Subject to Approval.** No buildings, structures, walls, fences, pools, patios, paving, driveways, sidewalks, signs, landscaping, planting, irrigation, landscape device or object, or other improvements of any kind, nature or description, whether purely decorative, functional or otherwise, shall be commenced, constructed, erected, made, placed, installed or maintained upon any of

the Properties or Common Area, nor shall any change or addition to or alteration or remodeling of the exterior of any previously approved buildings, structures, or other improvements of any kind, including, without limitation, the painting of the same (other than painting, with the same color and type of paint which previously existed) shall be made or undertaken upon any Properties or Common area except in compliance and conformance with and pursuant to plans and specifications therefor which shall first have been submitted to and reviewed and approved in writing by the ARC.

Section 4. Standards for Review and Approval. Any such review by and approval or disapproval of the ARC shall take into account the objects and purposes of this Declaration and the purposes and function of the ARC. Such review by and approval of the ARC shall also take into account and include the type, kind, nature, design, style, shape, size, height, width, length, scale, color, quality, quantity, texture and materials of the proposed building, structure or other improvement under review, both in its entirety and as to its individual or component parts, in relation to its compatibility and harmony with other, contiguous, adjacent and nearby structures and other improvements and in relation to the topography and other physical characteristics of its proposed location and in relation to the character of STONE CREEK community in general. The ARC shall have the right to refuse to give its approval to the design, placement, construction, erection or installation of any improvement on Properties or Common Area which it, in its sole and absolute discretion, deems to be unsuitable, unacceptable or inappropriate for STONE CREEK.

Section 5. Design Standards and Design Review Manual for STONE CREEK. The ARC shall develop, adopt, promulgate, publish and make available to all Owners and others who may be interested, either directly or through the Association, at a reasonable charge, and may from time to time change, modify and amend, a manual or manuals setting forth detailed architectural and landscape design standards, specifications and criteria to be used by the ARC as a guide or standard for determining compliance with this Declaration and the acceptability of those components of development, construction and improvement of any Properties or Common Area requiring review and approval by the ARC. Until the Declarant's delegation of the architectural and landscape review and control functions to the Association, any such Design Review Manual must be approved by the Declarant in writing prior to its adoption and promulgation. Any such single Design Review Manual or separate Architectural Design Standards Manual and separate Landscape Design Standards Manual may include a detailed interpretation or explanation of acceptable standards, specifications and criteria for a number of typical design elements, including, without limitation, site planning, architectural design, building materials, building construction, landscaping, irrigation, and such other design elements as the ARC shall, in its discretion, determine. Such Design Review Manual shall be used by the ARC and other affected persons only as a guide and shall not be binding upon the ARC in connection with the exercise of its review and approval functions and ultimate approval or refusal to approve plans and specifications submitted to it pursuant to this Declaration.

Section 6. Procedure for Review. In order to obtain the approval of the ARC, each Owner shall observe the following:

(a) Each applicant shall submit an application to the ARC with respect to any proposed improvement or material change in an improvement, together with the required application(s) and other fee(s) as established by the ARC. The applications shall include such information as may be required by the application form adopted by the ARC. The ARC may also require submission of samples of building materials and colors proposed to be used. At the time of such submissions, the applicant shall, if requested, submit to the ARC, such site plans, plans and specifications for the proposed improvement, prepared and stamped by a registered Florida architect or residential designer, and landscaping and irrigation plans, prepared by a registered landscape architect or designer showing all existing trees and major vegetation stands and surface water drainage plan showing existing and proposed design grades, contours relating to the predetermined ground floor finish elevation, and specifications and the times scheduled for completion, all as reasonably specified by the ARC.



(b) In the event the information submitted to the ARC is, in the ARC's opinion, incomplete or insufficient in any manner, the ARC may request and require the submission of additional or supplemental information. The Owner shall, within fifteen (15) days thereafter, comply with the request.

(c) No later than thirty (30) days after receipt of all information required by the ARC for final review, the ARC shall approve or deny the application in writing. The ARC shall have the right to refuse to approve any plans and specifications which are not suitable or desirable, in the ARC's sole discretion, for aesthetic or any other reasons or to impose qualifications and conditions thereon. In approving or disapproving such plans and specifications, the ARC shall consider the suitability of the proposed improvements, the materials of which the improvements are to be built, the site upon which the improvements are proposed to be erected, the harmony thereof with the surrounding area and the effect thereof on adjacent or neighboring property. In the event the ARC fails to respond within said thirty (30) day period, the plans and specifications shall be deemed disapproved by the ARC.

(d) Construction of all improvements shall be completed within the time period set forth in the application and approved by the ARC.

(e) In the event that the ARC disapproves any plans and specifications, the applicant may request a rehearing by the ARC for additional review of the disapproved plans and specifications. The meeting shall take place no later than thirty (30) days after written request for such meeting is received by the ARC, unless applicant waives this time requirement in writing. The ARC shall make a final written decision no later than thirty (30) days after such meeting. In the event the ARC fails to provide such written decision within said thirty (30) days, the plans and specifications shall be deemed disapproved.

(f) Upon disapproval, the applicant may appeal the decision of the ARC to the Board within thirty (30) days of the ARC's written review and disapproval. Review by the Board shall take place no later than thirty (30) days subsequent to the receipt by the Board of the Owner's request therefor. If the Board fails to hold such a meeting within thirty (30) days after receipt of request for such meeting, then the plans and specifications shall be deemed disapproved. The decision of the ARC, or if appealed, the Board of Association, shall be final and binding upon the applicant, its heirs, legal representatives, successors and assigns.

Section 7. Duration of Approval. Any approval of plans, specifications and other materials, whether by the ARC or by the Declarant or the Board of Directors of the Association following appeal as provided in these Articles, shall be effective for a period of one (1) year from the effective date of such approval. If construction or installation of the building, structure or other improvement for which plans, specifications and other materials have been approved, has not commenced within said one (1) year period, such approval shall expire, and no construction shall thereafter commence without a resubmission and approval of the plans, specifications and other materials previously approved. The prior approval shall not be binding upon the ARC on resubmission in any respect.

Section 8. Interior Alterations Exempt. Nothing contained in this Article shall be construed so as to require the submission to or approval of the ARC of any plans, specifications or other materials for the reconstruction or alteration of the interior of any building, structure or other improvement constructed on Properties or Common Area after having been previously approved by the ARC, unless any proposed interior construction or alteration will have the effect of changing or altering the exterior appearance of such building, structure or other improvement visible from the exterior of the Home.

Section 9. Declarant Exempt. The Declarant shall be exempt from compliance with the provisions of this Article.

**Section 10. Exculpation for Approval or Disapproval of Plans.** The Declarant, any and all members of the ARC and any and all officers, directors, employees, agents and members of the Association, shall not, either jointly or severally, be liable or accountable in damages or otherwise to any Owner or other person or party whomsoever or whatsoever by reason or on account of any decision, approval or disapproval of any plans, specifications or other materials required to be submitted for review and approval pursuant to the provisions of this Article, or for any mistake in judgment, negligence, misfeasance or nonfeasance related to or in connection with any such decision, approval or disapproval. Each person who shall submit plans, specifications or other materials to the ARC for consent or approval pursuant to the provisions of this Article, by the submission thereof, and each Owner by acquiring title to any Home or any interest therein, shall be deemed to have agreed that he or she or it shall not be entitled to and shall not bring any action, proceeding or suit against the Declarant, the ARC, the Association nor any individual member, officer, director, employee or agent of any of them for the purpose of recovering any such damages or other relief on account of any such decision, approval or disapproval. Additionally, plans, specifications and other materials submitted to and approved by the ARC, or by Declarant or Board of Directors of the Association on appeal, shall be reviewed and approved only as to their compliance with the provisions of this Declaration and their acceptability of design, style, materials, appearance and location in light of the standards for review and approval specified in this Declaration and the Design Review Manual, and shall not be reviewed or approved for their compliance with any applicable Governmental Regulations, including, without limitation, any applicable building or zoning laws, ordinances, rules or regulations. By the approval of any such plans, specifications or materials, neither the Declarant, the ARC, the Association, nor any individual member, officer, director, employee or agent of any of them, shall assume or incur any liability or responsibility whatsoever for any violation of Governmental Regulations or any defect in the design or construction of any building, structure or other improvement, constructed, erected, placed or installed pursuant to or in accordance with any such plans, specifications or other materials approved pursuant to this Article.

## **ARTICLES VIII LAND USE PLAN**

**Section 1. PUD Master Plan of Development.** The Declarant has on file at its business office, presently located at 1930 SW 38th Ave, Ocala, Florida 34474 and on file with Marion County Planning and Zoning Department, a copy of the land use plan of development (the "PUD Master Plan") for the land which is subject to this Declaration, showing a general indication of the size and location of developments; the approximate size and location of Common Area; and the general nature of any proposed Common Area facilities and improvements. Such PUD Master Plan shall not bind the Declarant to make any such Common Areas or adhere to the PUD Master Plan. Such PUD Master Plan may be amended or modified by the Declarant, in whole or in part, at any time, or discontinued. As used herein, the term "PUD Master Plan" shall mean such general plan of development together with any amendments or modifications thereof hereafter made. WITHOUT LIMITING THE FOREGOING, DECLARANT MAY PRESENT TO THE PUBLIC OR TO OWNERS RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS RESPECTING STONE CREEK. SUCH RENDERINGS, PLANS, MODELS, GRAPHICS, TOPOGRAPHICAL TABLES, SALES BROCHURES, OR OTHER PAPERS ARE NOT A GUARANTEE OF HOW STONE CREEK WILL APPEAR UPON COMPLETION AND DECLARANT RESERVES THE RIGHT TO CHANGE ANY AND ALL OF THE FOREGOING AT ANY TIME AS DECLARANT DEEMS NECESSARY IN ITS SOLE AND ABSOLUTE DISCRETION.

**Section 2. Deed Restrictions.** In addition to this Declaration, the Declarant may record for parts of the Properties additional deed restrictions applicable thereto either by master instrument or individually recorded instruments. Such deed restrictions may vary as to different parts of the Properties in accordance with the Declarant's development plan and the location, topography and intended use of the land made subject thereto. At the discretion of the Declarant and to the extent that part of the Properties is made subject to such additional deed restrictions, such land shall be subject to additional deed restrictions and this Declaration. The Association shall have the duty and power to enforce such

deed restrictions if expressly provided for therein, and to exercise any authority granted to it by them. Nothing contained in this Declaration shall require the Declarant to impose uniform deed restrictions or to impose additional deed restrictions of any kind on all or any part of the Properties.

Section 3. Withdrawal. Anything herein to the contrary notwithstanding, the Declarant reserves the absolute right to amend this Declaration at any time, without prior notice and without the consent of any person or entity, for the purpose of removing certain portions of the Properties from the provisions of this Declaration; provided, that, the Declarant holds title to such portion of the Properties. The Association shall have no right to withdraw land from the Properties.

Section 4. Annexation.

(a) Additions to Properties and PUD Master Plan

(1) Additions to the Properties. Additional land may be brought within the jurisdiction and control of the Association in the manner specified in this Section 4 and made subject to all the terms of this Declaration as if part of the Properties initially included within the terms hereof. Notwithstanding the foregoing, however, under no circumstances shall the Declarant be required to make such additions, and until such time as such additions are made to the Properties in the manner hereinafter set forth, no other real property owned by the Declarant or any other person or party whomsoever, other than the Properties, shall in any way be affected by or become subject to the Declaration. Any land which is added to the Properties as provided in this Article shall be developed only for use as designated on the PUD Master Plan, subject to Declarant's rights to modify. All additional land which pursuant to this Article is brought within the jurisdiction and control of the Association and made subject to the Declaration shall thereupon and thereafter be included within the term "Properties" as used in this Declaration. Notwithstanding anything contained in this Section and in said PUD Master Plan, the Declarant neither commits to, nor warrants or represents, that any such additional development shall occur.

(2) PUD Master Plan of Development. The Declarant has heretofore submitted to the Marion County Planning and Zoning Department a plan of development (the "PUD Master Plan") for the land which may become subject to this Declaration, showing a general indication of the size and location of additional developments which may be added in subsequent stages and proposed land uses in each; the approximate size and location of Common Area for each stage; and the general nature of any proposed Common Area facilities and improvements. Such PUD Master Plan shall not bind the Declarant to make any such additions or adhere to the PUD Master Plan. Such PUD Master Plan may be amended or modified by the Declarant, in whole or in part, at any time, or discontinued.

(b) Procedure for Making Additions to the Properties. Additions to the Properties may be made, and thereby become subject to this Declaration by, and only by, one of the following procedures;

(1) Additions in Accordance with a PUD Master Plan of Development. The Declarant shall have the right from time to time in its discretion and without need for consent or approval by either the Association or its members, to bring within the jurisdiction and control of the Association and make subject to the scheme of this Declaration additional land, provided that such additions are in accordance with the PUD Master Plan or any amendments or modifications thereof.

(2) Mergers. Upon a merger or consolidation of the Association with another non-profit corporation as provided in its Articles, its property (whether real, personal or mixed), rights and obligations may, by operation of law, be transferred to the surviving or consolidated corporation or, alternatively, the property, rights and obligations of the other non-profit corporation may, by operation of law, be added to the property, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and

restrictions established by this Declaration within the Properties together with the covenants and restrictions established upon any other land as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration within the Properties. No such merger or consolidation shall be effective unless approved by (i) a majority of the Board; and (ii) sixty-six and two thirds (66 2/3%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present.

(c) General Provisions Regarding Additions to the Properties.

(1) The additions authorized under Section b(1) of this Article shall be made by the Declarant filing of record a Supplement to this Declaration with respect to the additional land extending the scheme of the covenants and restrictions of this Declaration to such land. Such Supplement need only be executed by the Declarant and shall not require the joinder or consent of the Association or its members. Such Supplement may contain such complimentary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land or permitted use thereof. In no event, however, shall such Supplement revoke, modify or add to the covenants established by this Declaration as such affect the land described on the attached **Exhibit "A"** unless such revocations, modifications or additions are added by a Supplement including a written joinder of the Association approved by (i) a majority of the Board; and (ii) sixty-six and two thirds (66 2/3%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present.

(2) Regardless of which of the foregoing methods is used to add additional land to that subject to the terms and provision of this Declaration, no addition shall revoke or diminish the rights of the Owners of the Properties to the utilization of the Common Area as established hereunder except to grant to the Owners of the lands being added to the Properties the right to use the Common Area according to the terms and conditions as established hereunder, and the right to vote and be assessed as hereinafter provided.

(3) Nothing contained in this Article shall obligate the Declarant to make any additions to the Properties.

(d) Voting Rights of the Declarant as to Additions to the Properties. The Declarant shall have no voting rights as to the lands it proposes to add to the Properties until such land or portion thereof is actually added to the Properties in accordance with the provisions of this Article. Upon such land or portion thereof being added to the Properties, the Declarant shall have the Class D voting rights as to the Homes thereof as provided in Article IV, Section 2.

(e) Assessment Obligation of the Declarant as to Additions to the Properties. The Declarant shall have no assessment obligation as to the land it proposes to add to the Properties until such land or portion thereof is actually added to the Properties in accordance with the provisions of this Article. At such time, the Declarant shall have the assessment obligation with regard to Homes which it owns, upon the same terms and conditions as contained in this Declaration.

**Section 5. Expansion or Modification of Common Areas.** Additions or modifications to the Common Area may be made if not inconsistent with the PUD Master Plan and any amendments thereto. Neither the Declarant nor its successors or assigns, shall be obligated, however, to make any additions or modifications. Declarant further reserves the right to change the configuration or legal description of the Common Areas due to changes in development plans.

**ARTICLE IX**  
**SPECIAL PROVISIONS TO COMPLY**  
**WITH REQUIREMENTS OF**  
**HUD, FHA, VA, FNMA, GNMA**

Section 1. Information. The Association shall make available to all Owners and to lenders, holders, insurers or guarantors of any first mortgage encumbering a Home, upon reasonable notice and for a reasonable charge not to exceed the cost of photocopying, current copies of this Declaration, the Articles and Bylaws, and any Rules and Regulations in force from time to time, and/or the most recent audited annual financial statement of the Association. Copies of any of the foregoing, and the books and records of the Association shall be available for inspection, upon request, during normal business hours.

Section 2. Contracts. The Association shall not be bound to contracts or leases prior to transfer of control by Declarant to other Owners, unless there is a right of termination, without cause, exercisable by the Association, without penalty, after transfer of control by the Declarant, and upon not more than ninety (90) days' notice to the other party to such contract or lease.

Section 3. Reserves. The Association may establish and maintain, out of assessments, adequate reserve funds for periodic maintenance, repair and replacement of improvements to the Common Areas and other portions of the Property which the Association is obligated to maintain.

Section 4. Lender's Notices. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Home number or address, any mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the project or the Home encumbered by its mortgage.
- (b) Any sixty (60) days delinquency in the payment of assessments or charges owed by the Owner of the Home encumbered by its mortgage.
- (c) Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of a specified percentage of mortgage holders.

Section 5. Fidelity Bonds. All officers of the Association dealing with funds of the Association, and such other officers as the Board of Directors may designate from time to time, may be provided with fidelity bond coverage at the expense and for the benefit of the Association.

Section 6. Compliance with HUD, FHA, VA, FNMA, GNMA. Notwithstanding any provision of this Article to the contrary, so long as Declarant owns a Home within the Properties, the Declarant shall have the right to amend this Declaration, from time to time, to make such changes, modifications and additions therein and thereto as may be requested or required by HUD, FHA, VA, FNMA, GNMA, or any other governmental agency or body as a condition to, or in connection with such agency's or body's agreement to make, purchase, accept, insure, guaranty or otherwise approve loans secured by mortgages on Homes or any other amendment which Declarant deems necessary provided such amendment does not destroy or substantially alter the PUD Master Plan or scheme of development of the Properties. Any such amendment shall be executed by the Declarant and shall be effective upon its recording in the Public Records of Marion County, Florida. No approval or joinder of the Association, other Owners, or any other party shall be required or necessary to such amendment.

## ARTICLE X

### GENERAL PROVISIONS

**Section 1. Duration.** The covenants, conditions and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded in the Public Records of Marion County, Florida, after which time the covenants, conditions and restrictions contained in this Declaration shall be automatically extended for successive periods of ten (10) years unless prior to the end of such twenty five (25) year period, or each successive ten (10) year period, an instrument signed by the then Owners of eighty percent (80%) of the Homes agreeing to terminate the covenants, conditions and restrictions at the end of such twenty-five (25) year or ten (10) year period has been recorded in the Public Records of Marion County, Florida. Provided, however, that no such agreement to terminate the covenants, conditions and restrictions shall be effective unless made and recorded at least ninety (90) days in advance of the effective date of such change. This Section may not be amended.

