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Cross-Reference: Declaration: Book 2186
Page: 0001

# FIRST AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS WATERCOLOR

This First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for WaterColor is made this 18th day of September, 2013, by The St. Joe Company, a Florida corporation ("Declarant").

WITNESSETH:

WHEREAS, on March 27, 2000, Declarant recorded that certain Declaration of Covenants, Conditions, and Restrictions for WaterColor in Deed Book 2186, Page 0001, et seq., Official Records of Walton County, Florida (such instrument as amended and supplemented is hereinafter referred to as the "Original Declaration");

WHEREAS, pursuant to Section 20.1 of the Original Declaration, during the Class "B" Control Period, Declarant may unilaterally amend the Declaration for any purpose;

WHEREAS, the Class "B" Control Period has not terminated as of the date of this amendment and restatement; and,

WHEREAS, Declarant in preparing for the termination of the Class "B" Control Period has met with representatives of the Association, and Declarant and the Association are desirous of and have agreed to certain changes to be made to the Declaration and the Governing Documents and deem it appropriate for ease of operation and administration to consolidate all of the amendments to the Original Declaration and to restate this First Amended and Restated Declaration of Covenants, Conditions, and Restrictions for WaterColor (the "First Amended and Restated Declaration");

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Original Declaration, the Declarant hereby restates all of the amendments to the Original Declaration and further amends the Original Declaration as of the date of this First Amended and Restated Declaration.

Notwithstanding the above, it is the intent of the Declarant that all property and land which have been previously subjected to the Original Declaration, remain subjected to this First Amended and Restated Declaration and this First Amended and Restated Declaration is in no way intended to withdraw or remove any property previously subjected to the Original Declaration from the Amended and Restated Declaration. This First Amended and Restated Declaration incorporates by reference all Recorded Supplemental Declarations to the Original Declaration that pre-date the Recording of this First Amended and Restated Declaration (the "Original Supplemental Declarations") listed on Exhibit "A-1," including but not limited to the legal descriptions attached to the Original Supplemental Declarations. All such Original Supplemental Declarations shall remain in full force and effect, except such Original Supplemental Declarations that are amended and restated simultaneously herewith (the "Amended and Restated Supplemental Declarations"). Excluding the Amended and Restated Supplemental Declarations, to the extent that any amendment, provision, supplement to any Original Supplemental Declaration, including but not limited to any portion of the legal description of the Community, is unintentionally modified in or omitted from this Amended and Restated Declaration, then such provision, amendment or supplement to the Original Supplemental Declaration, shall remain in full force and effect.

Upon recording, please return to:
Dunlap & Shipman, P.A.
60 Clayton Lane, Suite A
Santa Rosa Beach, FL 32459

# FIRST AMENDED AND RESTATED

# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

# FOR

# WATERCOLOR

**Gary A. Shipman, Esquire**
**Dunlap & Shipman, P.A.**
**60 Clayton Lane, Suite A**
**Santa Rosa Beach, FL 32459**

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# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

# FOR

# WATERCOLOR

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made this____ day of _____, __ by The St. Joe Company, a Florida corporation.

## PART ONE: INTRODUCTION TO THE COMMUNITY

*The St. Joe Company has created this Declaration to provide a governance structure and a flexible system of standards and procedures for the overall development, expansion, administration, maintenance, and preservation of WaterColor as a planned community.*

### Article I Creation of the Community

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A" (or if not the owner, with the owner's consent), is Recording this Declaration to establish a general plan of development for WaterColor, a planned community. This Declaration provides for the Community's overall development, administration, maintenance, and preservation, and provides a flexible and reasonable procedure for its future expansion. An integral part of the development plan is the creation of the WaterColor Community Association, Inc., an association comprised of all WaterColor property owners, to own, operate, and/or maintain various common areas and community improvements, and to administer and enforce this Declaration and the other Governing Documents.

This document does not and is not intended to create a condominium under Florida law.

1.2. Binding Effect.

This Declaration governs the property described in Exhibit "A," and all land previously subjected to this Declaration by separately recorded instruments that pre-date the recording of this Declaration and any additional property submitted to this Declaration in the future. This Declaration shall run with the title to such property and shall bind anyone having any right, title, or interest in any portion of such property, their heirs, successors, successors-in-title, and assigns.