**Section 2. Enforcement.** The Association, the Declarant and any Owner, shall each have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration or as may be expressly authorized by deed restrictions as described in Section 1 of this Article. Failure of the Association, Declarant, or any Owner to enforce any covenant or restriction herein or therein contained shall in no event be deemed a waiver of the right to do so thereafter. If a person or party is found in the proceedings to be in violation of or attempting to violate the provisions of this Declaration or such deed restrictions, he or she shall bear all expenses of the litigation, including court costs and reasonable attorneys' fees, including those on appeal, incurred by the party enforcing them. Declarant and Association shall not be obligated to enforce this Declaration or such deed restrictions and shall not in any way or manner be held liable or responsible for any violation of this Declaration or such deed restrictions by any person other than itself.

**Section 3. Severability.** Invalidation of any one of these covenants or restrictions by law, judgment or court order shall in no way effect any other provisions of this Declaration and such other provisions shall remain in full force and effect.

**Section 4. Amendments.** This Declaration may be amended from time to time as provided in this Section.

(a) **General Restrictions on Amendments.** Notwithstanding anything herein to the contrary, so long as the Declarant, or its assigns, shall own any Home no amendment shall diminish, discontinue or in any way adversely affect the rights of the Declarant under this Declaration. Prior to Turnover, no amendment shall be valid unless approved by the Declarant, as evidenced by its written joinder. Any amendment to this Declaration which would affect any SWMS located within the Properties shall have the prior approval of SWFWMD; such approval need not be recorded. No amendment shall be effective unless it is recorded in the Marion County Public Records.

(b) **Amendments Prior to Turnover.** Prior to Turnover, the Declarant shall have the right to amend this Declaration as it deems appropriate, without the joinder or consent of any person or entity whatsoever, provided, that such amendment does not destroy or substantially alter the PUD Master Plan or scheme of development of the Properties. In the event that the Association shall desire to amend this Declaration prior to Turnover, the Association must first obtain the Declarant's prior written consent to any proposed amendment.

(c) Amendments After Turnover. After Turnover, but subject to the general restrictions set forth herein, this Declaration may be amended with the approval of (i) a majority of the Board; and (ii) seventy-five (75%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which a quorum is present.

Section 5. Notice. Any notice required to be sent to any Owner under the provisions of this instrument shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of said Owner.

Section 6. Assignments. Declarant shall have the sole and exclusive right at any time and from time to time to transfer and assign to, and to withdraw from such person, firm, or corporation as it shall select, any or all rights, powers, easements, privileges, authorities, and reservations given to or reserved by Declarant by any part or paragraph of this Declaration or under the provisions of the Plat. If at any time hereafter there shall be no person, firm, or corporation entitled to exercise the rights, powers, easements, privileges, authorities, and reservations given to or reserved by Declarant under the provisions hereof, the same shall be vested in and exercised by a committee to be elected or appointed by the Owners of a majority of Homes. Nothing herein contained, however, shall be construed as conferring any rights, powers, easements, privileges, authorities or reservations in said committee, except in the event aforesaid.

Section 7. Approvals. Wherever in the covenants the consent or approval of Declarant is required to be obtained, no action requiring such consent or approval shall be commenced or undertaken until after a request in writing seeking the same has been submitted to and approved in writing by Declarant. In the event Declarant fails to act on any such written request within thirty (30) days after the same has been received by Declarant as required above, the consent or approval of Declarant to the particular action sought in such written request shall be conclusively and irrefutably presumed. However, no action shall be taken by or on behalf of the person or persons submitting such written request which violates any of the covenants herein contained.

Section 8. Mediation/Arbitration of Disputes. Notwithstanding anything to the contrary contained in this Declaration, all disputes and other matters (except as set forth herein) between or among the Declarant, the Association, the Board of Directors, any committee of the Association, any officer, director, partner, member, shareholder, employee, agent or other representative of any of the foregoing and any Owner(s) (all of whom shall collectively be deemed to be intended beneficiaries of this Section), shall be submitted first to mediation and, if not settled during mediation, then to final, binding arbitration, all in accordance with the provisions hereinafter set forth in this Section, and such disputes and other matters shall not be decided by a court of law. The disputes and other matters which are subject to mediation and/or arbitration under this Section include, without limitation, the following: (a) those arising under the provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association; (b) those regarding any of the Rules and Regulations, design guidelines, resolutions, decisions, or rulings of the Association, the Board of Directors, or any of the Association's committees; (c) any and all controversies, disputes or claims between any of the intended beneficiaries of this Section, regardless of how the same might have arisen or on what it might be based; and (d) any statements, representations, promises, warranties, or other communications made by or on behalf of any of the intended beneficiaries of this Section.

The mediation shall be conducted before the American Arbitration Association ("AAA") in accordance with AAA's Commercial or Construction Industry Mediation Rules. If the dispute or other matter is not fully resolved by mediation, then the same shall be submitted to binding arbitration before AAA in accordance with their Commercial or Construction Industry Arbitration Rules, and any judgment upon the award rendered by the arbitrator(s) may be entered in and enforced by any court having jurisdiction over such dispute or other matter. The arbitrator(s) appointed to decide each such dispute shall have expertise in the area(s) of dispute, which may include legal expertise if legal issues may be involved. Unless otherwise provided by law, the costs of mediation and arbitration shall be borne equally

by the parties involved. Each party shall pay its respective attorneys' fees, costs and expenses, including those incurred in mediation, arbitration, or other matters. All decisions regarding whether a dispute or other matter is subject to arbitration shall be decided by the arbitrator.

Notwithstanding the foregoing, the following actions shall not be subject to this Section: (a) actions relating to the collection of fees, assessments, fines and other charges imposed or levied by the Association, the Board of Directors or any of the Association's committees; and (b) actions by the Association to obtain an injunction to compel the compliance with, or enjoin the violation of, the provisions of this Declaration, the Articles of Incorporation or Bylaws of the Association, and all Rules and Regulations, design guidelines, resolutions, decisions, or rulings of the Association, the Board of Directors, or any of the Association's committees.

Section 9. Warranties. Declarant makes no warranties, express or implied, as to the improvements located in, on or under the Common Area. Each Owner of a Home, other than Declarant, by acceptance of a deed or other conveyance thereto, whether or not it shall be so expressed in such deed or conveyance, is deemed to acknowledge and agree that there are no warranties of merchantability, fitness or otherwise, either express or implied, made or given, with respect to the improvements in, on or under the Common Area, all such warranties being specifically excluded.

Section 10. Authority of the Board. Except when a vote of the Voting Interests is specifically required, all decisions, duties and obligations of the Association hereunder may be made by the Board, and the Association and the Owners shall be bound thereby.

Section 11. Sales and Administrative Offices. Declarant shall have the perpetual right to take such action reasonably necessary to transact any business necessary to consummate the development of STONE CREEK and sales and re-sales of Homes and/or other properties owned by Declarant or others outside of STONE CREEK. This right shall include, but not be limited to, the right to maintain models, sales offices and parking associated therewith, have signs on any portion of STONE CREEK, including Common Areas, employees in the models and offices without the payment of rent or any other fee, maintain offices in models and use of the Common Areas to show Homes; provided, further, without the payment of rent and without payment of utilities or any cost or expense, the Declarant shall have the right to maintain leasing and/or sales offices (for sales and resales of Lots or Homes) and general offices within the Recreational Amenities, including without limitation, displays, counters, meeting rooms, and facilities for the sales and re-sales of Homes; It is the express intention of this Section that the rights granted Declarant to maintain a sales and information center in the Recreational Amenities shall not be restricted or limited to Declarant's sales activity relating to the Properties, but shall benefit Declarant in the construction, development and sale of such other property, parcels, lots, dwellings or units which Declarant may own. The sales office and signs and all items pertaining to development and sales remain the property of Declarant. Declarant shall have all of the foregoing rights without charge or expense. The rights reserved hereunder shall extend beyond the Turnover.

Section 12. Modification. The development and marketing of STONE CREEK will continue as deemed appropriate in Declarant's sole discretion, and nothing in this Declaration, or otherwise, shall be construed to limit or restrict such development and marketing. It may be necessary or convenient for the development of STONE CREEK to, as an example and not a limitation, amend the PUD Master Plan, modify the boundary lines of the Common Areas, grant easements, dedications, agreements, licenses, restrictions, reservations, covenants, rights-of-way, and to take such other actions which Declarant, or its agents, affiliates, or assignees may deem necessary or appropriate. Association and Owners shall, at the request of Declarant, execute and deliver any and all documents and instruments which Declarant deems necessary or convenient, in its sole and absolute discretion, to accomplish the same.

Section 13. Promotional Events. Prior to Turnover, Declarant shall have the right, at any time, to hold marketing, special and/or promotional events within STONE CREEK and/or on the Common Areas, without any charge for use. Declarant, its agents, affiliates, or assignees shall have the right to



market STONE CREEK and Homes in advertisements and other media by making reference to STONE CREEK, including, but not limited to, pictures or drawings of STONE CREEK, Common Areas, Parcels and Homes constructed in STONE CREEK. All logos, trademarks, and designs used in connection with STONE CREEK are the property of Declarant, and Association shall have no right to use the same except with the express written permission of Declarant.

Section 14. Additional Development. If Declarant withdraws portions of STONE CREEK from the operation of this Declaration, Declarant may, but is not required to, subject to governmental approvals, create other forms of residential property ownership or other improvements of any nature on the property not subjected to or withdrawn from the operation of this Declaration. Declarant shall not be liable or responsible to any person or entity on account of its decision to do so or to provide, or fail to provide, the amenities and/or facilities which were originally planned to be included in such areas. If so designated by Declarant, owners or tenants of such other forms of housing or improvements upon their creation may share in the use of all or some of the Common Areas and other facilities and/or roadways which remain subject to this Declaration. The expense of the operation of such facilities shall be allocated to the various users thereof, if at all, as determined by Declarant.

Section 15. Representations. Declarant makes no representations concerning development both within and outside the boundaries of STONE CREEK including, but not limited to, the number, design, boundaries, configuration and arrangements, prices of all Parcels or Homes and buildings in all other proposed forms of ownership and/or other improvements on STONE CREEK or adjacent to or near STONE CREEK, including, but not limited to, the size, location, configuration, elevations, design, building materials, height, view, airspace, number of Homes, number of buildings, location of easements, parking and landscaped areas, services and amenities offered.

Section 16. Reliance. BEFORE ACCEPTING A DEED TO A HOME, EACH OWNER HAS AN OBLIGATION TO RETAIN AN ATTORNEY IN ORDER TO CONFIRM THE VALIDITY OF THIS DECLARATION. BY ACCEPTANCE OF A DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE OR SHE HAS SOUGHT AND RECEIVED SUCH AN OPINION OR HAS MADE AN AFFIRMATIVE DECISION NOT TO SEEK SUCH AN OPINION. DECLARANT IS RELYING ON EACH OWNER CONFIRMING IN ADVANCE OF ACQUIRING A HOME THAT THIS DECLARATION IS VALID, FAIR AND ENFORCEABLE. SUCH RELIANCE IS DETRIMENTAL TO DECLARANT ACCORDINGLY, AN ESTOPPEL AND WAIVER EXISTS PROHIBITING EACH OWNER FROM TAKING THE POSITION THAT ANY PROVISION OF THIS DECLARATION IS INVALID IN ANY RESPECT. AS A FURTHER MATERIAL INDUCEMENT FOR DECLARANT TO SUBJECT STONE CREEK TO THIS DECLARATION, EACH OWNER DOES HEREBY RELEASE, WAIVE, DISCHARGE, COVENANT NOT TO SUE, ACQUIT, SATISFY AND FOREVER DISCHARGE DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS AND ITS AFFILIATES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, COUNTERCLAIMS, DEFENSES, ACTIONS, CAUSES OF ACTION, SUITS, CONTROVERSIES, AGREEMENTS, PROMISES AND DEMANDS WHATSOEVER IN LAW OR IN EQUITY WHICH AN OWNER MAY HAVE IN THE FUTURE, OR WHICH ANY PERSONAL REPRESENTATIVE, SUCCESSOR, HEIR OR ASSIGN OF OWNER HEREAFTER CAN, SHALL OR MAY HAVE AGAINST DECLARANT, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, AND ITS AFFILIATES AND ASSIGNS, FOR, UPON OR BY REASON OF ANY MATTER, CAUSE OR THING WHATSOEVER RESPECTING THIS DECLARATION, OR THE EXHIBITS HERETO. THIS RELEASE AND WAIVER IS INTENDED TO BE AS BROAD AND INCLUSIVE AS PERMITTED BY THE LAWS OF THE STATE OF FLORIDA.

Section 17. Construction Activities. ALL OWNERS, OCCUPANTS AND USERS OF STONE CREEK ARE HEREBY PLACED ON NOTICE THAT (1) DECLARANT AND/OR ITS AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES AND/OR (2) ANY OTHER PARTIES WILL BE, FROM TIME TO TIME, CONDUCTING CONSTRUCTION ACTIVITIES, BLASTING, EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO STONE CREEK. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR

MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF STONE CREEK, EACH SUCH OWNER, OCCUPANT AND USER AUTOMATICALLY ACKNOWLEDGES, STIPULATES AND AGREES (i) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (ii) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO STONE CREEK WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (iii) DECLARANT AND THE OTHER AFORESAID RELATED PARTIES SHALL NOT BE LIABLE FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, EXCEPT RESULTING DIRECTLY FROM DECLARANT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, AND (iv) ANY PURCHASE OR USE OF ANY PORTION OF STONE CREEK HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING.

Section 18. Sales by Declarant. Notwithstanding the restriction set forth in Article XIII, Declarant reserves the right to sell Lots for Occupancy to Persons between fifty (50) and fifty-five (55) years of age; provided, such sales shall not affect STONE CREEK's compliance with all applicable State and Federal laws under which STONE CREEK may be developed and operated as an age-restricted community.

Section 19. Warranties. NO REPRESENTATIONS OR WARRANTIES. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT, OR ITS OR THEIR AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE COMMON AREAS, INCLUDING THE RECREATIONAL AMENITIES, THEIR PHYSICAL CONDITION, ZONING, COMPLIANCE WITH APPLICABLE LAWS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE PROPERTY, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION OR IN DOCUMENTS WHICH MAY BE FILED BY DECLARANT FROM TIME TO TIME WITH APPLICABLE REGULATORY AGENCIES, AND (B) AS OTHERWISE REQUIRED BY LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH OWNER RECOGNIZES AND AGREES THAT IN A STRUCTURE THE SIZE OF THAT ON THE PROPERTIES, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. ACCORDINGLY, INSTALLATION OF FINISHES MUST TAKE SAME INTO ACCOUNT. FURTHER, EACH OWNER RECOGNIZES AND AGREES THAT THE EXTERIOR LIGHTING SCHEME FOR THE BUILDING MAY CAUSE EXCESSIVE ILLUMINATION. ACCORDINGLY, INSTALLATION OF WINDOW TREATMENTS SHOULD TAKE SAME INTO ACCOUNT. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, HURRICANES AND FLOODING HAVE OCCURRED IN FLORIDA AND THE PROPERTIES ARE EXPOSED TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN. WATER OR OTHER DAMAGES FROM THIS OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF THE DECLARANT OR ANY OTHER PARTY. TO THE MAXIMUM EXTENT LAWFUL DECLARANT HEREBY DISCLAIMS ANY AND ALL AND EACH AND EVERY EXPRESS OR IMPLIED WARRANTIES, WHETHER ESTABLISHED BY STATUTORY, COMMON, CASE LAW OR OTHERWISE, AS TO THE DESIGN, CONSTRUCTION, SOUND AND/OR ODOR TRANSMISSION, EXISTENCE AND/OR DEVELOPMENT OF MOLDS, MILDEW, TOXINS OR FUNGI, FURNISHING AND EQUIPPING OF THE PROPERTIES, COMMON AREAS AND/OR RECREATIONAL AMENITIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, COMPLIANCE WITH PLANS, ALL WARRANTIES IMPOSED BY STATUTE AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND OR CHARACTER. AS TO SUCH WARRANTIES WHICH CANNOT BE DISCLAIMED, AND TO OTHER

CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE HEREBY DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE LOTS WHETHER FROM THE DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES. FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN THE LOTS, HOMES AND/OR OTHER PORTIONS OF THE PROPERTIES. EACH OWNER IS HEREBY ADVISED THAT CERTAIN MOLDS, MILDEW, TOXINS AND/OR FUNGI MAY BE, OR IF ALLOWED TO REMAIN FOR A SUFFICIENT PERIOD MAY BECOME, TOXIC AND POTENTIALLY POSE A HEALTH RISK. BY ACQUIRING TITLE TO A HOME EACH OWNER SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED THE DECLARANT FROM ANY AND ALL LIABILITY RESULTING FROM SAME.

Section 20. Title Documents. Each Owner by acceptance of a deed to a Home acknowledges that such Home is subject to certain land use and title documents and all amendments thereto, recorded in the Public Records of Marion County, including without limitation the documents listed below (collectively, the "Title Documents"). Declarant's plan of development for STONE CREEK may necessitate from time to time the further amendment, modification and/or termination of the Title Documents. DECLARANT RESERVES THE UNCONDITIONAL RIGHT TO SEEK AMENDMENTS AND MODIFICATIONS OF THE TITLE DOCUMENTS. It is possible that a governmental subdivision or agency may require the execution of one or more documents in connection with an amendment, modification, and/or termination of the Title Documents. To the extent that such documents require the joinder of Owners other than Declarant, Declarant, by any one of its duly authorized officers, may, as the agent and/or the attorney-in-fact for the Owners, execute, acknowledge and deliver any documents required by applicable governmental subdivision or agency; and the Owners, by virtue of their acceptance of deeds, irrevocably nominate, constitute and appoint Declarant, through any one of its duly authorized officers, as their proper and legal attorney-in-fact for such purpose. This appointment is coupled with an interest and is therefore irrevocable. Any such documents executed pursuant to this Section may recite that it is made pursuant to this Section. Notwithstanding the foregoing, each Owner agrees, by its acceptance of a deed to a Home: (i) to execute or otherwise join in any documents required in connection with the amendment, modification, or termination of the Title Documents; and (ii) that such Owner has waived its right to object to or comment the form or substance of any amendment, modification, or termination of the Title Documents. Without limiting the foregoing, upon Turnover, to the extent not inconsistent with the terms of the Title Documents, the Association shall assume all of the obligations of Declarant under the Title Documents unless otherwise provided by Declarant by amendment to this Declaration recorded by Declarant in the Public Records of Marion County, from time to time, and in the sole and absolute discretion of Declarant. The Title Documents included, without limitation, the following:

(a) The Master Declaration of Covenants, Conditions and Restrictions for Circle Square Ranch recorded in OR Book 03730, Page 0849--932 of the Public Records of Marion County as amended from time to time.

(b) The Assignment of Development Rights recorded in OR Book 04194, Page 1743 of the Public Records of Marion County.

(c) The Supplemental Agreement Regarding Declarations and Associations recorded in OR Book 04194, Page 1708 of the Public Records of Marion County.

(d) The Private Specific Utility Easement Agreement recorded in OR Book 4194, Page 1374 of the Public Records of Marion County.

(f) Supplemental Declaration of Covenants, Conditions and Restrictions for Stone Creek recorded in OR Book 04194, Page 1708 of the Public Records of Marion County.

## ARTICLE XI

### EXCLUSIVE COMMON AREAS AND LIMITED COMMON AREAS

#### Section 1. Exclusive Common Areas.

(a) Purpose. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include entry features, entry gates, private roads in gated neighborhood, Recreational Amenities, landscaped areas and cul-de-sacs, lakes and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Exclusive Common Areas are assigned.

(b) Designation. Initially, any Exclusive Common Area shall be designated as such in the deed conveying such area to the Association in a supplemental declaration or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Homes, and/or Neighborhoods, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Article VIII.

(c) Use by Others. The Association may permit Owners of Homes in other Neighborhoods to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Exclusive Common Area.

#### Section 2. Limited Common Areas.

(a) Purpose. Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of one or more Owners; provided that, such Owners reside in a Home to which the Limited Common Area is appurtenant. By way of illustration and not limitation Limited Common Areas may include sidewalks, driveways, and landscaped areas. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be assessed as an Individual Assessment only against the Owners identified by as provided above as being authorized and entitled to utilize and realize the benefits of the Limited Common Area.

(b) Designation. The designation of Limited Common Area may be made pursuant to this Declaration, a supplement or in the deed of conveyance, or upon the plat, or pursuant to any other written instrument recorded in the Public Records of Marion County. Upon such designation of the Limited Common Area, the Owners identified by Declarant as being authorized and entitled to utilize and realize the benefits of such Limited Common Area (and all rights and interests pertaining thereto) shall have the rights to do so as are provided in this Declaration with respect to Common Area. Declarant hereby reserves to itself the right, in its sole and absolute discretion, and without notice to or the approval of any party or person whomsoever or whatsoever, including any Owner, to designate or identify, from time to time, additional Owners as being authorized and entitled to utilize and realize the benefits of any Limited Common Area designated pursuant to this Section.

(c) Maintenance. The Association shall have responsibility for the management and control of Limited Common Area pursuant to and consistent with, its powers and duties established in this Declaration. All costs of the Association with respect to the Limited Common Area shall be assessed as an Individual Assessment only against the Owners identified by as provided above as being authorized

and entitled to utilize and realize the benefits of the Limited Common Area. Additionally, any matter arising under this Declaration and pertaining to the Limited Common Area and requiring a vote of members of the Association, shall be decided by a vote of only those members that have been identified herein as being authorized and entitled to utilize and realize the benefits of the Limited Common Area.

## **ARTICLE XII**

### **DECLARANT AND ASSOCIATION LIABILITY**

NEITHER DECLARANT, NOR THE ASSOCIATION SHALL HAVE ANY LIABILITY WHATSOEVER TO OWNERS, GUESTS, TENANTS, OR INVITEES IN CONNECTION WITH THE RETENTION AND DETENTION LAKES AND DRAINAGE EASEMENTS OR ANY PART OF THE STORMWATER MANAGEMENT SYSTEM LOCATED ON THE PROPERTIES. EACH OWNER, FOR ITSELF AND ITS GUESTS, TENANTS, AND INVITEES, RELEASES DECLARANT AND THE ASSOCIATION FROM ANY LIABILITY IN CONNECTION THEREWITH.

NEITHER DECLARANT, NOR THE ASSOCIATION, NOR ANY OF THEIR SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUBCONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY LAKE, POND, RETENTION AND DETENTION AREA, CANAL, CREEK, MARSH AREA, STREAM OR OTHER WATER BODY WITHIN OR ADJACENT TO THE PROPERTIES, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR ENTITY AS REFERENCED HEREIN. FURTHER, ALL OWNERS AND USERS OF ANY PORTION OF THE PROPERTIES LOCATED ADJACENT TO OR HAVING A VIEW OF ANY OF THE AFORESAID AREAS SHALL BE DEEMED, BY VIRTUE OF THEIR ACCEPTANCE OF A DEED TO, OR THE USE OF, SUCH PROPERTY, TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY RELATED TO ANY CHANGES IN THE QUALITY AND LEVEL OF THE WATER IN SUCH BODIES.

ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME ALLIGATORS AND OTHER WILDLIFE MAY INHABIT OR ENTER INTO WATER BODIES CONTAINED WITHIN OR ADJACENT TO THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTIES, BUT THAT THE LISTED PARTIES ARE UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

ALL PERSONS ARE HEREBY NOTIFIED THAT LAKE BANKS AND SLOPES WITHIN CERTAIN AREAS OF THE PROPERTIES MAY BE STEEP AND THAT DEPTHS NEAR SHORE MAY DROP OFF SHARPLY. BY THEIR ACCEPTANCE OF A DEED TO, OR USE OF, ANY LOT WITHIN THE PROPERTIES, ALL OWNERS OR USERS OF SUCH PROPERTIES SHALL BE DEEMED TO HAVE AGREED TO HOLD HARMLESS THE LISTED PARTIES FROM ALL LIABILITY OR DAMAGES ARISING FROM THE DESIGN, CONSTRUCTION, OR TOPOGRAPHY OF ANY LAKE BANKS, SLOPES OR BOTTOMS.

## ARTICLE XIII

### USE RESTRICTIONS

The following Use Restrictions shall apply to all Homes within STONE CREEK; provided, however, Neighborhoods may be subject to more restrictive use restrictions as adopted by the Board of Directors or additional deed restrictions applicable thereto either by master instrument or individually recorded instruments. Each Owner must comply with the following:

Section 1. Alterations and Additions. No material alteration, addition or modification to a Home, or material change in the appearance thereof, shall be made without the prior written approval thereof being first had and obtained from the ARC as required by this Declaration.

Section 2. Cars and Trucks.

(a) Parking. Owners' automobiles shall be parked in the garage, driveway, or parking lot, as appropriate, and shall not block the sidewalk. No vehicles of any nature shall be parked on any portion of STONE CREEK except on the surfaced parking area thereof. No vehicles used in business for the purpose of transporting goods, equipment and the like, shall be parked in STONE CREEK except during the period of a delivery. Recreational vehicles, personal street vans, personal trucks of three-quarter (3/4) ton capacity or smaller, and personal vehicles that can be appropriately parked within standard size parking stalls may be parked in STONE CREEK.

(b) Repairs and Maintenance of Vehicles. No vehicle which cannot operate on its own power shall remain in STONE CREEK for more than twelve (12) hours, except in the garage of a Home. No repair or maintenance, except emergency repair, of vehicles shall be made within STONE CREEK, except in the garage of a Home. No vehicles shall be stored on blocks. No tarpaulin covers on vehicles shall be permitted anywhere within the public view.

(c) Prohibited Vehicles. No commercial vehicle, limousines, recreational vehicle, boat, trailer including, but not limited to, boat trailers, house trailers, and trailers of every other type, kind or description, or camper, may be kept within STONE CREEK except in the garage of a Home. The term commercial vehicle shall not be deemed to include law enforcement vehicles or recreational or utility vehicles (i.e., Broncos, Blazers, Explorers, Navigators, etc.) or clean "non-working" vehicles such as pick-up trucks, vans, or cars if they are used by the Owner on a daily basis for normal transportation. Notwithstanding any other provision in this Declaration to the contrary, the foregoing provisions shall not apply to construction vehicles in connection with the construction, improvement, installation, or repair by Declarant. No vehicles displaying commercial advertising shall be parked within the public view. No vehicles bearing a "for sale" sign shall be parked within the public view anywhere on STONE CREEK. For any Owner who drives an automobile issued by the County or other governmental entity (i.e., police cars), such automobile shall not be deemed to be a commercial vehicle and may be parked in the garage or driveway of the Home. No vehicle shall be used as a domicile or residence either temporarily or permanently.

(d) Towing. Subject to applicable laws and ordinances, any vehicle parked on in violation of these or other restrictions contained herein or in the Rules and Regulations may be towed by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle or if such a vehicle was cited for such violation within the preceding fourteen (14) day period. Each Owner by acceptance of title to a Home irrevocably grants the Association and its designated towing service the right to enter a Lot or limited common element of any condominium property, and tow vehicles in violation of this Declaration. Neither the Association nor the towing company shall be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing or removal and once the notice is posted, neither its removal, nor failure of the owner to receive it for any

other reason, shall be grounds for relief of any kind. For purposes of this paragraph, "vehicle" shall also mean campers, mobile homes, trailers, etc. By accepting title to a Home, the Owner provides to the Association the irrevocable right to tow or remove vehicles parked on the Owner's Lot, Common Area or limited common element of any condominium property which are in violation of this Declaration. An affidavit of the person posting the foresaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 3. Commercial Activity. Except for normal construction activity, sale, and re-sale of a Home, sale or re-sale of other property owned by Declarant, administrative offices of Declarant and operation of the Recreational Amenities, no commercial or business activity shall be conducted within STONE CREEK, including without limitation, within any Home. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a Home business office within a Home for such Owner's personal use; provided, however, business invitees customers, and clients shall not be permitted to meet with Owners in Homes unless the Board provides otherwise in the Rules and Regulations. No Owner may actively engage in any solicitations for commercial purposes within STONE CREEK. No solicitors of a commercial nature shall be allowed within STONE CREEK, without the prior written consent of Association. No day care center or facility may be operated out of a Home. No garage sales are permitted, except as permitted by Association.

Section 4. Completion and Sale of Homes. No person or entity shall interfere with the completion and sale of Homes within STONE CREEK. WITHOUT LIMITING THE FOREGOING, EACH OWNER, BY ACCEPTANCE OF A DEED, AGREES THAT ACTIONS OF OWNERS MAY IMPACT THE VALUE OF HOMES; THEREFORE EACH OWNER IS BENEFITED BY THE FOLLOWING RESTRICTIONS: PICKETING AND POSTING OF NEGATIVE SIGNS IS STRICTLY PROHIBITED IN ORDER TO PRESERVE THE VALUE OF THE HOMES IN STONE CREEK AND THE RESIDENTIAL ATMOSPHERE THEREOF.

Section 5. Cooking. No cooking shall be permitted nor shall any goods or beverages be consumed on the Common Areas except in areas designated for those purposes by the Association. The ARC shall have the right to prohibit or restrict the use of grills or barbecue facilities throughout STONE CREEK.

Section 6. Decorations. No decorative objects including, but not limited to, birdbaths, light fixtures, sculptures, statutes, weather vanes, or flagpoles shall be installed or placed within or upon any portion of STONE CREEK without the prior written approval of the ARC. Notwithstanding the foregoing, holiday lighting and decorations shall be permitted to be placed upon the exterior portions of the Home and upon the Lot in the manner permitted hereunder commencing on Thanksgiving and shall be removed not later than January 15th of the following year. The ARC may establish standards for holiday lights. The ARC may require the removal of any lighting that creates a nuisance (e.g., unacceptable spillover to adjacent Home).

Section 7. Disputes as to Use. If there is any dispute as to whether the use of any portion of STONE CREEK complies with this Declaration, such dispute shall, prior to Turnover, be decided by Declarant, and thereafter by Association. A determination rendered by such party with respect to such dispute shall be final and binding on all persons concerned.

Section 8. Fences, Walls and Hedges. Except as to fences, walls or hedges originally constructed or planted by Declarant, if any, no fences, walls or hedges of any nature may be erected, constructed or maintained upon any Lot without the prior written consent of the ARC; provided, further, that no fence, wall or hedge shall be erected or permitted on a Lot in any location thereon where Declarant has erected a privacy fence or monument and no fence shall be constructed on any property line which adjoins any portion of the Golf Course Areas. As to any fence, wall or hedge erected or maintained pursuant to this Section, such fence, wall or hedge may be constructed or maintained to a height not to exceed four feet (4'). Such fences shall only be made of black wrought iron material and

must be kept in good condition and repair. No fences shall be erected, constructed or placed in the front or side yards of any Lot. Any determination of what portion of a Lot constitutes the front or side yard shall be made by the Declarant, in the Declarant's sole discretion. No hedge shall be allowed to exceed the height of four feet (4') on any Lot. Hedges must be neatly trimmed. Hedges shall not be placed along the front property line or in the front yard except along a side property line (which shall be defined as the line adjacent to a Lot and not adjacent to a road or road right-of-way) of any Lot, nor along any property line abutting the Golf Course Areas. Any determination of what portion of a Lot constitutes a front yard, side yard, or back yard shall be made by the Declarant in the Declarant's sole discretion. Construction or planting of any fence, wall or hedge must be approved in accordance with Article VII of this Declaration.

Section 9. Garages. Homes may have their own garage. No garage shall be converted into a general living area unless specifically approved by the ARC. Garage doors shall remain closed at all times except when vehicular or pedestrian access is required. Garages may not be enclosed, modified or altered for use as any purpose other than the storage of vehicle(s).

Section 10. Laundry. Subject to the provisions of Section 163.04 of the Florida Statutes, to the extent applicable, no rugs, mops, or laundry of any kind, or any other similar type article, shall be shaken, hung or exposed so as to be visible outside the Home.

Section 11. Lawful Use. No immoral, improper, offensive, unlawful or obnoxious use shall be made in any portion of STONE CREEK. All laws, zoning ordinances and regulations of all governmental entities having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental entities for maintenance, modification or repair of a portion of STONE CREEK shall be the same as the responsibility for maintenance and repair of the property concerned. No Owner, his or her family, tenant, guest or invitee shall conduct any illegal activity or business inside the Home, including, but not limited to, gambling, the sale or manufacture of drugs, the sale of guns, or the sale or creation of pornographic material. Further, no Owner, his or her family, tenant, guest or invitee shall erect any displays or signs indicating that the Home is being used as something other than a residence. Further, no Owner, his or her family, tenant, guest or invitee shall store, park or otherwise keep equipment or other items related to business outside the Home or in any common area. The use, storage or disposal of any grouping or classification of materials that are designated as a hazardous material under Federal, State or local law is expressly prohibited on the Home or Common Area.

Section 12. Leases. For purposes of this Declaration, "leasing" is defined as regular, exclusive Occupancy of a Home by any person other than the Owner, for which the Owner receives any consideration or benefit, including without limitation, a fee, service, gratuity, or compensation. A Lot may be leased only in its entirety (e.g., separate rooms within the same Home may not be separately leased). No fraction or portion may be leased. No structure on a Lot other than the primary Home shall be leased or otherwise occupied for residential purposes, except that structures used for ancillary purposes, such as an "in-law suite" or detached "guest house," may be occupied, but not independently leased. There shall be no subleasing of a Home or assignment of leases except with the Board's prior written approval. All leases shall require that tenants and all Occupants of the leased Lot are bound by and obligated to comply with the Governing Documents. The Owner must make available to the tenant copies of the Governing Documents. The Board may adopt reasonable Use Restrictions and rules regulating leasing and subleasing and the activities of tenants and subtenants. All leases or Occupancy agreements (collectively, "Lease Agreements") are subject to the following provisions:

- (a) All Lease Agreements shall be in writing;
- (b) All Lease Agreements, together with an application signed by both the Owner and tenant, in a form approved by Association, shall be submitted to Association at least thirty (30) days prior to commencement of the lease term;
- (c) The Owner shall pay the lease application fee prescribed by Association.



The initial lease application fee shall be one hundred dollars (\$100.00) and may be increased from time to time to the maximum rate allowable by law (the "Lease Application Fee");

(d) The Association or its designee shall conduct a background check on each prospective tenant at the Association's cost and expense, such expense being paid from the Lease Application Fee;

(e) Upon receipt of an application signed by the Owner and tenant and the Lease Application Fee, the Association shall approve or disapprove the tenant. The Association and its agents or employees, shall not be liable to any person whomsoever for the approving or disapproving of any person pursuant to this Section, or for the method or manner of conducting the investigation. The Association and its agents or employees shall not be required to specify any reason for disapproval;

(f) No Lease Agreement may be for a term of less than one (1) year;

(g) No Home may be leased more than two (2) times in any calendar year;

(h) The tenant, as part of the Lease Agreement, shall agree to abide by and adhere to the terms and conditions of this Declaration together with all Rules and Regulations and all policies adopted by Association;

(i) The Owner shall agree to remove, at the Owner's sole expense, by legal means including eviction, his or her tenant should the tenant refuse or fail to abide by and adhere to this Declaration, the Rules and Regulations and any other policies adopted by Association; Notwithstanding the foregoing, should an Owner fail to perform his or her obligations under this Section, the Association shall have the right, but not the obligation, to evict such tenant and the costs of the same shall be the responsibility of Owner and shall become part of the assessment against that Owner's Unit secured by a lien upon the property against which such assessment is made in accordance with this Declaration, including, including attorneys' fees and paraprofessional fees, at all levels of proceedings, including appeals, collection and bankruptcy; and

(j) All Lease Agreements shall require the Unit to be used solely as a private single family residence.

Section 13. Minor's Use of Recreational Amenities. Owners at all times shall be responsible for all actions of their guests and invitees that are minor children in and about STONE CREEK. Declarant and Association shall not be responsible for any use of the facilities by anyone, including minors. Rules and Regulations governing the use of the Recreational Amenities by children under the age of eighteen (18) may be adopted by the Association from time to time.

Section 14. Nuisances. No nuisance or any use or practice that is the source of unreasonable annoyance to others or which interferes with the peaceful possession and proper use of STONE CREEK is permitted. No firearms shall be discharged within STONE CREEK. Nothing shall be done or kept within the Common Areas, or any other portion of STONE CREEK, including a Home which will increase the rate of insurance to be paid by Association.

Section 15. Oil and Mining Operations. No oil, drilling development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or on STONE CREEK, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or on STONE CREEK. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any upon or on STONE CREEK.