Declarant, the Association, and their respective legal representatives, heirs, successors, and assigns may enforce this Declaration. This Declaration shall be effective for a minimum of 25 years from the date it is Recorded. After 25 years, this Declaration shall be extended automatically for successive 10 year periods unless at least 75% of the then Owners sign a document stating that the Declaration is terminated and that document is Recorded within the year before any extension. In such case, this Declaration shall expire on the date specified in the termination document.

The Florida Department of Environmental Protection 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 surface water or stormwater management system.

In any event, if any provision of this Declaration would be invalid under the Florida Uniform Statutory Rule Against Perpetuities, that provision shall expire 90 years after this Declaration is Recorded. This Section does not permit termination of any easement created in this Declaration without the consent of the holder of such easement.

1.3. Governing Documents.

The Governing Documents create a general development plan for WaterColor. The following diagram identifies and summarizes the Governing Documents, each as they may be amended:

| | |
|---|---|
| **Declaration** (Recorded) → | creates obligations which are binding upon the Association and all present and future owners of property in WaterColor |
| **Supplemental Declaration** (Recorded) → | adds property to WaterColor; *may* impose additional obligations or restrictions on such property |
| **Articles of Incorporation** (filed with the Department of State) → | establish the Association as a non-profit corporation under Florida law |
| **By-Laws** (Board adopts) → | govern the Association's internal affairs, such as voting rights, elections, meetings, officers, etc. |
| **Design Guidelines** (Declarant adopts) → | establish architectural standards and guidelines for improvements and modifications to Lots, including structures, landscaping, and other items on Lots |
| **Use Restrictions** (initial set attached as Exhibit "C") → | govern use of property and activities within WaterColor |
| **Board Resolutions and Rules** (Board adopts) → | establish rules, policies, and procedures for internal governance and Association activities; regulate operation and use of Common Area |

Additional restrictions or provisions which are more restrictive than the provisions of this Declaration may be imposed on any portion of WaterColor, in which case, the more restrictive provisions will be controlling. However, no Person shall Record any additional covenants, conditions, or restrictions affecting any portion of WaterColor without Declarant's written consent, so long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B." Thereafter, 75% of the Association's total Class "A" votes must consent in writing. Any instrument Recorded without the required consent is void and of no force and effect.

If there are conflicts between Florida Law, the Declaration, the Articles, and the By-Laws, then Florida law, the Declaration, the Articles, and the By-Laws (in that order) shall

prevail. If there is a conflict between the Governing Documents and any Neighborhood Association's covenants, restrictions, or policies, the Governing Documents will control.

The Governing Documents apply to all Owners and any occupants of a Lot. They also apply to tenants, guests, visitors, and invitees. All leases must require that tenants and all occupants of the leased Lot are bound by and obligated to comply with the Governing Documents; provided, the Governing Documents shall apply regardless of whether specifically set forth in the lease.

If any court determines that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or other applications of the provision.

Diagrams in the Governing Documents illustrate concepts and assist the reader. The diagrams are for illustrative purposes only. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

**Article II Concepts and Definitions**

The terms used in the Governing Documents are given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms are defined as follows:

"Affiliate": Any subsidiary or affiliated, company, partnership, limited liability company, or other legal entity of the Declarant, their assigns, directors, trustees, officers and agents, as well as any designee of the Declarant, its directors, trustees, officers or agents.

"Articles": The Articles of Incorporation of WaterColor Community Association Inc., filed with Florida's Department of State, as they may be amended.

"Association": WaterColor Community Association, Inc., a Florida not-for-profit corporation, its successors or assigns.

"Benefited Assessment": Assessments charged against a particular Lot or particular Lots for Association expenses as described in Section 8.5.

"Board of Directors" or "Board": The body responsible for the general governance and administration of the Association, selected as provided in the By-Laws.

"Builder": Anyone acquiring Lots for the purpose of constructing homes for resale to consumers.

"By-Laws": The By-Laws of WaterColor Community Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "E."