Section 16. Pets. No animals of any kind shall be raised, bred or kept within STONE CREEK for commercial purposes. Otherwise, Owners may keep no more than two (2) dogs, cats or other

domestic pets in accordance with the Rules and Regulations established by the Board from time to time and as permitted by Marion County ordinances; provided that, they are not raised, bred or maintained for any commercial purpose. Notwithstanding the foregoing, pets may be kept or harbored in a Home only so long as such pets or animals do not constitute a nuisance. A determination by the Board that an animal or pet kept or harbored in a Home is a nuisance shall be conclusive and binding on all parties. All pets shall be walked on a leash. No pet shall be permitted outside a Home unless such pet is kept on a leash or within an enclosed portion of the yard of a Lot, as approved by the ARC. No pet or animal shall be "tied out" on the exterior of Home or in the Common Areas, or left unattended in a yard or on a balcony, porch, or patio unless such yard, balcony, porch or patio is enclosed. No dog runs or enclosures shall be permitted on any Lot. When notice of removal of any pet is given by the Board, the pet shall be removed within forty-eight (48) hours of the giving of the notice. All pets shall defecate only in the "pet walking" areas within STONE CREEK designated for such purpose, if any, or on that Owner's Lot. The person walking the pet or the Owner shall clean up all matter created by the pet. Each Owner shall be responsible for the activities of its pet. All pets are prohibited from entering upon all Recreational Amenities and Golf Course Areas.

Section 17. Restrictions Affecting on Occupancy and Alienation.

(a) Restrictions on Occupancy. Subject to the rights reserved to Declarant in Article X, Section 18, the Lots within STONE CREEK are intended for the housing of persons fifty-five (55) years of age or older. The provisions of this Section 17 are intended to be consistent with, and are set forth in order to comply with the Fair Housing Amendments Act, 42 U.S.C. §3601 et seq. (1988), as amended, the exemption set out in 42 U.S.C. §3607(b)(2)(C), and the regulations promulgated thereunder (collectively, as may be amended, the "Act") allowing discrimination based on familial status. Declarant or the Association, acting through the Board, shall have the power to amend this Section, without the consent of the members of the Association or any person except Declarant, for the purpose of maintaining the age restriction consistent with the Act, the regulations adopted pursuant thereto, and any related judicial decisions in order to maintain the intent and enforceability of this Section.

(i) Each occupied Home shall at all times be Occupied by at least one person fifty-five (55) years of age or older; however, in the event of the death of a person who was the sole Occupant fifty-five (55) years of age or older of a Home, any Qualified Occupant may continue to Occupy the same Home as long as the provisions of the Act are not violated by such occupancy.

(ii) No person under the age of 19 shall Occupy a Home for more than ninety (90) days in any consecutive twelve (12) month period.

(iii) Nothing in this Section shall restrict the ownership of or transfer of title to any Lot; provided, no Owner under the age of fifty-five (55) may Occupy a Home unless the requirements of this Section are met nor shall any Owner permit Occupancy of the Home in violation of this Section. Owners shall be responsible for including a statement that the Lots within STONE CREEK are intended for the housing of persons fifty-five (55) years of age or older, as set forth in this Section, in conspicuous type in any lease or other occupancy agreement or contract of sale relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the tenant or purchaser, and for clearly disclosing such intent to any prospective tenant, purchaser, or other potential Occupant of the Lot. Every lease of a Lot shall provide that failure to comply with the requirements and restrictions of this Section shall constitute a default under the lease.

(iv) Any Owner may request in writing that the Board make an exception to the requirements for an Age-Qualified Occupant of this Section with respect to a Home based on documented hardship. The Board may, but shall not be obligated to, grant exceptions in its sole discretion, provided that all of the requirements of the Act would still be met.

(v) In the event of any change in Occupancy of any Home, as a result of a

transfer of title, a lease or sublease, a birth or death, change in marital status, vacancy, change in location of permanent Home, or otherwise, the Owner of the Home shall immediately notify the Board in writing and provide to the Board the names and ages of all current Occupants of the Home and such other information as the Board may reasonably require to verify the age of each Occupant required to comply with the Act. In the event that an Owner fails to notify the Board and provide all required information within ten (10) days after a change in Occupancy occurs, the Association may levy monetary fines against the Owner and the Lot for each day after the change in Occupancy occurs until the Association receives the required notice and information, regardless of whether the occupants continue to meet the requirements of this Article, in addition to all other remedies available to the Association under this Declaration and Florida law.

(vi) The Association shall be responsible for maintaining records to support and demonstrate compliance with the Act. The Board shall adopt policies, procedures, and rules to monitor and maintain compliance with this Section and the Act, including policies regarding visitors, updating of age records, the granting of exemptions to compliance, and enforcement. The Association shall periodically distribute such policies, procedures, and rules to the Owners and make copies available to Owners, their tenants and Mortgagees upon reasonable request. The Association may enforce this Section in any legal or equitable manner available, as the Board deems appropriate, including, without limitation, conducting a census of the Occupants of Homes, requiring that copies of birth certificates or other proof of age for one (1) new Age-Qualified Occupant per Home be provided to the Board on a periodic basis, and in its sole discretion, taking action to evict the Occupants of any Home which does not comply with the requirements and restrictions of this Section. Association's records regarding individual members shall be maintained on a confidential basis and not provided except as legally required to governing authorities seeking to enforce the Act. Each Owner shall fully and truthfully respond to any Association request for information regarding the Occupancy of Homes on his or her Lot which, in the Board's judgment, is reasonably necessary to monitor compliance with this Section. Each Owner hereby appoints the Association as its attorney-in-fact for the purpose of taking legal or equitable action to dispossess, evict, or otherwise remove the Occupants of any Home on his or her Lot as necessary to enforce compliance with this Section. Each Owner shall be responsible for ensuring compliance of its Home with the requirements and restrictions of this Section, and the Association rules adopted hereunder, by itself and by its tenants and other Occupants of its Lot. Each Owner, by acceptance of title to a Lot, agrees to indemnify, defend, and hold Declarant, any affiliate of Declarant, and the Association harmless from any and all claims, losses, damages, and causes of action which may arise from failure of such Owner's Home to so comply. Such defense costs shall include without limitation, attorney fees and costs.

Section 18. Signs and Flags. No sign (including brokerage or for sale/lease signs), flag, banner, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of STONE CREEK that is visible from the outside without the prior approval being first obtained from the ARC as required by this Declaration; provided, however, any Owner may display one portable, removable United States flag or official flag of the State of Florida in a respectful way; provided, further, on Armed Forces Day, Memorial Day, Flag Day, Independence Day and Veterans' Day Owners may display an official flag of the United States Army, Navy, Air Force Marine Corps and Coast Guard. Flags may not exceed 4 ½ feet by 6 feet. Notwithstanding the foregoing restriction on signage, any Owner of a Home may display in any window of his or her Home no more than one (1) discreet professionally prepared sign not to exceed twenty four (24) inches in width and eighteen (18) inches in height.

Section 19. Sports Equipment. Except within areas designated by the Board, no recreational, playground or sports equipment shall be installed or placed within or about any portion of STONE CREEK. No basketball backboards, skateboard ramps, or play structures, either permanent or portable, will be permitted. This Section shall not apply to the Declarant.

**Section 20. Swimming, Boating and Docks.** Swimming is prohibited within any of the lakes or waterbodies within or adjacent to STONE CREEK. Boating and personal watercraft (e.g., water skis) are prohibited. No private docks may be erected within any waterbody.

**Section 21. Wetlands and Mitigation Areas.** It is anticipated that the Common Areas may include one or more preserves, wetlands, and/or mitigation areas. No Owner or other person shall take any action or enter onto such areas so as to adversely affect the same. Such areas are to be maintained by Association in their natural state.

**Section 22. Window Treatments.** Window treatments shall consist of drapery, blinds, decorative panels, or other window covering, and no newspaper, aluminum foil, sheets or other temporary window treatments are permitted, except for periods not exceeding one (1) week after an Owner or tenant first moves into a Home or when permanent window treatments are being cleaned or repaired. No security bars shall be placed on the windows of any Home without prior written approval of the ARC. No awnings, canopies or shutters shall be affixed to the exterior of a Home without the prior written approval of the ARC. No reflective tinting or mirror finishes on windows shall be permitted unless approved by the ARC. Window treatments facing the street shall be of a neutral color, such as white, off-white or wood tones.

**Section 23. Declarant Exempt.** This Article shall not apply to the Declarant or to any property owned by Declarant and shall not be applied in a manner which would adversely affect the interests of the Declarant. Without limiting the foregoing, Declarant and its assigns, shall have the right to: (i) develop and construct commercial, and industrial uses, Homes, Common Areas, and related improvements within the Property, and make any additions, alterations, improvements, or changes thereto; (ii) maintain sales offices (for the sale and re-sale of (a) Homes and (b) residences and properties located outside of the Property), general office and construction operations within the Property; (iii) place, erect or construct portable, temporary or accessory buildings or structure within the Property for sales, construction storage or other purposes; (iv) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish in connection with the development or construction of any portion of the Property; (v) post, display, inscribe or affix to the exterior of any portion of the Common Areas or portions of the Property owned by Declarant, signs and other materials used in developing, constructing, selling or promoting the sale of any portion the Property, including without limitation, Homes; (vi) excavate fill from any lakes or waterways within and/or contiguous to the Property, if any, by dredge or dragline, store fill within the Property and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Property and use and/or sell excess plants and trees; (vii) enter into short-term leases with prospective purchasers and/or other individuals or entities; and (viii) undertake all activities which, in the sole opinion of Declarant is necessary for the development and sale of any lands and improvements comprising the Property. All provisions of this Declaration in conflict with this paragraph shall be deemed inoperative as to Declarant.

## **ARTICLE XIV**

### **RECREATIONAL AMENITIES**

**Section 1. Recreational Amenities.** Subject to the terms and provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors of the Association, designated Owners and their family, tenants invitees and guests shall have the non-exclusive right, privilege and easement of access to and the use and enjoyment of any Recreational Amenities and amenities as may be located upon certain the Common Areas (the "Recreational Amenities"). The Recreational Amenities are contemplated to include: (i) a clubhouse with staff office space, various social and meeting rooms equipment (the "Clubhouse"); (ii) a basketball court; (iii) several tennis courts; (iv) several horseshoe pits; (v) walking/biking trails; (vi) several bocci ball courts; (vii) several pickleball courts; (viii) several tennis courts; (ix) open area; and (x) an outdoor swimming pool and indoor lap pool. The Recreational Amenities are available for use by any Owner. An Owner may assign to the tenant of his or her Home such Owner's rights of access to and use of said Recreational Amenities

so that such tenant, his or her family and guests shall be entitled to the access, use and enjoyment of the Recreational Amenities on the same basis as an Owner. Declarant shall be the sole judge of the composition of such facilities and improvements. So long as the Declarant owns a Parcel or Home within the Properties, Declarant reserves the absolute right to construct additional Common Areas facilities and improvements within STONE CREEK, from time to time, in its sole discretion, and to remove, add to modify and change the boundaries, facilities and improvements now or then part of the Common Areas. Declarant is not obligated to, nor has it represented that it will, modify or add to the facilities, improvements, or Common Areas as they are contemplated as of the date hereof. Declarant is the sole judge of the foregoing, including the plans, specifications, design, location, completion schedule, materials, size, and contents of the facilities, improvements, appurtenances, personally (e.g., furniture), color, textures, finishes, or Common Areas, or changes or modifications to any of them.

Section 2. Rights of Owners. Each Owner, and its Immediate Family Members, his or her and their guests and invitees, shall have such non-exclusive rights and privileges to use the Recreational Amenities. In order to exercise the rights of an Owner, a person must be a resident of the Home. If a Home is owned by a corporation, trust or other legal entity, or is owned by more than one family, then the Owner(s) collectively shall designate up to two (2) persons residing in the Home who are entitled to use the Recreational Amenities.

Section 3. Construction of the Recreational Amenities. Declarant will construct the Recreational Amenities at its sole cost and expense. Declarant shall be the sole and absolute judge as to the plans, size, design, location, completion, schedule, materials, equipment, size, and contents of the Recreational Amenities. Declarant shall have the unequivocal right to:

(a) develop, construct and reconstruct, in whole or in part, the Recreational Amenities and related improvements within STONE CREEK, and make any additions, alterations, improvements, or changes thereto;

(b) without the payment of rent and without payment of utilities or any cost or expense, maintain leasing and/or sales offices (for sales and resales of Homes), general offices, and construction operations within the Clubhouse, including without limitation, displays, counters, meeting rooms, and facilities for the sales and re-sales of Homes; provided further, it is the express intention of this Section that the rights granted Declarant to maintain a sales and information center in the Clubhouse shall not be restricted or limited to Declarant's sales activity relating to the Properties, but shall benefit Declarant in the construction, development and sale of such other property, parcels, lots, dwellings or units which Declarant may own;

(c) place, erect, and/or construct portable, temporary, or accessory buildings or structures upon the Common Areas for sales, construction storage, or other purposes;

(d) temporarily deposit, dump or accumulate materials, trash, refuse and rubbish on the Common Area in connection with the development or construction of any of the Recreational Amenities or any improvements located within STONE CREEK;

(e) post, display, inscribe or affix to the exterior of the Clubhouse or any other part of the Recreational Amenities, signs and other materials used in developing, constructing, selling, or promoting the sale of portions of STONE CREEK including, without limitation, the sale of parcels and Homes;

(f) conduct whatever commercial activities within the Clubhouse deemed necessary, profitable and/or appropriate by Declarant;

(g) develop, operate and maintain the Recreational Amenities as deemed necessary, in its sole and absolute discretion;

(h) excavate fill from any lakes or waterways within and/or contiguous to the Recreational Amenities by dredge or dragline, store fill within the Properties, and remove and/or sell excess fill; and grow or store plants and trees within, or contiguous to, the Properties and use and/or sell excess plants and trees; and

(i) all activities which, in the sole opinion of Declarant, are necessary for the development of the Recreational Amenities or any lands or improvements within STONE CREEK.

Declarant reserves the absolute right in Declarant's discretion to, from time to time, alter or change the Recreational Amenities, including construction of additional Recreational Amenities and/or the removal or modification thereof, at any time. Such alterations, modifications and amendments may cause an increase or decrease in assessments.

Section 4. Commercial Space. It is possible that portions of the Clubhouse and/or other portions of the Recreational Amenities may include a sales office, retail space and/or other commercial space as Declarant may deem appropriate in Declarant's sole and absolute discretion. Declarant may permit Owner to access any commercial facilities located within the Recreational Amenities at Declarant's sole and absolute discretion. Declarant may grant leases, franchises, licenses or concessions to commercial concerns on all or part of the Recreational Amenities. If a lease, franchise, license or concession agreement permits continuing use of the Recreational Amenities by any one other than Declarant or Owners, then Declarant shall require such other user(s) to pay a fair and reasonable share of the Recreational Amenities expenses as determined by Declarant in its sole and absolute discretion. Declarant shall have no duty to account for any rents, fees or payments from third parties for the right to occupy and/or lease such commercial space; all of such rents, fees and payments, if any, shall be the sole property of Declarant and shall not offset or reduce the assessments payable by Owners.

Section 5. Operations. The Recreational Amenities shall be under the complete supervision and control of Association until Association, in its sole and absolute discretion, delegates all or part of the right and duty to operate, manage and maintain the Recreational Amenities to a third party such as Manager, if ever, as hereinafter provided. At any time, Association may appoint a Manager to act as its agent. The Manager shall have whatever rights hereunder as are assigned in writing to it by Association. Without limiting the foregoing, the Manager, if so agreed by Association, may file liens for unpaid Special Use Fees against Homes, may enforce the Rules and Regulations, and prepare the Budget for the Recreational Amenities.

Section 6. General Restrictions. Each Owner, Immediate Family Member and other person entitled to use the Recreational Amenities shall comply with following general restrictions:

(a) Responsibility for Personal Property and Persons. Each Owner assumes sole responsibility for the health, safety and welfare of such Owner, his or her Immediate Family Member, his or her and guests, and the personal property of all of the foregoing, and each Owner shall not allow any of the foregoing to damage the Recreational Amenities or interfere with the rights of other Owners hereunder.

(b) Personal Property. The Association is not responsible for any loss or damage to any private property used, placed or stored on the Recreational Amenities. Without limiting the foregoing, any person parking a car within the parking areas of the Recreational Amenities, if any, assumes all risk of loss with respect to his or her car in the parking areas. Further, any person entering the Recreational Amenities assumes all risk of loss with respect to his or her equipment, jewelry or other possessions stored in the fitness center lockers, on bicycles, or within cars and wallets, books and clothing left in the Swimming Pool area.

(c) Activities. Any Owner, Immediate Family Member, guest or other person who, in any manner, makes use of, or accepts the use of, any apparatus, appliance, facility, privilege or service whatsoever owned, leased or operated by the Association, or who engages in any contest, game, function, exercise, competition or other activity operated, organized, arranged or sponsored by the Association, either on or off the Recreational Amenities, shall do so at their own risk. Every Owner shall be liable for any property damage and/or personal injury at the Recreational Amenities, or at any activity or function operated, organized or arranged at the Recreational Amenities, caused by any Owner, Immediate Family Member or guest. No Owner may use the Recreational Amenities for any club, society, party, religious, political, charitable, fraternal, civil, fund-raising or other purposes without the prior written consent of Association or Manager, which consent may be withheld for any reason.

(d) Indemnification. Each Owner, Immediate Family Member and guest agrees to indemnify and hold harmless the Declarant, Association and Manager, their officers, partners, agents, employees, affiliates, directors and attorneys (collectively, "Indemnified Parties") against all actions, injury, claims, loss, liability, damages, costs and expenses of any kind or nature whatsoever ("Losses") incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect, or consequential, as a result of or in any way related to such Owner's use of Recreational Amenities, including without limitation, use of the Recreational Amenities by Owners, Immediate Family Members and their guests and/or from any act or omission of any of the Indemnified Parties. Losses shall include the deductible payable under any of the Indemnified Parties' insurance policies.

(e) Attorneys' Fees. Should any Owner or Immediate Family Member bring suit against Declarant or any of the Indemnified Parties for any claim or matter and fail to obtain judgment therein against such Indemnified Parties, the Owner and/or Immediate Family Member shall be liable to such parties for all Losses, costs and expenses incurred by the Indemnified Parties in the defense of such suit, including attorneys' fees and paraprofessional fees at trial and upon appeal.

#### Section 7. Violation of Recreational Amenities Rules and Regulations.

(a) Basis For Suspension. The membership rights of a Owner may be suspended by the Association if, in the sole judgment of the Association:

- (1) such person is not resident of the Home or a person designated as the resident pursuant to Section 2 of this Article;
- (2) the Owner violates one or more of the Rules and Regulations;
- (3) an Immediate Family Member, a guest or other person for whom a Owner is responsible violates one or more of the Rules and Regulations;
- (4) an Owner fails to pay any assessments authorized pursuant to the terms of this Declaration in a proper and timely manner; or
- (5) an Owner and/or guest has injured, harmed or threatened to injure or harm any person within the Recreational Amenities, or harmed, destroyed or stolen any personal property within the Recreational Amenities, whether belonging to an Owner, third party or to the Association.

(b) Types of Suspension. The Association may restrict or suspend, for cause or causes described in the preceding Section, any Owner's privileges to use any or all of the Recreational Amenities. By way of example, and not as a limitation, the Association may suspend the use rights of a Lessee if such Lessee's Owner fails to pay assessments due in connection with a leased Home. In addition, the Association or its designee may suspend some use rights while allowing an Owner to continue to exercise other use rights. For example, the Association or its designee may suspend the rights of a particular Owner (and/or Immediate Family Member), or the Association may prohibit an Owner

(and/or Immediate Family Member) from using a portion of the Recreational Amenities. No Owner whose privileges have been fully or partially suspended shall, on account of any such restriction or suspension, be entitled to any refund or abatement of assessments or any other fees. During the restriction or suspension, assessments shall continue to accrue and be payable each month. Under no circumstance will an Owner be reinstated until all assessments and other amounts due to the Association are paid in full.

## **ARTICLE XV**

### **GOLF COURSE AREAS**

**Section 1. Right to Use the Golf Course Areas.** Except as may otherwise be provided in a separate covenant or agreement executed by or on behalf of the Golf Course Owner, neither membership in the Association, nor ownership or Occupancy of a Lot, shall automatically confer onto any Owner any right to use any Golf Course Areas. Rights to use any Golf Course Areas will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the Golf Course Owner. The Golf Course Owner shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of any Golf Course Areas, including without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written membership agreements or documents.

**Section 2. Golf Course Area Hazards.** THE LOCATION, CONSTRUCTION, AND OPERATION OF GOLF COURSE AREAS WITHIN PROXIMITY THE PROPERTIES CONFERS A SUBSTANTIAL BENEFIT UPON THE OWNERS OF ANY HOME THEREIN, WHETHER OR NOT ANY SUCH OWNER USES OR IS PERMITTED TO USE THE GOLF COURSE AREAS AND WHETHER OR NOT ANY SUCH HOME IS LOCATED NEAR OR ADJACENT TO THE GOLF COURSE AREAS. BY ACCEPTANCE OF A DEED TO A HOME EACH OWNER ACKNOWLEDGES THAT THE DECLARANT AND/OR THE GOLF COURSE OWNER SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO SUCH OWNER, MEMBERS OF HIS OR HER FAMILY, GUESTS OR INVITEES, BECAUSE OF NOISE ASSOCIATED WITH USE OR MAINTENANCE OF THE GOLF COURSE AREAS, OR BECAUSE OF ANY DAMAGE OR INJURY CAUSED TO OWNER, HIS OR HER FAMILY, GUESTS, INVITEES, LICENSEES, EMPLOYEES, AND AGENTS, OR TO PROPERTY OF OWNER, HIS OR HER FAMILY, GUESTS, INVITEES, LICENSEES, EMPLOYEES, AND AGENTS FROM THE FLIGHT OF ERRANT GOLF BALLS, FROM PERSONS RECOVERING GOLF BALLS FROM PARCELS, OR FROM OTHER ACTS OF PERSONS ARISING OUT OF, OR ASSOCIATED WITH, USE OF THE GOLF COURSE AREAS. BY ACCEPTANCE OF SAID DEED EACH OWNER WAIVES ANY CLAIMS OR CAUSES OF ACTION WHICH HE OR SHE, HIS OR HER FAMILY, GUESTS, INVITEES, LICENSEES, EMPLOYEES, OR AGENTS MAY HAVE AGAINST DECLARANT AND/OR GOLF COURSE OWNER ARISING OUT OF SUCH PERSONAL INJURY OR PROPERTY DAMAGE. BY ACCEPTANCE OF SAID DEED TO A HOME, EACH OWNER ACKNOWLEDGES THAT HE OR SHE KNOWS AND APPRECIATES THE NATURE OF ALL RISKS BOTH APPARENT AND LATENT ASSOCIATED WITH LIVING IN A GOLF COURSE COMMUNITY AND EXPRESSLY ASSUMES THE RISKS OF PERSONAL INJURY OR PROPERTY DAMAGE THAT MAY OCCUR IN CONNECTION WITH SUCH RISKS.

**Section 3. Title to Golf Course Areas.** Golf Course Owner shall retain title to the Golf Course Areas, subject to the Golf Course Owner's right to later sell, mortgage, or otherwise encumber its interests in all or a portion of the Golf Course Areas, along with the improvements thereon, including the right to charge and collect fees for the use thereof. All persons, including all Owners, are hereby advised that no representations or warranties have been or are made by Declarant, Golf Course Owner, the Association or by any person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Golf Course Areas or the availability of preferred rates and tee times to residents of STONE CREEK. The ownership or operation of any Golf Course Areas (or any portion of a golf course) may change at any time. Consent of the Association or any Owner shall not be required to



effectuate any change in ownership or operation of any Golf Course Areas, for or without consideration and subject to or free of any mortgage, covenant, lien, or other encumbrance.

Section 4. Effect of Transfer of Golf Course. The location, construction, and operation of a golf course within proximity of the Properties confers a substantial benefit upon the Owner of any Home, whether or not any such Owner is permitted to use the Golf Course Areas, and whether or not any such Home is located near or adjacent to the Golf Course Areas. Should all or any portion of the Golf Course Areas be transferred to a third party or parties (hereinafter the "Subsequent Owner"), said Subsequent Owner shall have the benefit of the easement rights set forth herein. Nothing contained herein is intended to limit, or shall limit the right of Golf Course Owner to transfer to any Subsequent Owner all property rights, including easement and use rights, associated with or benefiting the Golf Course Areas.

Section 5. Easement for Benefit of Golf Course Areas. All permitted users, including paying guests, of the Golf Course Areas shall have an easement, or easements, over and across the Common Areas (including without limitation, all streets located in the Common Areas) for the purpose of providing access to, and facilitating the use of, the Golf Course Areas. In addition, an easement is hereby created as to all portions of the Properties, including all Lots, in favor of the permitted users of the Golf Course Areas and their permitted guests and invitees, and to the Golf Course Owner, its officers, agents, and employees, and to any person or entity owning, managing, or operating the Golf Course Areas and its officers, agents, and employees, to permit the doing of every act necessary and incident to the playing of golf on the Golf Course Areas and to permit the doing of every act necessary and incident to maintaining the Golf Course Areas. These acts shall include without limitation, the recovery of golf balls from any Lot, the flight of golf balls over and upon any Home, the creation of the usual noise level associated with the playing of the game of golf, the creation of the usual noise level associated with maintenance of a golf course, the driving of machinery and equipment used in connection with maintenance of a golf course over and upon the Properties and the Golf Course Areas, together with all such other common and normal activities associated with the game of golf and with all such other common and normal activities associated with the maintenance and operation of a golf course. Such noises and activities may occur on or off the Golf Course Areas, throughout the day from early morning until late evening.

Section 6. Additional Restrictions, Easements and Conditions. No Owner or Occupant, and no guest, invitee, employee, agent or contractor of any Owner or Occupant, shall at any time enter upon any Golf Course Areas (or related facilities) within, adjacent to or near the Properties for any purpose (other than to engage in golf play or as a spectator or guest of the Golf Course Owner, in each and every case subject to all rules and regulations of the Golf Course Owner including, without limitation, all requirements relating to membership, fees, reservation of tee times and the like), and each Owner and Occupant shall keep his or her, her or its pets and other animals off any Golf Course Areas at all times. No Owner shall (or permit his or her, her or its Occupants, guests, invitees, employees, agents or contractors to) interfere in any way with play on the Golf Course Areas) whether in the form of physical interference, noise, harassment of players or spectators, or otherwise. Each Owner (for such Owner and its Occupants, guests and invitees) recognizes, agrees and accepts that: (a) operation of a golf course and related facilities will often involve parties and other gatherings (whether or not related to golf, and including without limitation weddings and other social functions) at or on the Golf Course Areas, tournaments, loud music, use of public address systems and the like, occasional supplemental lighting and other similar or dissimilar activities throughout the day, from early in the morning until late at night; (b) by their very nature, golf course present certain potentially hazardous conditions which may include, without limitation, lakes or other bodies of water and man-made or naturally occurring topological features such as washes, gullies, canyons, uneven surfaces and the like; and (c) neither such Owner nor its Occupants, guests, and invitees shall make any claim against the Declarant, Golf Course Owner, the Association, any committee of the Association, any sponsor, promoter or organizer of any tournament or other event, or the owner or operator of any golf course within, adjacent to or near the Properties (or any affiliate, agent employee or representative of any of the foregoing) in connection with the matters described or referenced in (a) or (b) above, whether in the nature of a claim for damages relating to personal injury or property damage, or otherwise.

Section 7. Golf Course Area Encroachments. If (i) any portion of the Golf Course Areas encroaches upon any Lot or Parcel; (ii) any Lot or Parcel encroaches upon any portion of the Golf Course Area; or (iii) any encroachment shall hereafter occur as a result of (1) construction of the Golf Course Areas; (2) settling or shifting of the Golf Course Areas; (3) any alteration or repair to the Golf Course Areas made by or with the consent of the Golf Course Owner; or (4) any repair or restoration of the Golf Course Areas (or any portion thereof) after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Golf Course Areas, then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of same.

## **ARTICLE XVI**

### **PARTY WALLS**

Section 1. General Rules of Law to Apply. Any wall built by the Declarant upon the Property and placed on the dividing line between Lots is considered to be a Party Wall; and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding Party Walls and liability for property damage caused by negligence or willful acts or omissions apply to the ownership, maintenance and use of such walls.

Section 2. Sharing of Repair, Replacement and Maintenance. The cost of reasonable repair, replacement and maintenance of a Party Wall or roof shall be shared by the Owners who make use of the wall and roof in proportion to such use. The Association may include a reserve for roof replacement in the Neighborhood Assessment applicable to Homes with Party Walls. In the event this reserve is insufficient to replace a roof on a Home, the Owner of the Home will be assessed for the shortfall, subject to any applicable prorations as provided in the preceding sentence.

Section 3. Destruction by Fire or Other Casualty. If a Party Wall or roof is destroyed or damaged by fire or other casualty and is not covered by insurance, any Owner who has used the wall or roof shall restore it or have it restored, but in either event, only in conformity with all applicable codes and subject to approvals by the Board; and, if other Owners thereafter make use of the wall or roof, they shall contribute to the cost of restoration in proportion to their use, all without prejudice to the right of any such Owner to call for larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his or her negligence or willful act causes any Party Wall or roof to be exposed to the elements, or to infestation by termites or other injurious agencies, shall bear the whole cost of furnishing the necessary protection against such elements or agencies and of repairing all resulting damage.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article is appurtenant to the Home affected and shall pass to and bind such Owner's successors and assigns.

Section 6. Number of Homes. No portion of the Property may be combined or resubdivided in any manner so as to increase the number of Homes on the Property from those established by the plat of the Property.

Section 7. Negligent or Willful Acts. Notwithstanding any other provision of this Article, an Owner who by his or her negligent or willful act causes the Party Wall to be damaged or destroyed shall bear the sole cost of repair and restoration.

Section 8. Enforcement. In the event an Owner shall fail to comply with any of his or her Party Wall obligations pursuant to this Article, including reimbursement or contribution, any aggrieved

adjoining Owner shall be entitled to enforce such obligations, which rights of enforcement shall be in addition to such other rights and remedies as may otherwise be available to such Owner.

## **ARTICLE XVII**

### **SPECIFIC PROVISIONS GOVERNING CLASS B PROPERTY (THE VILLAS-STYLE HOMES)**

#### **Section 1. Responsibilities.**

(a) **Responsibility of Association.** The Association shall provide maintenance upon each Lot and each Lot is subject to assessment for such maintenance, including the following: (i) the exclusive right to replace roofs (on such frequency as determined by the Board); (ii) the exclusive right of maintenance of lawns, trees, shrubs and landscaped areas; (iii) the exclusive right to painting, pressure cleaning and repair of exterior building surfaces (on such frequency as determined by the Board); (iv) the right to repair, replace and maintain utility easements located under each Lot; (v) the right to maintain irrigation systems within the Lots; and (vi) and the right to pressure wash and clean paved surfaces located within an Owner's Lot, including without limitation, the driveways located within an Owner's Lot (on such frequency as determined by the Board). The Association's duty of exterior maintenance does NOT include: glass surfaces; replacement of exterior doors; repair and replacement of paved surfaces located within an Owner's Lot; repair and replacement of driveways located within an Owner's Lot; repair of roofs located within an Owner's Lot; minor maintenance such as caulking and screen replacement and repair; and maintenance, repair and replacement of screened enclosures or rear lanai. Where it is stated herein that the Association has "exclusive control," it means the Owners of Lots shall not be required, or entitled, to conduct such activities, it being the intent of the Association to control such activities for purpose of maintaining uniformity within the Property. All maintenance performed by the Association shall be at least up to the maintenance standards established in the Declaration. All costs, charges and expenses incurred in connection with the operation, administration and management and performance of the Association's obligations hereunder shall be a Neighborhood Expense allocated to the Class B Owners. The Board shall be responsible for determining the respective obligations of the Association and the Owners, including the extent and frequency of maintenance obligations. Such decisions by the Board shall be binding upon all parties unless wholly unreasonable.

(b) **Responsibility of Owner.** The Class B Owner shall provide exterior maintenance as follows, the cost for which each Class B Owner shall be individually responsible: (i) maintenance, repair and replacement of rear screen porches, patios, lanais, screened enclosures; (iii) repair or replacement of the paved surfaces located within an Owner's Lot, including without limitation, the driveway; (iii) repair or replacement of all glass surfaces on his/her Lot; (iv) replacement of exterior doors; (v) maintenance, repair, or replacement resulting from any fire, wind, flood, tornado, hurricane or other casualty damage with the Lot of an Owner to the extent such damage is not covered by insurance purchased by the Association; (vi) repair or replace any property whether upon such Class B Owner's Lot or any other Lot, or the Common Area, which repair or replacement is required because of any negligence or the willful act of such Owner or any member of such Owner's family or household, or any invitee of such Owner; (vii) repair of roofs located within a Class B Owner's Lot; and (viii) the cost of labor and materials for replacement of roofs on individual Class B Lots in excess of the reserves established for such purpose.

(c) **Failure of Owner to Repair.** The Association may perform maintenance or make repairs and assess the costs of any required exterior maintenance or repairs to the Owner of any Lot under the following circumstances: (i) such Owner does not when reasonably necessary replace any glass surfaces or exterior doors on such Owner's Lot; or (ii) any maintenance, repair or replacement, whether upon such Owner's Lot, or any other Lot or Common Area, is required because of any negligent or willful act of such Owner or any member of such Owner's family or household or any invitee of such

Owner; or (iii) any Owner fails promptly to repair or replace, as the case may be, any casualty damage to such Owner's Lot; and (iv) such Owner has failed to undertake the necessary maintenance or replacement within a reasonable period of time following written notice from the Association. Upon the occurrence of the foregoing, and after reasonable prior notice to such Owner, and a reasonable opportunity to be heard, the Board by a vote of not less than sixty-seven percent (67%) of the full Board may undertake such maintenance, replacement or repairs and may assess by Individual Assessment the costs of such maintenance, replacement or repairs, as the case may be, against such Owner's Lot. Failure of the Association to undertake any such maintenance, replacement or repair on behalf of the Owner shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Lawn Maintenance. Association shall be responsible for maintaining the landscaped areas on Lots, including, cutting, mowing, trimming of shrubs, weeding, plant replacement, mulching, fertilization and pest control. All such maintenance shall be performed at such frequency as the Board shall determine in the sole and absolute discretion of the Board. The Association also shall be responsible for maintaining the landscaped areas on Common Areas, including mowing, trimming of shrubs, weeding, plant replacement, mulch replacement, tree trimming, fertilization and pest control. All such maintenance shall be performed at such frequency as the Board shall determine in the sole and absolute discretion of the Board. Association shall have access to control boxes and/or devices used in connection with any irrigation system that may be installed in on any Lot and Owners are not permitted to block access to or tamper with the same. Association reserves the right to place locks on any control boxes and/or devices used in connection with irrigation regardless of their location. EACH OWNER ACKNOWLEDGES THAT SOME LOTS MAY HAVE YARDS THAT ARE LARGER OR SMALLER THAN THE YARDS OF OTHER LOTS. NOTWITHSTANDING THE FOREGOING, ALL LAWN MAINTENANCE EXPENSES SHALL BE DEEMED PART OF THE COMMON EXPENSES OF ASSOCIATION, AND EACH OWNER SHALL PAY AN EQUAL SHARE OF SUCH COSTS.

Section 3. Insurance.

(a) Authority to purchase; named insured. Insurance coverage for Class B Homes, shall be purchased by the Association as a Neighborhood Expense of the Class B Homes, except for Covered Items Insurance (as defined herein). The named insured shall be the Association individually and as agent for the Owners (without naming them) and as agent for their mortgagees. Provisions shall be made for the issuance of the mortgagee endorsements and memoranda of insurance to the mortgagees of Owners. Such policies shall provide that payments by the insurer for losses shall be made to the Association, and all policies and their endorsements shall be deposited with the Association as set forth herein.

(b) Personal Property of Owner. Owners should obtain coverage at their own expense for personal property located within the Home. The Association shall not be responsible to obtain personal property insurance for any Owner.

(c) Coverage.

(i) Casualty. All Class B Homes shall be insured in an amount equal to the insurable replacement value, excluding foundation and excavation costs as shall be determined annually by the Board of the Association. Coverage shall afford protection against:

(A) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

(B) Such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the Class B Homes, including but not limited to vandalism and malicious mischief; and hazard policies issued to protect buildings or Homes shall provide that the word "building," wherever used in the policy, shall

include, but shall not necessarily be limited to fixtures, installations or additions comprising that part of the building within the unfurnished interior surfaces of the perimeter walls, floors and ceilings of the individual Homes initially installed, or replacements thereof, of like kind and quality, in accordance with the original plans and specifications or as existed at the time the Home was initially conveyed if the original plans and specifications are not available. However, the word "building" shall not include floor coverings, wall coverings or ceiling coverings, and shall not include electrical fixtures, appliances, air conditioning and heating equipment, water heaters or built in cabinets or other personal property required to be replaced or repaired by the Owner. With respect to the coverage provided by this paragraph, the Owner shall be considered as an additional insured under the policy.

(C) Public Liability. The Association is authorized to purchase public liability insurance in such amounts and with such coverage as shall be required by the Board and with cross liability endorsements to cover liabilities of the Owners as a group to an individual Owner.