"Class "B" Control Period": The time period during which the Class "B" Member may appoint a majority of the Board members. The Class "B" Control Period ends when any one of the following occurs:

(a) three months after 90% of the Lots permitted under the Master Plan are owned by Class "A" Members other than Builders;

(b) December 31, 2035; or

(c) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise has a right to possess or use for the common use and enjoyment of the Owners. Common Area includes the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses the Association incurs, or expects to incur, for the general benefit of all Owners. Common Expenses include any reserves the Board finds necessary or appropriate.

"Common Maintenance Areas": The Common Area, together with any other area for which the Association has or assumes maintenance or other responsibility.

"Community" or "WaterColor": The real property described in Exhibit "A," and all land previously subjected to this Declaration by separately Recorded instruments that pre-date the recording of this Declaration together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Community, or the minimum standards established pursuant to the Design Guidelines, Use Restrictions, and Board resolutions, whichever is the highest standard. Declarant initially shall establish such standard. The Community-Wide Standard may contain objective elements, such as specific lawn or house maintenance requirements, and subjective elements, such as matters subject to the Board's or the DRB's discretion. The Community-Wide Standard may or may not be set out in writing. The Community-Wide Standard may evolve as development progresses and as WaterColor changes.

"Declarant": The St. Joe Company, a Florida corporation, or any successor or assign as developer of all or any portion of WaterColor who is designated as Declarant in a Recorded instrument the immediately preceding Declarant executes. On all matters, Declarant may act through its Affiliates, St. Joe/Arvida Co., L.P., a Florida limited partnership, or St. Joe-Arvida Home Building, Inc., a Florida corporation.

"Design Guidelines": The Community's architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV.

"Design Review Board" or "DRB": The committee established to review plans and specifications for the construction or modification of improvements and to administer and enforce the architectural controls described in Article IV.

"Development Order": Resolution No. 99-79, A Development Order of Walton County, Florida, Pursuant to Chapter 380, Florida Statutes, on an Application for Development Approval

Filed by The St. Joe Company for The Villages of Seagrove Development of Regional Impact, as may be amended from time to time.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods or Owners, as more particularly described in Article XII.

"Lot": A portion of the Community, whether improved or unimproved, which may be independently owned and conveyed. The term shall refer to the land, if any, which is part of the Lot as well as any improvements on the Lot. The term shall not apply to the Common Area. The boundaries of each Lot shall be shown, described, or referenced on a Plat, Recorded survey, restrictive covenants, or deed; provided, in the case of a building containing multiple dwellings for independent sale *(e.g.,* attached condominium, townhouse, or airspace units), each dwelling which may be sold independently shall be a separate Lot.

A parcel shall be deemed to be a single Lot until such time as a Plat subdivides all or a portion of the parcel or otherwise creates, designates, or describes Lots within a parcel. After a Plat is Recorded, the parcel shall contain the number of Lots shown, created, designated, or described on the Plat.

A Lot intended for development, use, and occupancy as an attached or detached single family residence is sometimes referred to as a "Residential Lot." A Lot Declarant approves for any non-residential purpose *(e.g.,* a Lot reserved for retail use or the WaterColor Inn (as defined below)) or which is shown on the Master Plan as being designated for such non-residential purposes, is sometimes referred to as a "Non-Residential Lot."

"Master Plan": The land use plan for WaterColor approved by Walton County, Florida, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Declarant is not obligated to submit property shown on the Master Plan to this Declaration. In addition, Declarant may submit property to this Declaration which is not shown on the Master Plan. The Master Plan is subject to change, in Declarant's discretion, without notice or consent except as may be required by law.

"Member": Each Lot Owner, as described in Section 6.2. There are two membership classes, Class "A" and Class "B."

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood": A group of Lots designated as a separate Neighborhood in accordance with Section 6.4(a). Lots within a Neighborhood may share Limited Common Areas and/or receive benefits or services from the Association which are not provided to all Lots. A Neighborhood may include more than one housing or use type and may include parcels which do not border on each other. If the Association provides benefits or services to less than all Lots within a particular Neighborhood, then the Association may levy a Neighborhood Assessment or Benefited Assessments against just those Lots for such benefits or services.