(d) Flood Insurance. In the event that Class B Homes are located within an area which has special flood hazards and for which flood insurance has been made available under the National Flood Insurance Program (NFIP), the Association shall obtain coverage in appropriate amounts, available under NFIP for all buildings and other insurable property within a designated flood hazard area.

(e) Share of Proceeds. All insurance policies purchased by the Association for Class B Homes shall be for the benefit of the Association and the Class B Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Association, as trustee, or to such trustee in Florida with trust powers as may be designated from time to time by the Board. The Association shall not be liable for payment of premiums nor for the failure to collect any insurance proceeds. The duty of the Association shall be to receive such proceeds as are paid and hold the proceeds in trust for the purposes stated herein for the benefit of the Class B Owners and their mortgagees, provided, however, such shares need not be set forth on the records of the Association.

(f) Mortgagees. In the event a mortgagee endorsement has been issued to a Home, the share of the Class B Owner shall be held in trust for the mortgagee and the Class B Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions of such proceeds made to the Home and mortgagee pursuant to the provisions of this Declaration. Notwithstanding the foregoing, the mortgagee shall have the right to apply or have applied to the reduction of its mortgage debt any or all sums of insurance proceeds applicable to its mortgaged Home in any of the following events:

(i) Its mortgage is not in good standing and is in default; and

(ii) Insurance proceeds are insufficient to restore or repair the building to the condition existing prior to the loss and additional monies are not available for such purpose.

(g) Distribution. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial Class B Owners in the following manner:

(i) All expenses of the Association shall be paid first or provisions made for such payment;

(ii) If the damage for which the proceeds are paid is to be repaired or reconstructed the proceeds shall be paid to defray the cost thereof as provided herein. Any proceeds

remaining after defraying such cost shall be distributed to the beneficial Class B Owners, remittances to Class B Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of, and may be enforced by, any mortgagee of a Class B Home;

(iii) If it is determined in the manner provided herein that the damage for which proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial Class B Owners, remittances to Class B Owners and their mortgagees being payable jointly to them, in the amount of the respective value of the Class B Homes based on the fair market values of the Homes immediately before the casualty, as determined by one or more independent appraisers selected by the Association. This is a covenant for the benefit of, and may be enforced by, the mortgagee of a Class B Home. In making distribution to Class B Owners and their mortgagees, the Association may rely upon a Certificate of the Association executed by its President and Secretary as to the names of the Class B Owners and their respective shares of the distribution.

(h) Association as Agent. The Association is hereby irrevocably appointed Agent for each Class B Owner to adjust all claims arising under the insurance policies purchased by the Association and to execute and deliver releases upon the payment of a claim.

(i) Cost of Payment of Premiums. The costs of all insurance maintained by Association hereunder, and any other fees or expenses incurred which may be necessary or incidental to carry out the provisions hereof are Neighborhood Expenses allocated to the Class B Owners.

(j) Covered Item Insurance Coverage. All real or personal property located within the boundaries of the Class B Owner's Home which is excluded from the coverage to be provided by the Association pursuant to this Article shall be insured by the individual Class B Owner at the Class B Owner's expense and shall not be paid pursuant to regular assessments. Specifically, the Class B Owner shall be responsible to procure and maintain at a minimum insurance coverage for the following items: all floor, wall, and ceiling coverings, electrical fixtures, appliances, air conditioner or heating equipment, water heaters, water filters, built-in cabinets and countertops, and window treatments, including curtains, drapes, blinds, hardware, and similar window treatment components, or replacements of any of the foregoing which are located within the boundaries of a Class B Home and serve only one Class B Home and all air conditioning compressors that service only an individual Class B Home, whether or not located within the Class B Home boundaries (the "Covered Items"). Covered Items shall not include personal property items such as furniture, clothing, paintings, audio/visual equipment, jewelry, or other items not specifically listed as Covered Items.

(k) Class B Owners Duty to Purchase Covered Items Insurance. It shall be the individual responsibility of each Class B Owner at their expense to procure and maintain insurance for

Covered Items. The Association may require each Class B Owner to procure and maintain insurance for Covered Items with respect to their Class B Home and to furnish a copy such policy to the Board upon request. The Board may, but is not required to, request a copy of such insurance policy or certificate of insurance from each Class B Owner on an annual basis or from time to time; provided, however, failure of the Board to make such a request shall not be deemed a waiver of the right to do so thereafter. To the extent available, the Class B Owner shall use his best efforts to obtain that the insurance policy for Covered Items maintained by the Class B Owner shall name the Association as trustee and attorney in fact for such Class B Owner.

(l) Failure of Class B Owner to Purchase Covered Item Insurance. The Association may, but shall have no obligation to, purchase Covered Item insurance on behalf of an individual Class B Owner and charge the costs of any such insurance premium to the Class B Owner as Individual Assessment under the following circumstances: (i) the Class B Owner fails to procure and/or maintain Covered Item insurance as required herein; or (ii) such Class B Owner does not when reasonably necessary replace any expired or soon to be expired Covered Item insurance. Upon the occurrence of the foregoing, and after reasonable prior notice to such Class B Owner, and a reasonable opportunity to be heard, the Association's Board, by a vote of not less than a majority of the Board, may

purchase such Covered Items insurance and may impose by Individual Assessment the costs of such Covered Items insurance premium, as the case may be, against such Class B Home. Failure of the Association to purchase such Covered Item insurance policy on behalf of the Class B Owner shall in no event be deemed a waiver of the right to do so thereafter.

(m) Declarant Liability. Notwithstanding anything to the contrary this Section, Declarant, its officers, directors, shareholders, and any related persons or corporations and their employees, attorneys, agents, officers and directors shall not be liable to any Class B Owner or any other person should the Association fail for any reason whatsoever to obtain insurance coverage on a Class B Home.

(n) Additional Insured. Declarant shall be named as additional insured on all policies obtained by Association, as its interests may appear.

(o) Termite Protection Program. The Association may be responsible for the purchasing and maintaining a master termite protection program (the "Termite Protection Policy") for all Class B Homes. Such Termite Protection Policy shall be provided by such persons or entities as may be designated by the Board. The fees for the Termite Protection Policy payable to the service provider shall be a Neighborhood Expense payable by Class B Owners and included within the Neighborhood Assessment for Class B Homes levied each year. The Association, or its designees, shall conduct yearly inspections of Class B Homes to determine if any corrective action is needed to remedy any termite infestation or potential infestation. Declarant reserves for itself, the Association, and their grantees and designees an easement for ingress and egress to, over and across each Class B Lot and the right to enter upon each Class B Lot for the purpose of exercising its rights and obligations under this Section. Entry into any Class B Home, absent emergency conditions, shall not be made without the consent of the Class B Owner or Occupant. A Class B Owner shall not arbitrarily withhold consent to such entry by the Association or its designees for the purpose of discharging any duty or exercising any right granted by this Section; provided that, such entry is upon reasonable notice, at a reasonable time, and in a peaceful and reasonable manner. In no event shall the Association be responsible for any damages or costs of repairs caused by termite infestation, inspection for termite infestation, or the removal of termite infestation.

## **ARTICLE XVIII**

### **MASTER ASSOCIATION**

Section 1. Master Association. The Master Association has been established to administer, operate and maintain the Master Properties for all residents of the Master Properties whether in a condominium form of ownership or otherwise, as more particularly described in the Master Declaration. The Master Declaration provides for the Master Association, to the extent not maintained and administered by the CDD, the Association or any Neighborhood Association, to operate, maintain and repair Common Property, Limited Common Property and Special Benefit Area (as defined in the Master Declaration) which may be located within its jurisdiction; and take such other action as the Master Association is authorized to take pursuant to the Master Association's Articles of Incorporation, Bylaws or Master Declaration.

Section 2. Membership in the Master Association. Membership in the Master Association is mandatory for each Neighborhood Association (as defined in the Master Declaration). Each Neighborhood Association (as defined in the Master Declaration) shall have the number of votes in the Master Association as set forth in the Master Declaration, with voting rights to be exercised as set forth in the Master Declaration, Articles of Incorporation and Bylaws of the Master Association. The Association and each Neighborhood Association within STONE CREEK shall be entitled to membership and voting rights as provided in the Master Declaration.

Section 3.     Master Association Assessments.     The Master Declaration provides for the making and collecting of assessments against Owners, for the expenses of operating the Master Association and otherwise carrying out the duties and responsibilities of the Master Association under the Master Declaration. The Master Association has been granted a lien by the Master Declaration against each Home within STONE CREEK, and other rights, to secure payment of any assessment or other amounts due with respect to such Owner's Homes. The Master Association shall collect assessments and other charges in accordance with the provisions of the Master Declaration.

Section 4.     Master ARB.     Pursuant to the terms of the Master Declaration, the Master Association has created or will create a Master Architectural Review Board (the "Master ARB"). All improvements to be constructed within STONE CREEK will be subject to, and must be approved in accordance with, the procedures set forth in the Master Declaration.

**[Signature and Acknowledgement Appear on Following Page]**



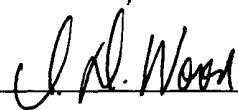
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed as of the 5 day of May, 2006.

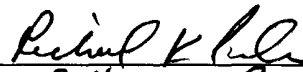
WITNESSES:

"DECLARANT"

PULTE HOME CORPORATION,  
a Michigan corporation

  
Print Name: GREGORY CLARK


  
Print Name: Todd D. Wood


By:   
Name: Richard K. Perkins  
Title: Attorney-in-Fact  
Date: 5/5/06

(Corporate Seal)

STATE OF FLORIDA )  
COUNTY OF Marion )

The foregoing instrument was acknowledged before me this 5 day of May, 2006, by RICHARD K. PERKINS as Attorney-in-Fact of PULTE HOME CORPORATION, a Michigan corporation, on behalf of the corporation, who are personally known to me or who have produced \_\_\_\_\_ as identification.

NOTARY PUBLIC-STATE OF FLORIDA  
 Jennifer R. Brannon  
Commission # DD449201  
Expires: JULY 10, 2009  
Bonded Thru Atlantic Bonding Co., Inc.

  
Notary Public  
Printed Name: Jennifer R. Brannon  
My commission expires: July 10, 2009

Exhibits:

- "A" - Property
- "B" - Articles of Incorporation
- "C" - Bylaws
- "D" - Common Areas
- "E" - SWFWMD Permit
- "F" - Class A Property
- "G" - Class B Property
- "H" - Class C Property

JOINDER

STONE CREEK COMMUNITY ASSOCIATION, INC.

STONE CREEK COMMUNITY ASSOCIATION, INC. ("**Association**") does hereby join in the COMMUNITY DECLARATION FOR STONE CREEK ("**Declaration**"), to which this Joinder is attached, and the terms thereof are and shall be binding upon the undersigned and its successors in title. Association agrees that this joinder is for convenience only and not to the effectiveness of this Declaration as Association has no right to approve this Declaration.

IN WITNESS WHEREOF, the undersigned has executed this Joinder on this 5<sup>th</sup> day of May, 2006.

WITNESSES:

STONE CREEK COMMUNITY ASSOCIATION, INC.,  
a Florida not-for-profit corporation

[Signature]  
Print Name: GREGORY CLARK  
[Signature]  
Print Name: Todd D. Wood

By: [Signature]  
Name: Richard K. Perkins  
Title: President

{SEAL}

STATE OF FLORIDA )  
COUNTY OF Marion ) SS.:

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of May, 2006 by RICHARD K. PERKINS, as President of STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, who is personally known to me or who has produced as identification.

My commission expires:

NOTARY PUBLIC-STATE OF FLORIDA  
Jennifer R. Brannon  
Commission # DD449201  
Expires: JULY 10, 2009  
Florida Atlantic Bonding Co., Inc.

[Signature]  
NOTARY PUBLIC, State of Florida at Large  
Print Name: Jennifer R. Brannon

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## Exhibit "A"

A PORTION OF SECTIONS 1, 2, 10, 11, AND 12, TOWNSHIP 16 SOUTH RANGE 20 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHWEST CORNER OF THE NORTHEAST  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 16 SOUTH, RANGE 20 EAST; THENCE N.89° 54' 50"E., ALONG THE NORTH BOUNDARY OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION, 2648.59 FEET TO THE NORTHEAST CORNER OF SAID SECTION; THENCE N.89° 57' 14"E., ALONG THE NORTH BOUNDARY OF THE NORTHWEST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SECTION 1, TOWNSHIP 16 SOUTH, RANGE 20 EAST, 1327.98 FEET; THENCE S.00° 04' 37"E., ALONG THE EAST BOUNDARY OF THE NORTHWEST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION, 1328.40 FEET; THENCE N.89° 51' 00"E., ALONG THE SOUTH BOUNDARY OF THE NORTHEAST  $\frac{1}{4}$  OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION, 1327.04 FEET; THENCE N.89° 51' 08"E., ALONG THE SOUTH BOUNDARY OF THE NORTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION, 1328.22 FEET; THENCE S.00° 01' 46"E., ALONG THE EAST BOUNDARY OF THE SOUTHWEST  $\frac{1}{4}$  OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION, 1324.29 FEET; THENCE S.00° 00' 38"E., ALONG THE EAST BOUNDARY OF THE NORTHWEST  $\frac{1}{4}$  OF THE SOUTHEAST  $\frac{1}{4}$  OF SAID SECTION, 662.32 FEET; THENCE N.89° 43' 48"E., A DISTANCE OF 1327.03 FEET TO THE WESTERLY RIGHT OF WAY OF S.W. 80TH AVENUE, (A 100.00 FOOT RIGHT OF WAY), SAID POINT BEING THE POINT OF CURVATURE OF A NON-TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 3150.00 FEET, A CENTRAL ANGLE OF 03° 10' 33", AND A CHORD OF 174.58 FEET BEARING S.01° 38' 47"W.; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 174.60 FEET; THENCE S.03° 14' 03" W., A DISTANCE OF 355.37 FEET; THENCE N.86° 45' 57"W., A DISTANCE OF 300.00 FEET; THENCE S.03° 14' 03"W., A DISTANCE OF 260.00 FEET; THENCE N.86° 45' 57"W., A DISTANCE OF 45.04 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1080.00 FEET AND A CENTRAL ANGLE OF 33° 15' 32"; THENCE WESTERLY ALONG SAID CURVE, A DISTANCE OF 626.92 FEET TO A POINT OF TANGENCY; THENCE S.59° 58' 31"W., A DISTANCE OF 1657.68 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 920.00 FEET AND A CENTRAL ANGLE OF 30° 00' 00"; THENCE WESTERLY ALONG SAID CURVE, A DISTANCE OF 481.71 FEET TO A POINT OF TANGENCY; THENCE S.89° 58' 31"W., A DISTANCE OF 1567.44 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 1080.00 FEET AND A CENTRAL ANGLE OF 90° 22' 54"; THENCE SOUTHWESTERLY ALONG SAID CURVE, A DISTANCE OF 1703.65 FEET TO A POINT OF TANGENCY; THENCE S.00° 24' 23"E., A DISTANCE OF 2163.93 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE WEST, HAVING A RADIUS OF 920.00 FEET AND A CENTRAL ANGLE OF 37° 24' 06"; THENCE SOUTHERLY ALONG SAID CURVE, A DISTANCE OF 600.56 FEET TO A POINT OF TANGENCY; THENCE S.36° 59' 43"W., A DISTANCE OF 1634.53 FEET; THENCE N.53° 00' 17"W., A DISTANCE OF 420.04 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1060.00 FEET AND A CENTRAL ANGLE OF 36° 59' 43"; THENCE WESTERLY ALONG SAID CURVE, A DISTANCE OF 684.43 FEET TO A POINT OF TANGENCY; THENCE N.90° 00' 00"W., A DISTANCE OF 514.75 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE SOUTH, HAVING A RADIUS OF 1060.00 FEET AND A CENTRAL ANGLE OF 34° 41' 16"; THENCE WESTERLY ALONG SAID CURVE, A DISTANCE OF 641.74 FEET TO A POINT OF TANGENCY; THENCE S.55° 18' 44"W., A DISTANCE OF 318.23 FEET TO THE POINT OF CURVATURE OF A TANGENT CURVE, CONCAVE TO THE NORTH, HAVING A RADIUS OF 940.00 FEET AND A CENTRAL ANGLE OF 34° 42' 54"; THENCE WESTERLY ALONG SAID CURVE, A DISTANCE OF 569.54 FEET TO A POINT OF TANGENCY; THENCE N.89° 58' 22"W., A DISTANCE OF 1031.69 FEET TO A

**Exhibit "A"**  
**(Continued)**

POINT OF INTERSECTION WITH THE WESTERLY BOUNDARY OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 11, TOWNSHIP 16 SOUTH, RANGE 20 EAST; THENCE CONTINUING N.89° 58' 22"W., ALONG SAID LINE, A DISTANCE OF 822.46 FEET; THENCE N.00° 06' 41"W., A DISTANCE OF 2378.87 FEET TO THE NORTH BOUNDARY OF THE SOUTHEAST  $\frac{1}{4}$  OF SECTION 10, TOWNSHIP 16 SOUTH, RANGE 20 EAST; THENCE S.89° 57' 23"E., ALONG SAID BOUNDARY, 822.42 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST CORNER OF SECTION 11, TOWNSHIP 16 SOUTH, RANGE 20 EAST; THENCE N.00° 06' 43"W., ALONG THE WESTERLY BOUNDARY OF THE NORTHWEST  $\frac{1}{4}$  OF SAID SECTION, 2658.34 FEET TO THE NORTHWEST CORNER OF SAID SECTION; THENCE N.00° 08' 50"W., ALONG THE WESTERLY BOUNDARY OF THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SECTION 2, TOWNSHIP 16 SOUTH, RANGE 20 EAST, 1328.56 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SAID SECTION; THENCE S.89° 57' 44"E., ALONG THE NORTH BOUNDARY OF THE SOUTH  $\frac{1}{2}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SAID SECTION, 2657.54 FEET; THENCE N.00° 04' 53"W., ALONG THE EAST BOUNDARY OF THE NORTHEAST  $\frac{1}{4}$  OF THE SOUTHWEST  $\frac{1}{4}$  OF SAID SECTION, 1329.43 FEET TO THE CENTER OF SAID SECTION; THENCE N.00° 03' 22"W., ALONG THE WESTERLY BOUNDARY OF THE NORTHEAST  $\frac{1}{4}$  OF SAID SECTION, 2656.92 FEET TO THE POINT OF BEGINNING; ABOVE DESCRIBED PARCEL BEING SITUATE IN MARION COUNTY, FLORIDA AND CONTAINING 1,399.95 ACRES, MORE OR LESS.

# State of Florida



## Department of State

I certify from the records of this office that STONE CREEK COMMUNITY ASSOCIATION, INC. is a corporation organized under the laws of the State of Florida, filed on March 8, 2006.

The document number of this corporation is N06000002654.

I further certify that said corporation has paid all fees due this office through December 31, 2006, and its status is active.

I further certify that said corporation has not filed Articles of Dissolution.

I further certify that this is an electronically transmitted certificate authorized by section 15.16, Florida Statutes, and authenticated by the code, 806A00016428-030906-N06000002654-1/1, noted below.

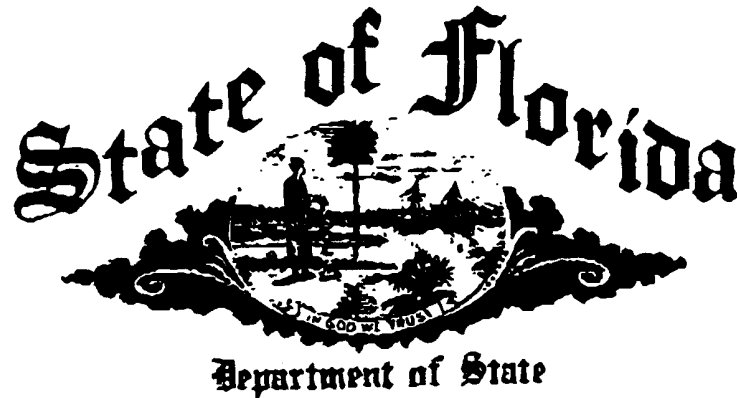
Authentication Code: 806A00016428-030906-N06000002654-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Ninth day of March, 2006



Sue M. Cobb  
Sue M. Cobb  
Secretary of State

EXHIBIT "B"



I certify the attached is a true and correct copy of the Articles of Incorporation of STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida corporation, filed on March 8, 2006, as shown by the records of this office.

I further certify the document was electronically received under FAX audit number H06000062568. This certificate is issued in accordance with section 15.16, Florida Statutes, and authenticated by the code noted below.

The document number of this corporation is N06000002654.

Authentication Code: 806A00016428-030906-N06000002654-1/1

Given under my hand and the  
Great Seal of the State of Florida,  
at Tallahassee, the Capital, this the  
Ninth day of March, 2006



Sue M. Cobb  
Sue M. Cobb  
Secretary of State

**ARTICLES OF INCORPORATION  
OF  
STONE CREEK COMMUNITY ASSOCIATION, INC.**

In compliance with the requirements of Chapter 617, Florida Statutes, the undersigned, being a resident of the State of Florida and of full age, hereby forms a corporation not for profit in accordance with the laws of the State of Florida, and certify as follows:

**ARTICLE I - NAME**

The name of this corporation is STONE CREEK COMMUNITY ASSOCIATION, INC. (the "Association").

**ARTICLE II - PRINCIPAL OFFICE**

The initial principal office of this Association shall be located at 1930 SW 38th Ave, Ocala, Florida 34474, which office may be changed from time to time by action of the Board of Directors.

**ARTICLE III - REGISTERED OFFICE AND AGENT**

The name and street address of the initial registered agent and office of the Association shall be Richard Perkins at 1930 SW 38th Ave, Ocala, Florida 34474.

**ARTICLE IV - PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to its members. The specific purposes for which it is formed are to promote the health, safety, and general welfare of the residents within that certain real property described in that certain COMMUNITY DECLARATION FOR STONE CREEK (the "Declaration"), to be recorded among the Public Records of Marion County, Florida, and any amendments or modifications thereof (the "Declaration") relating to the Properties (as defined in the Declaration) and any additions thereto as may hereafter be brought within the jurisdiction of the Association. The purposes of this Association shall include, without limitation of the maintenance of the Common Area within the Properties, and carrying out, enforcing and otherwise fulfilling its rights and responsibilities under and pursuant to the Declaration. For the foregoing purposes, this Association is empowered to:

(1) exercise all of the powers and privileges, and to perform all of the duties and obligations of the Association as set forth in the Declaration as the same may be amended from time to time as therein provided;

(2) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration, and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of this Association, including all license fees, taxes, or governmental charges levied or imposed against the real or personal property of this Association;

(3) acquire, either by gift, purchase or otherwise, and to own, hold, improve, build upon, operate, maintain, convey, sell, lease or transfer, or otherwise dispose of real or personal property, or interests therein, in connection with the affairs of this Association;

(4) borrow money, and upon the approval of (i) a majority of the Board of Directors; and (ii) sixty six and two-thirds (66 2/3%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, including without limitation, the right to collateralize any such indebtedness with the Association's assessment collection rights;

(5) dedicate, sell, or transfer all or any part of this Association's property for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by sixty six and two-thirds (66 2/3%) percent of the Voting Interests, agreeing to such dedication, sale or transfer;

(6) grant easements as to the Common Area to public and private utility companies, and to public bodies or governmental agencies or other entities or persons, without cost or charge, where convenient, desirable or necessary in connection with the development of the Properties, and the providing of utility and other services thereto;

(7) participate in mergers and consolidations with other non-profit corporations organized for similar purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have been approved by (i) a majority of the Board of Directors; and (ii) sixty six and two-thirds (66 2/3%) percent of the Voting Interests (in person or by proxy) at a duly noticed meeting of the members in which there is a quorum present;

(8) adopt, alter, amend, and rescind reasonable rules and regulations from time to time, which rules and regulations shall be consistent with the rights and duties established by the Declaration and with the provisions of these Articles of Incorporation;

(9) contract for the maintenance and management of the Common Area, including but not limited to, any Surface Water Management System ("SWMS"), and to authorize a management agent to assist the Association in carrying out its powers and duties under the Declaration;

(10) operate and maintain the SWMS, including all inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas, and wetland mitigation areas;

(11) sue or be sued;

(12) to adopt such annual budgets as are necessary to carry out the provisions of the Declaration; and

(13) have and exercise any and all powers, rights, and privileges which a corporation organized under Chapter 617 or Chapter 720, Florida Statutes by law may now or hereafter have or exercise.



### **ARTICLE V-- MEMBERSHIP AND VOTING RIGHTS**

A. This Association shall be a membership corporation, without certificates of shares of stock.

B. Qualification for, and admission to, membership in the Association shall be regulated by the Declaration and the Bylaws of the Association.

C. The share of an Owner or a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner, except as an appurtenance of such Owner's or member's Residential Home (as defined in the Declaration).

### **ARTICLE VI - BOARD OF DIRECTORS**

The affairs of this Association shall be managed by a Board of Directors, which prior to Turnover, shall consist of three (3) directors, and thereafter shall consist of five (5) directors. Directors shall be members of the Association; provided, however, that prior to Turnover, Directors need not be members of the Association. The names and addresses of the persons, who are to act in the capacity of directors until their successors are elected and qualified, unless they sooner shall die, resign or be removed, are:

Richard K. Perkins	1930 SW 38th Ave. Ocala, Florida 34474
Gregory U. Clark	1930 SW 38th Ave. Ocala, Florida 34474
John Ragan	1930 SW 38th Ave. Ocala, Florida 34474

The initial Board of Directors herein designated shall serve until Turnover and until the Turnover meeting thereafter. Directors elected at the Turnover meeting shall serve on the Board as set forth in the Bylaws.

### **ARTICLE VII - OFFICERS**

The Association shall be administered by a president, vice president, secretary and treasurer, and such other officers as may be designated in the Bylaws, and shall be elected at the time and in the manner prescribed in the Bylaws. Officers need not be members of the Association. The names and addresses of the initial officers who shall serve until their successors are designated by the Board of Directors are as follows:

President:	Richard K. Perkins 1930 SW 38th Ave. Ocala, Florida 34474
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Vice President:	Gregory U. Clark 1930 SW 38th Ave. Ocala, Florida 34474
Secretary/Treasurer	John Ragan 1930 SW 38th Ave. Ocala, Florida 34474

#### **ARTICLE VIII - SUBSCRIBER**

The name and address of the subscriber to these Articles of Incorporation is as follows:

<u>NAME</u>	<u>ADDRESS</u>
Christian F. O'Ryan	2701 North Rocky Point Drive Suite 900 Tampa, Florida 33607

#### **ARTICLE IX - DISSOLUTION**

The Association will exist in perpetuity. However, this Association may be dissolved with the assent given in writing and signed by members entitled to cast not less than sixty six and two-thirds percent (66 2/3%) of the Voting Interests. Upon dissolution of this Association, other than incident to a merger or consolidation, the assets of this Association, including but not limited to any SWMS, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes, but in no event shall such assets inure to the benefit of any member or other private individual.

#### **ARTICLE X - BYLAWS**

The Bylaws of this Association shall be initially adopted by the Board of Directors. Thereafter, the Bylaws may be amended, altered or rescinded in the manner provided by the Bylaws.

#### **ARTICLE XI - AMENDMENT OF ARTICLES**

These Articles of Incorporation may be amended, from time to time, as follows:

(1) General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Articles shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, as applicable, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these Articles, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until a copy of such amendment shall have been certified by the Secretary of State of the State of Florida and thereafter shall have been recorded in the Public Records of Marion County, Florida.

(2) Amendments Prior to Turnover. Prior to Turnover, Declarant shall have the right to amend these Articles as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this Section is to be construed as broadly as possible. In the event that Association shall desire to amend these Articles prior to Turnover, Association must first obtain Declarant's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Declarant may be adopted by Association pursuant to the requirements for amendments from and after Turnover. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records of Marion County.

(3) Amendments From and After Turnover. From and after Turnover, but subject to the general restrictions on amendments set forth above, these Articles may be amended with the approval of (i) a majority of the Board; and (ii) sixty six and two-thirds percent (66 2/3%) of the votes present (in person or by proxy) at a duly called meeting of the Members in which there is a quorum.

#### ARTICLE XII - INDEMNIFICATION

Every director and every officer of the Association shall be indemnified by the Association to the fullest extent of the law against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed on him in connection with any proceeding or settlement of any proceeding to which he may be a party or in which he may become involved by reason of his being or having been a director or officer of the Association, whether or not he is a director or officer at the time such expenses are incurred. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

#### ARTICLE XIII - INTERPRETATION

Express reference is hereby made to the terms, provisions, definitions, and rules of interpretation contained in the Declaration where necessary to interpret, construe, and clarify the provisions of these Articles. In subscribing and filing these Articles, it is the intent of the undersigned that the provisions hereof be consistent with the provisions of the Declaration and, to the extent not prohibited by law, that the provisions of these Articles and of the Declaration be interpreted, construed, and applied so as to avoid inconsistencies or conflicting results.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the subscriber of this Association, has executed these Articles of Incorporation this 8 day of March, 2006.



CHRISTIAN F. O'RYAN  
Subscriber

**ACCEPTANCE OF REGISTERED AGENT**

Having been named to accept service of process for STONE CREEK COMMUNITY ASSOCIATION, INC., at the place designated in these Articles of Incorporation, the undersigned hereby accepts to act in this capacity, and agrees to comply with the provisions of the laws of the State of Florida relative to keeping such open office.

Dated this 8<sup>th</sup> day of March, 2006.



Richard K. Perkins  
Registered Agent

Registered Office:

1930 SW 38th Ave.  
Ocala, Florida 34474

Principal Corporation Office:

1930 SW 38th Ave.  
Ocala, Florida 34474

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**BYLAWS**  
**OF**  
**STONE CREEK COMMUNITY ASSOCIATION, INC.**

**ARTICLE I - NAME AND LOCATION**

Section 1.     Name.     The name of the corporation is STONE CREEK COMMUNITY ASSOCIATION, INC. (the "Association").

Section 2.     Location.     The principal office of the Association shall be located at 1930 SW 38th Ave, Ocala, Florida 34474, but meetings of members and directors may be held at such places within the State of Florida as may be designated by the Board of Directors.

**ARTICLE II - DEFINITIONS**

All initially capitalized terms not defined herein shall have the meanings set forth in the COMMUNITY DECLARATION FOR STONE CREEK, recorded among the Public Records of Marion County, Florida, and any amendments or modifications thereof (the "Declaration"). "Member" shall mean and refer to those persons entitled to membership in the Association provided in the Declaration.

**ARTICLE III - MEETINGS OF MEMBERS**

Section 1.     Annual Meetings.     The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held during the same month of each year thereafter, on such day and at such time as may be directed by the Board of Directors from time to time. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2.     Special Meetings.     Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote twenty-five percent (25%) of all Voting Interests.

Section 3.     Notice of Meeting.     Written notice of each meeting of the Members shall be given by, or at the direction of the Secretary of the Association or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the Members' address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4.     Quorum.     The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the Voting Interests shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote at such meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented by proxy.

**Exhibit "C"**

Section 5. Proxies. At all meetings of Members, Voting Interests may be voted in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every proxy shall be revocable and shall automatically cease as to any Lot upon conveyance by the Member owning such Lot.

Section 6. Place. All Members meetings shall be held within the State of Florida as may be directed by the Board of Directors.

#### **ARTICLE IV - BOARD OF DIRECTORS**

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors, prior to Turnover, shall consist of three (3) directors. Directors shall be members of the Association; provided, however, that prior to Turnover, Directors need not be Members of the Association. The Members, by majority vote of the Voting Interests (in person or proxy) at a duly noticed annual or special meeting at which a quorum is present, shall elect a board consisting of five (5) directors.

Section 2. Term of Office. The initial Board of Directors designated in the Articles of Incorporation shall serve until Turnover, and until the Turnover meeting thereafter, at which time the members shall elect five (5) directors. Directors elected at the first such annual membership meeting shall serve on the Board as determined by the number of votes cast for each elected Director as follows: (i) the two (2) Directors receiving the highest number of votes shall serve on the Board for two (2) years and (ii) the remaining three (3) Directors receiving the lowest number of votes shall serve on the Board for one (1) year each. Subsequently elected directors shall be elected for a term of two (2) years. A Director shall continue in office until his successor shall be elected and qualified, unless he sooner dies, resigns, or is removed, or otherwise disqualified to serve. Provided that, prior to Turnover, Declarant shall have the right to name Directors.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the Voting Interests (in person or by proxy) at a duly noticed meeting of the Members in which a quorum is present. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor, provided that prior to Turnover, Declarant shall have the right to name successor Directors.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the effect as though taken at a meeting of the Directors.

#### **ARTICLE V - NOMINATION AND ELECTION OF DIRECTORS**

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the

Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot unless unanimously waived by the Voting Interests (in person or by proxy). At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## **ARTICLE VI - MEETINGS OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held as the Board may from time to time establish at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

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

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

## **ARTICLE VII - POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

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

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

(b) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration.

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

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by twenty-five percent (25%) of the Voting Interests;

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

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

(1) fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period.

(2) send written notice of such Annual Assessment to every Owner subject thereto at least thirty (30) days in advance of each Annual Assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.

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

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association; and

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

#### **ARTICLE VIII - OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create. Prior to Turnover, officers need not be Members of the Association. The Secretary and Treasurer may, in the discretion of the Board, be combined to one office called Secretary/Treasurer.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for two (2) years unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

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

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



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

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

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

(a) President: The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes and may affix the corporate seal as may be required on any document.

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

(c) Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it, if the President does not, on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of accounts, cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

#### **ARTICLE IX - COMMITTEES**

The Board of Directors shall appoint an Architectural Review Committee, as provided in the Declaration, and a Nominating Committee as provided in these Bylaws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out purposes of the Association.

#### **ARTICLE X - BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

## **ARTICLE XI - CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the name of the Association, the year and state of incorporation and the words "Corporation not for profit".

## **ARTICLE XII - AMENDMENT**

These Bylaws may be amended, from time to time, as follows:

(1) General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these Bylaws shall affect the rights of Declarant unless such amendment receives the prior written consent of Declarant, as applicable, which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these Bylaws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until a copy of such amendment shall have been recorded in the Public Records of Marion County, Florida.

(2) Amendments Prior to Turnover. Prior to Turnover, Declarant shall have the right to amend these Bylaws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Declarant's right to amend under this Section is to be construed as broadly as possible. In the event that Association shall desire to amend these Bylaws prior to Turnover, Association must first obtain Declarant's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Declarant may be adopted by Association pursuant to the requirements for amendments from and after the Turnover. Thereafter, Declarant shall join in such identical amendment so that its consent to the same will be reflected in the Public Records of Marion County.

(3) Amendments From and After Turnover. From and after Turnover, but subject to the general restrictions on amendments set forth above, these Bylaws may be amended with the approval of (i) majority of the Board; and (ii) seventy-five percent (75%) of the votes present (in person or by proxy) at a duly called meeting of the Members in which there is a quorum.

## **ARTICLE XIII - CONFLICTS**

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**[CERTIFICATION CONTAINED ON THE FOLLOWING PAGE]**

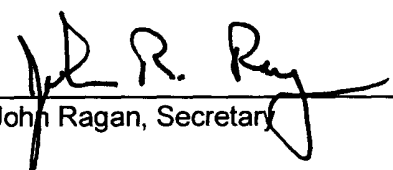
**CERTIFICATION**

I, John Ragan, do hereby certify that:

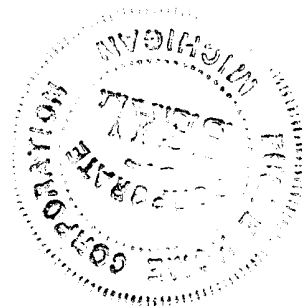
I am the duly elected and acting Secretary of STONE CREEK COMMUNITY ASSOCIATION, INC., a Florida corporation not for profit, and,

The foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the 1 day of May, 2006

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 10 day of May, 2006

  
John Ragan, Secretary

(CORPORATE SEAL)



**Exhibit "D"**  
**Common Areas**

Tracts A, B, C & D, STONE CREEK BY DEL WEBB - SEBASTIAN, according to the map or plat thereof as recorded in Plat Book 9, Page 194, of the Public Records of Marion County, Florida

Provided, however, so long as the Declarant may add or withdraw property from the jurisdiction and control of the Association in the manner described in the Declaration to which this **Exhibit "D"** is attached, the Declarant may increase or decrease the Common Area as provided in the Declaration.