An owners association having jurisdiction over a Neighborhood which is subordinate to the Association's rights under this Declaration is referred to as a "Neighborhood Association." This Declaration does not require the creation of any Neighborhood Association.

"Neighborhood Assessments": Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

"Neighborhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood, including any reserve for capital repairs and replacements and administrative charges authorized by this Declaration or the Supplemental Declaration(s) applicable to such Neighborhood.

"Neighborhood Representative": The individual selected by the Class "A" Members within a Neighborhood to represent the Neighborhood where provided for elsewhere in this Declaration.

"Owner": The title holder to any Lot, but excluding, in all cases, anyone holding an interest merely as security for the performance of an obligation *(e.g.,* a Mortgagee). If a Lot is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Person": An individual, a corporation, a partnership, a trustee, or any other legal entity.

"Plat": Any Recorded land survey plat for all or any portion of WaterColor.

"Private Amenities": Real property and facilities, if any, located within, adjacent to, or near the Community, which Persons other than the Association own and operate for recreational, hospitality, or other related purposes, including, without limitation, the resort inn planned for operation within WaterColor (referred to in this Declaration as the "WaterColor Inn").

"Record," "Recording," or "Recorded": To file, the filing of, or filed of record a legal instrument in the Official Records of Walton County, Florida, or such other place designated as the official Walton County location for recording documents affecting title to real estate.

"Regular Assessment": Annual assessments levied to fund Common Expenses for the general benefit of all Lots, as determined in accordance with Section 8.1.

"Special Assessment": Assessments charged against all Owners or all Owners in a Neighborhood in accordance with Section 8.6.

"Supplemental Declaration": A Recorded instrument which subjects additional property to this Declaration, designates Neighborhoods, identifies Common Area and Limited Common Area, and/or imposes additional restrictions and obligations on the land described, or otherwise adds or changes this Declaration.

"Surface Water or Stormwater Management System": A system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to

prevent or reduce flooding, overdrainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges. The term shall also include any stormwater discharge facility and irrigation system servicing the Community.

"Use Restrictions": The initial use restrictions, rules, and regulations governing the use of and activities on the Lots and the Common Areas set forth in Exhibit "C," as they may be changed in accordance with Article III or otherwise amended.

## PART TWO: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

*The standards for use and conduct, maintenance, and architecture at WaterColor are what give the Community its identity and make it a place that people want to call "home." This Declaration establishes procedures for adopting, modifying, applying, and enforcing such standards while providing the flexibility for community standards to evolve as the Community changes and grows.*

### Article III Use and Conduct

3.1. Restrictions on Use, Occupancy, and Alienation.

The restrictions set forth in this Section may be amended only in accordance with Article XX.

(a) Residential and Related Uses. Residential Lots shall be used primarily for residential and related purposes. No business shall be conducted in, on, or from any Residential Lot, except that an Owner or another resident of the Lot may conduct business activities on such Lot if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and

(iv) is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of others within the Community, as determined in the Board's sole discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

This Section shall not apply to restrict Declarant's activities, nor shall it restrict the activities of Persons Declarant approves with respect to the development and sale of property in the Community. This Section also shall not apply to Non-Residential Lots or to Association activities related to the provision of services or to operating and maintaining the Community, including the Community's recreational and other amenities.

Leasing a residence is not a "business" within the meaning of this subsection.

(b) Leasing. For purposes of this Declaration, "leasing" is the regular, exclusive occupancy of a dwelling by any Person other than the Owner, for which the Owner receives any consideration or benefit, including a fee, service, or gratuity. The principal dwelling on the Residential Lot may be leased only in its entirety (e.g., separate rooms within the same dwelling may not be separately leased); provided, a detached "in-law suite" or "guest house" may be independently leased.

All leases shall be in writing, and the lease form shall comply with all requirements established by the Association. The Association may require the form be filed with the Association and approved by the Association. In accordance with the procedures set out in Section 3.4, the Board may impose minimum lease terms of up to 12 months. Minimum lease terms may vary according to property use *(e.g.,* multi-family or Non-Residential Lots may be permitted to be leased under shorter minimum lease terms than detached single family homes). Restrictions on lease terms shall not apply to Lots Declarant or its Affiliates own.

Within ten days of a lease being signed, an Owner shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Board may adopt reasonable Use Restrictions and rules regulating leasing and subleasing.

(c) Maximum Occupancy. No more than two Persons per bedroom may occupy the same dwelling on or in a Residential Lot on a regular and consistent basis (as the Board determines).

(d) Occupants Bound. Every Owner shall cause anyone occupying or visiting his or her Lot to comply with the Governing Documents and shall be responsible for all violations and losses they cause to the Common Maintenance Areas, notwithstanding the fact that such Persons also are responsible for complying and may be sanctioned for any violation.

(e) Subdivision of a Lot and Time-Sharing. Lots may not be subdivided or their boundary lines changed except with the Board's prior written approval; provided, Declarant may subdivide, change the boundary line of, and replat any Lot it owns. In addition, for so long as Declarant owns any portion of the Community, it may convert Lots into Common Area. During the time that Declarant or any Declarant Affiliate owns property within WaterColor, the use of any Lot for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years is prohibited, except that Declarant, its Affiliates, and assigns may operate such a program. Thereafter, programs previously permitted by Declarant may

continue to operate on the designated Lots and the operation of such programs on any other Lot shall require the Board's prior approval.

3.2. Framework for Regulation.

As part of the general plan of development, the Governing Documents establish a framework of covenants, easements, and restrictions which govern the Community. This includes the initial Use Restrictions set forth in Exhibit "C." Within that framework, the Board and the Members must be able to respond to unforeseen problems and changes affecting the Community. This Article establishes procedures for modifying and expanding the Use Restrictions to respond to such changes.

The procedures described in this Article are not intended to apply to reasonable rules and regulations relating to use and operation of the Common Area, which the Board may adopt by resolution, or other administrative rules, unless the Board chooses, in its discretion, to submit to such procedures. In addition, the Board shall have discretion, without the necessity of complying with the procedures set forth in this Article, to enact such rules and regulations as are necessary or appropriate to comply with the Development Order and any other governmental or quasi-governmental order, permit, or approval applicable to the Community, including, without limitation, the Consent Amended Final Judgment (as described in Section 7.15), the Incidental Take Permit (as described in Section 7.17), and the Habitat Management Policy Plan (as described in Section 7.14(d)).

3.3. Owners' Acknowledgment and Notice to Purchasers.

Each Owner, by accepting a deed, acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot is limited and affected by the Use Restrictions and Board rules, which may change from time to time. All Lot purchasers are on notice that the Association may have adopted changes to the Use Restrictions and that such changes may not be set forth in a Recorded document. Copies of the current Use Restrictions and Board rules may be obtained from the Association.

3.4. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and the Members, the Board may change *(i.e.,* modify, cancel, limit, create exceptions to, or add to) the Use Restrictions. The Board shall send the Members and Neighborhood Representatives notice of any proposed change at least fourteen (14) calendar days before the Board meeting to consider the change. The Neighborhood Representatives and Members shall have a reasonable opportunity to be heard at such Board meeting.

The proposed change shall be approved unless disapproved by a majority of the Association's Class "A" votes, and by the Class "B" Member, if any. The Board is not obligated to call a meeting to consider disapproval unless it receives a petition which meets the By-Law's requirements for special meetings. If the Board receives such a petition before the change's effective date, the change shall not become effective until after a meeting is held, and then subject to the outcome of the meeting.

(b) Alternatively, a majority of the Class "A" votes in the Association, at an Association meeting duly called for such purpose, may vote to change the Use Restrictions then in effect. Any such change shall require approval of the Class "B" Member, if any.

(c) Before any Use Restriction change becomes effective, the Board shall send a copy of the new or changed Use Restriction to each Owner. The change does not become effective until 30 days following distribution to the Owners. The Association shall provide to any requesting Member or Mortgagee, without cost, a copy of the Use Restrictions then in effect.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Design Guidelines or any provision of this Declaration other than the initial Use Restrictions. In the event of a conflict between the Design Guidelines and the Use Restrictions, the Design Guidelines shall control. In the event of a conflict between the Use Restrictions and any provision within this Declaration (exclusive of the Use Restrictions), the Declaration provision shall control.