An Equal  
Opportunity  
Employer

# Southwest Florida Water Management District

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)  
SUNCOM 572-6200

**Lecanto Service Office**  
Suite 226  
3600 West Sovereign Path  
Lecanto, Florida 34461-8070  
(352) 527-8131  
SUNCOM 667-3271

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: [WaterMatters.org](http://WaterMatters.org)

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)  
SUNCOM 531-6900

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 885-7481 or  
1-800-836-0797 (FL only)  
SUNCOM 578-2070

**Heldi B. McCree**  
Chair, Hillsborough  
**Talmadge G. "Jerry" Rice**  
Vice Chair, Pasco  
**Patay C. Symons**  
Secretary, DeSoto  
**Judith C. Whitehead**  
Treasurer, Hernando  
**Edward W. Chance**  
Manatee  
**Jennifer E. Clasenhey**  
Hillsborough  
**Nell Combee**  
Polk  
**Thomas A. Debnay**  
Sarasota  
**Watson L. Haynes II**  
Pinellas  
**Janet D. Kovach**  
Hillsborough  
**Todd Pressman**  
Pinellas

**David L. Moore**  
Executive Director  
**Gene A. Heath**  
Assistant Executive Director  
**William S. Blonky**  
General Counsel

October 12, 2005

Gregory M. Kelly  
Pulte Home Corporation  
1930 SW 18th Avenue  
Ocala, FL 34474

Subject: **Assignment of Permit**  
Project Name: Stone Creek By Del Webb Mass Grading  
Permit No.: 43028696.000  
Compliance No.: 152177  
County: Marion  
Sec/Twp/Rge: 1,2,10,11,12/16S/20E

Dear Mr. Kelly:

The District has transferred the Environmental Resource Permit referenced above to you, subject to all terms and conditions set forth in the approved permit. Acceptance of the permit includes agreement that the District may periodically review this permit and conduct site inspections.

It will be necessary for you to secure any approved drawings from the prior owner.

If you have questions concerning the permit, please contact Jeanenne K. Whitmore, at the Brooksville Service Office, extension 4373.

Sincerely,

Henry Robert Lue, P.E., Director  
Brooksville Regulation Department

HRL:JKW:mej

Enclosures: Approved Transferred Permit  
Notification and Request for Transfer Form  
Statement of Completion

cc/enc: File of Record 43028696.000  
On Top of the World Communities, Inc.

EXHIBIT "E"



An Equal  
Opportunity  
Employer

# Southwest Florida Water Management District

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)  
SUNCOM 572-8200

**Lecanto Service Office**  
Suite 226  
3600 West Sovereign Path  
Lecanto, Florida 34461-6070  
(352) 527-8131  
SUNCOM 667-3271

2379 Broad Street, Brooksville, Florida 34604-6899  
(352) 796-7211 or 1-800-423-1476 (FL only)  
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)  
On the Internet at: [WaterMatters.org](http://WaterMatters.org)

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)  
SUNCOM 531-8900

**Tampa Service Office**  
7601 Highway 301 North  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0787 (FL only)  
SUNCOM 578-2070

**Heidi B. McCrea**  
Chair, Hillsborough  
**Talmadge G. "Jerry" Rice**  
Vice Chair, Pasco  
**Patsy C. Symons**  
Secretary, DeSoto  
**Judith C. Whitehead**  
Treasurer, Hernando  
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Manatee  
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Polk  
**Thomas G. Dabney**  
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Hillsborough  
**Todd Pressman**  
Pinellas

**David L. Moore**  
Executive Director  
**Gene A. Heath**  
Assistant Executive Director  
**William S. Blenky**  
General Counsel

August 30, 2005

**Kenneth D. Colen**  
On Top of the World Communities, Inc.  
8447 SW 99th Street  
Ocala, FL 34481

**Subject: Notice of Final Agency Action for Approval**  
ERP Individual Construction  
Permit No.: 43028696.000  
Project Name: Stone Creek By Del Webb Mass Grading  
County: Marion  
Sec/Twp/Rge: 1,2,10,11,12/16S/20E

Dear Mr. Colen:

The Environmental Resource permit referenced above was approved by the District Governing Board subject to all terms and conditions set forth in the permit.

The enclosed approved construction plans are part of the permit, and construction must be in accordance with these plans.

If you have questions concerning the permit, please contact David G. Urban, at the Brooksville Service Office, extension 4372. For assistance with environmental concerns, please contact Alexander D. Aycrigg, extension 4390.

Sincerely,

BJ Jarvis, Director  
Records and Data Department

BJJ:dkh  
Enclosures: Approved Permit w/Conditions Attached  
Approved Construction Drawings  
Statement of Completion  
Notice of Authorization to Commence Construction  
cc/enc: File of Record 43028696.000  
Gregory M. Kelly, Pulte Homes  
Richard V. Busche, P.E., Kimley-Horn and Associates, Inc.  
US Army Corps of Engineers

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
INDIVIDUAL CONSTRUCTION  
PERMIT NO. 43028696.000

Expiration Date: August 30, 2010

PERMIT ISSUE DATE: August 30, 2005

This permit is issued under the provisions of Chapter 373, Florida Statutes (F.S.), and the Rules contained in Chapters 40D-4 and 40, Florida Administrative Code (F.A.C.). The permit authorizes the Permittee to proceed with the construction of a surface water management system in accordance with the information outlined herein and shown by the application, approved drawings, plans, specifications, and other documents, attached hereto and kept on file at the Southwest Florida Water Management District (District). Unless otherwise stated by permit specific condition, permit issuance constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341. All construction, operation and maintenance of the surface water management system authorized by this permit shall occur in compliance with Florida Statutes and Administrative Code and the conditions of this permit.

**PROJECT NAME:** Stone Creek By Del Webb Mass Grading

**GRANTED TO:** On Top of the World Communities, Inc.  
8447 SW 99th Street Road  
Ocala, FL 34481

**ABSTRACT:** This permit is for the construction of new surface water management systems to serve a 1,400.00-acre future residential development with a golf course. The project site is located southwest of the existing On Top of The World (OTOW) Development of Regional Impact (DRI) and west of SW 80th Avenue in Marion County. An Incidental Site Activities (ISA) Permit was issued on July 15, 2005. Activities authorized in the ISA include the installation of erosion and sediment control devices, land clearing, and light grading activities all within a 99.99-acre upland portion of the 1,400.00-acre development. Information regarding the surface water management system is contained in the tables below.

**OP. & MAINT. ENTITY:** On Top of the World Communities, Inc.

**COUNTY:** Marion

**SEC/TWP/RGE:** 1,2,10,11,12/16S/20E

**TOTAL ACRES OWNED  
OR UNDER CONTROL:** 1,400.00

**PROJECT SIZE:** 1,400.00 Acres

**LAND USE:** Residential

**DATE APPLICATION FILED:** April 8, 2005

**AMENDED DATE:** N/A

Permit No. 43028696.000  
 Project Name: Stone Creek By Del Webb Mass Grading  
 Page 2

I. Water Quantity/Quality

POND NO.	AREA ACRES @ TOP OF BANK	TREATMENT TYPE
WP-01	17.90	On-line Retention
WP-02	14.50	On-line Retention
WP-03	11.30	On-line Retention
WP-04	7.58	On-line Retention
WP-05	13.64	On-line Retention
WP-06	25.77	On-line Retention
WP-07	2.66	On-line Retention
WP-08	8.77	On-line Retention
WP-09	4.81	On-line Retention
WP-10	6.20	On-line Retention
WP-11	25.40	On-line Retention
WP-12	9.30	On-line Retention
WP-13	5.25	On-line Retention
WP-14	5.78	On-line Retention
DP-16	7.42	On-line Retention
DP-17	10.72	On-line Retention
DP-18	4.96	On-line Retention
DP-19	5.18	On-line Retention
WP-21	5.46	On-line Retention
WP-22	0.30	On-line Retention
DP-23	0.44	On-line Retention
DP-24	0.61	On-line Retention
TOTAL:	193.95	

A mixing zone is not required.

A variance is not required.

II. 100-Year Floodplain

Encroachment (Acre-Feet of fill)	Compensation (Acre-Feet of excavation)	Compensation Type*	Encroachment Result**(feet)
23.17	23.17	EE [X]	Depth [N/A]

\*Codes [ X ] for the type or method of compensation provided are as follows:

EE = Equivalent Excavation to offset project filling per Section 4.4 of the District's Basis of Review;

MI = Minimal Impact based on modeling of existing stages vs. post-project encroachment.

N/A = Not Applicable

\*\*Depth of change in flood stage (level) over existing receiving water stage resulting from floodplain encroachment caused by a project that claims MI type of compensation.



Permit No. 43028696.000  
 Project Name: Stone Creek By Del Webb Mass Grading  
 Page 3

### III. Environmental Considerations

<b>Wetland Information:</b>				
WETLAND NO.	TOTAL AC.	NOT IMPACTED AC.	TEMPORARILY DISTURBED AC.	PERMANENTLY DESTROYED AC.
A	0.14	0.14	0.00	0.00
B	0.20	0.20	0.00	0.00
<b>TOTAL</b>	<b>0.34</b>	<b>0.34</b>	<b>0.00</b>	<b>0.00</b>

<b>Mitigation Information:</b>					
AREA NO.	CREATED/ RESTORED AC.	UPLAND PRESERVED AC.	ENHANCED WETLAND AC.	WETLANDS PRESERVED AC.	MISC. MITI. AC.
N/A	0.00	0.00	0.00	0.00	0.00
<b>TOTAL</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>NET CHANGE</b>	<b>-0.00</b>	<b>OTHER MITIGATION TOTAL</b>			<b>0.00</b>

Comments: This project contains 0.34 acre of wetlands. Project construction will result in 0.34 acre of permanent impact to wetlands. No mitigation is required for the impacts because the wetlands are isolated, less than 0.5 acre, and do not appear to provide habitat for threatened or endangered species. The loss was not recorded above because it was deemed insignificant.

Watershed Name: Ocklawaha River

A regulatory conservation easement is not required.

A proprietary conservation easement is not required.

### SPECIFIC CONDITIONS

1. If the ownership of the project area covered by the subject permit is divided, with someone other than the Permittee becoming the owner of part of the project area, this permit shall terminate, pursuant to Section 40D-1.6105, F.A.C. In such situations, each landowner shall obtain a permit (which may be a modification of this permit) for the land owned by that person. This condition shall not apply to the division and sale of lots or units in residential subdivisions or condominiums.
2. Unless specified otherwise herein, two copies of all information and reports required by this permit shall be submitted to:

Brooksville Regulation Department  
 Southwest Florida Water Management District  
 2379 Broad Street  
 Brooksville, FL 34604-6899

The permit number, title of report or information and event (for recurring report or information submittal) shall be identified on all information and reports submitted.

Permit No. 43028696.000  
Project Name: Stone Creek By Del Webb Mass Grading  
Page 4

3. The Permittee shall retain the design engineer, or other professional engineer registered in Florida, to conduct on-site observations of construction and assist with the as-built certification requirements of this project. The Permittee shall inform the District in writing of the name, address and phone number of the professional engineer so employed. This information shall be submitted prior to construction.
4. Within 30 days after completion of construction of the permitted activity, the Permittee shall submit to the Brooksville Service Office a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required Statement of Completion and Request for Transfer to Operation Entity form identified in Chapter 40D-1.659, F.A.C., and signed, dated and sealed as-built drawings. The as-built drawings shall identify any deviations from the approved construction drawings.
5. The District reserves the right, upon prior notice to the Permittee, to conduct on-site research to assess the pollutant removal efficiency of the surface water management system. The Permittee may be required to cooperate in this regard by allowing on-site access by District representatives, by allowing the installation and operation of testing and monitoring equipment, and by allowing other assistance measures as needed on site.
6. The operation and maintenance entity shall submit inspection reports in the form required by the District, in accordance with the following schedule.  
  
For systems utilizing retention or wet detention, the inspections shall be performed two (2) years after operation is authorized and every two (2) years thereafter.
7. If limestone bedrock is encountered during construction of the surface water management system, the District must be notified and construction in the affected area shall cease.
8. The Permittee shall notify the District of any sinkhole development in the surface water management system within 48 hours of discovery and must submit a detailed sinkhole evaluation and repair plan for approval by the District within 30 days of discovery.
9. The District, upon prior notice to the Permittee, may conduct on-site inspections to assess the effectiveness of the erosion control barriers and other measures employed to prevent violations of state water quality standards and avoid downstream impacts. Such barriers or other measures should control discharges, erosion, and sediment transport during construction and thereafter. The District will also determine any potential environmental problems that may develop as a result of leaving or removing the barriers and other measures during construction or after construction of the project has been completed. The Permittee must provide any remedial measures that are needed.
10. This permit is issued based upon the design prepared by the Permittee's consultant. If at any time it is determined by the District that the Conditions for Issuance of Permits in Rules 40D-4.301 and 40D-4.302, F.A.C., have not been met, upon written notice by the District, the Permittee shall obtain a permit modification and perform any construction necessary thereunder to correct any deficiencies in the system design or construction to meet District rule criteria. The Permittee is advised that the correction of deficiencies may require re-construction of the surface water management system and/or mitigation areas.

Permit No. 43028696.000  
Project Name: Stone Creek By Del Webb Mass Grading  
Page 5

11. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The Permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance within Section 872.05, Florida Statutes.

#### GENERAL CONDITIONS

1. The general conditions attached hereto as Exhibit "A" are hereby incorporated into this permit by reference and the Permittee shall comply with them.

  
\_\_\_\_\_  
Authorized Signature

6. District staff must be notified in advance of any proposed construction dewatering. If the dewatering activity is likely to result in offsite discharge or sediment transport into wetlands or surface waters, a written dewatering plan must either have been submitted and approved with the permit application or submitted to the District as a permit modification prior to the dewatering event as a permit modification. A water use permit may be required prior to any use exceeding the thresholds in Chapter 40D-2, F.A.C.
7. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than 7 days after the construction activity in that portion of the site has temporarily or permanently ceased.
8. Off-site discharges during construction and development shall be made only through the facilities authorized by this permit. Water discharged from the project shall be through structures having a mechanism suitable for regulating upstream stages. Stages may be subject to operating schedules satisfactory to the District.
9. The permittee shall complete construction of all aspects of the surface water management system, including wetland compensation (grading, mulching, planting), water quality treatment features, and discharge control facilities prior to beneficial occupancy or use of the development being served by this system.
10. The following shall be properly abandoned and/or removed in accordance with the applicable regulations:
  - a. Any existing wells in the path of construction shall be properly plugged and abandoned by a licensed well contractor.
  - b. Any existing septic tanks on site shall be abandoned at the beginning of construction.
  - c. Any existing fuel storage tanks and fuel pumps shall be removed at the beginning of construction.
11. All surface water management systems shall be operated to conserve water in order to maintain environmental quality and resource protection; to increase the efficiency of transport, application and use; to decrease waste; to minimize unnatural runoff from the property and to minimize dewatering of offsite property.
12. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District a written notification of commencement indicating the actual start date and the expected completion date.
13. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the occupation of the site or operation of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of that phase or portion of the system to a local government or other responsible entity.
14. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required Statement of Completion and Request for Transfer to Operation Entity form identified in Chapter 40D-1, F.A.C. Additionally, if deviation from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved permit drawings with deviations noted.

15. This permit is valid only for the specific processes, operations and designs indicated on the approved drawings or exhibits submitted in support of the permit application. Any substantial deviation from the approved drawings, exhibits, specifications or permit conditions, including construction within the total land area but outside the approved project area(s), may constitute grounds for revocation or enforcement action by the District, unless a modification has been applied for and approved. Examples of substantial deviations include excavation of ponds, ditches or sump areas deeper than shown on the approved plans.
16. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of the conditions herein, the District determines the system to be in compliance with the permitted plans, and the entity approved by the District accepts responsibility for operation and maintenance of the system. The permit may not be transferred to the operation and maintenance entity approved by the District until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall request transfer of the permit to the responsible operation and maintenance entity approved by the District, if different from the permittee. Until a transfer is approved by the District, the permittee shall be liable for compliance with the terms of the permit.
17. Should any other regulatory agency require changes to the permitted system, the District shall be notified of the changes prior to implementation so that a determination can be made whether a permit modification is required.
18. This permit does not eliminate the necessity to obtain any required federal, state, local and special District authorizations including a determination of the proposed activities' compliance with the applicable comprehensive plan prior to the start of any activity approved by this permit.
19. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40D-4 or Chapter 40D-40, F.A.C.
20. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the activities authorized by the permit or any use of the permitted system.
21. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
22. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 40D-4.351, F.A.C. The permittee transferring the permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to such sale, conveyance or other transfer.
23. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with District rules, regulations and conditions of the permits.
24. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the District and the Florida Department of State, Division of Historical Resources.
25. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

**ERP General Conditions**  
**Individual (Construction, Conceptual, Mitigation Banks), General,**  
**Incidental Site Activities, Minor Systems**  
Page 3 of 3

41.00-023(03/04)

**Exhibit "F"**  
**Class A Property**

Lots 1 – 207, STONE CREEK BY DEL WEBB - SEBASTIAN, according to the map or plat thereof as recorded in Plat Book 9, Page 194, of the Public Records of Marion County, Florida.

PROVIDED, HOWEVER, SO LONG AS THE DECLARANT MAY ADD OR WITHDRAW PROPERTY FROM THE JURISDICTION AND CONTROL OF THE ASSOCIATION IN THE MANNER DESCRIBED IN THE DECLARATION TO WHICH THIS **EXHIBIT "F"** IS ATTACHED, THE DECLARANT MAY INCREASE OR DECREASE THE **"CLASS A PROPERTY"** SO LONG AS DECLARANT OWNS SUCH PROPERTY AND SUCH PROPERTY HAS NOT BEEN CONVEYED TO A CLASS A, CLASS B OR CLASS C MEMBER.

**Exhibit "G"**  
**Class B Property**

There is currently no Class "B" Property.

PROVIDED, HOWEVER, SO LONG AS THE DECLARANT MAY ADD OR WITHDRAW PROPERTY FROM THE JURISDICTION AND CONTROL OF THE ASSOCIATION IN THE MANNER DESCRIBED IN THE DECLARATION TO WHICH THIS **EXHIBIT "G"** IS ATTACHED, THE DECLARANT MAY INCREASE OR DECREASE THE **"CLASS B PROPERTY"** SO LONG AS DECLARANT OWNS SUCH PROPERTY AND SUCH PROPERTY HAS NOT BEEN CONVEYED TO A CLASS A, CLASS B OR CLASS C MEMBER.

**Exhibit "H"**  
**Class C Property**

There is currently no Class "C" Property.

PROVIDED, HOWEVER, SO LONG AS THE DECLARANT MAY ADD OR WITHDRAW PROPERTY FROM THE JURISDICTION AND CONTROL OF THE ASSOCIATION IN THE MANNER DESCRIBED IN THE DECLARATION TO WHICH THIS **EXHIBIT "H"** IS ATTACHED, THE DECLARANT MAY INCREASE OR DECREASE THE **"CLASS C PROPERTY"** SO LONG AS DECLARANT OWNS SUCH PROPERTY AND SUCH PROPERTY HAS NOT BEEN CONVEYED TO A CLASS A, CLASS B OR CLASS C MEMBER.