3.5. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Use Restrictions set forth in Exhibit "C," the Association's actions with respect to Use Restrictions and rules must comply with the following:

(a) Similar Treatment. Similarly situated Owners must be treated similarly; however, the Use Restrictions and rules may vary by Neighborhood.

(b) Displays. Owners' rights to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to such displays.

The Association shall not regulate the content of political signs; however, it may regulate the time, place, and manner of posting such signs (including design criteria).

(c) Household Composition. The Association shall not interfere with any Owner's freedom to determine the composition of his/her household, except that it may enforce the occupancy limits set out in Section 3.1(c).

(d) Activities Within Lots. The Association shall not interfere with activities within a dwelling, except it may prohibit activities within Residential Lots not normally associated with residential property, and it may restrict or prohibit activities within any Lot that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible outside the Lot, or that are an unreasonable source of annoyance.

(e) Alienation. The Association shall not prohibit leasing or transfer of any Lot, or require the Association's or the Board's consent prior to leasing or transferring a Lot. The Association may require that Owners use Association-approved lease forms (or include specific

lease terms) and may impose a reasonable review or administrative fee on the lease or transfer of any Lot. In addition, pursuant to Section 3.1(b), the Board may impose minimum lease terms.

(f) Abridging Existing Rights. The Association may not require an Owner to dispose of personal property that was in or on a Lot in compliance with previous rules. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the rule.

(g) Reasonable Rights to Develop. The Association may not impede Declarant's right to develop WaterColor.

(h) Interference with Private Amenities. The Association may not interfere with the use, ownership, appearance, or operation of any Private Amenity, except as may be specifically set forth in an agreement between the Association and the Private Amenity or in covenants Recorded against the Private Amenity property.

(i) Interference with Permitted Non-Residential Operations. The Association may not unreasonably interfere with the permitted use or operation of any Non-Residential Lot.

(j) Compliance with Development Order. The Association may not enact any rule or take any action, including, without limitation, amending the Use Restrictions, which is in violation of, or which prevents actions required to comply with, the terms of the Development Order, the Consent Amended Final Judgment, the Incidental Take Permit, or the Habitat Management Policy Plan,

The limitations in subsections (a) through (f) of this Section shall not apply to amendments to this Declaration adopted in accordance with Article XX.

## Article IV Architecture and Landscaping

### 4.1. General.

Except for work done by or on behalf of Declarant or any Declarant Affiliate, no structure or thing shall be placed, erected, or installed upon any Lot, and no improvements or other work (including staking, clearing, excavation, grading and other site work, exterior alterations, or planting or removal of landscaping) shall take place within WaterColor, except in compliance with this Article and the Design Guidelines.

Any Owner may remodel, paint, or redecorate the interior of any structure on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and any other portions of a Lot visible from outside a structure are subject to approval. Additionally, any interior remodeling that would expand the number of existing bedrooms is subject to approval and must meet parking requirements.

Each dwelling shall be designed by and built in accordance with the plans and specifications of a licensed architect acceptable to Declarant, unless Declarant, in its sole discretion, or its designee otherwise approves. The landscaping for each Lot shall be designed and installed in accordance with the plans and specifications of a licensed landscape architect

acceptable to Declarant, unless Declarant, in its sole discretion, or its designee otherwise approves. Dwellings shall be constructed by licensed or certified Builders acceptable to Declarant, unless Declarant, in its sole discretion, or its designee otherwise approves.

Approval under this Article and the Design Guidelines is not a substitute for any approvals or reviews required by Walton County, the U.S. Fish and Wildlife Service, or any other municipality or governmental agency or entity having jurisdiction over architectural or construction matters. At least one week prior to any clearing, grading, or construction taking place on any Lot designated as a Choctawhatchee Beach Mouse critical habitat, the Lot Owner, or its designee, shall consult with the U.S. Fish and Wildlife Service office identified in the Incidental Take Permit (described in Section 7.17).

This Article does not apply to Declarant's activities, or to the Association's activities during the Class "B" Control Period.

4.2. Architectural Review.

(a) By Declarant. Declarant shall have exclusive authority to administer and enforce architectural controls and to review and act upon all applications for architectural and other improvements within the Community. Declarant's rights under this Article IV shall continue for as long as Declarant or any Declarant Affiliate owns any portion of the Community or has a unilateral right to annex property, unless Declarant earlier terminates its rights in a Recorded instrument. Declarant may designate one or more Persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, Declarant or its designee acts solely in Declarant's interest and owes no duty to any other Person.

Declarant may from time to time delegate or assign all or any portion of its rights under this Article to any other Person or committee, including the Design Review Board. Any such delegation shall be in writing, shall specify the delegated responsibilities, and shall be subject to

(i) Declarant's right to revoke such delegation at any time and reassume its prior jurisdiction, and

(ii) Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of other entities shall be limited to such matters as Declarant specifically delegates.

(b) Design Review Board. Upon Declarant's delegation or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the DRB, shall assume jurisdiction over architectural matters. When appointed, the DRB shall consist of at least three, but not more than seven, persons. Members of the DRB need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish. The DRB members shall be designated, shall serve, and may be removed and replaced in the Board's discretion.

The Board may create and appoint subcommittees of the DRB. Subcommittees may be established to preside over particular areas of review *(e.g.,* landscape plans) and shall be governed by procedures the Board or the DRB may establish. Any subcommittee's actions are subject to review and approval by Declarant, for as long as Declarant may review the DRB's decisions, and the DRB. Notwithstanding the above, neither the DRB, nor Declarant shall be obligated to review all actions of any subcommittee, and the failure to take action in any instance shall not be a waiver of the right to act in the future.

Unless and until such time as Declarant delegates any of its reserved rights to the DRB or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

Declarant and the Association may employ architects, engineers, or other Persons to perform the review required under this article. In addition, a horticulturalist shall be engaged by the entity performing the review under this Article to provide professional assistance in the review of landscape plans for individual Lots.

(c) Reviewer. The entity having jurisdiction in a particular case, whether Declarant or its designee or the DRB, shall be referred to as the "Reviewer."

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. The Board may include the compensation of such Persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Design Guidelines. Declarant shall prepare Design Guidelines for the Community, which may contain general provisions applicable to all of WaterColor as well as specific provisions which vary from Neighborhood to Neighborhood and according to property use or product type. Among other things, the Design Guidelines shall restrict the use of specified plant species and require the review and approval of all plant species in accordance with the Development Order. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee an application's approval.

Declarant shall have sole and full authority to amend the Design Guidelines as long as it or any Declarant Affiliate owns any portion of the Community or has a unilateral right to annex property. Declarant's right to amend shall continue even if its reviewing authority is delegated to the DRB, unless Declarant also delegates the power to amend to the DRB. Upon termination or delegation of Declarant's right to amend, the Board may amend the Design Guidelines in accordance with the same procedures for changing Use Restrictions described in Section 3.4.

Amendments to the Design Guidelines shall be prospective only. They shall not require modifications to or removal of structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the

Design Guidelines as amended. Subject to the Community-Wide Standard, there is no limit to the scope of amendments to the Design Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within WaterColor. In Declarant's discretion, the Design Guidelines may be Recorded, in which event the Recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

(b) Procedures. Unless the Design Guidelines provide otherwise, no construction activities or other activities described in Section 4.1 may begin until a request is submitted to and approved by the Reviewer. The request must be in writing and be accompanied by plans and specifications and other information the Reviewer or the Design Guidelines require. Plans and specifications shall show, as applicable, site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of proposed construction.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of the proposed exterior design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that aesthetic determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations are not subject to review so long as they are made in good faith and in accordance with the required procedures.

The Reviewer shall make a determination on each application within 45 days after receipt of a completed application and other information it requires. The Reviewer may permit or require that an application be submitted or considered in stages, in which case, a final decision shall not be required until after the final, required submission stage. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

As long as Declarant or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, the DRB shall notify Declarant in writing within three business days of any action *(i.e.,* approval, partial approval, or disapproval) it intends to take under this Article. A copy of the application and any additional information that Declarant may require shall accompany the notice. During such time, Declarant shall have the right, in its sole and absolute discretion, to veto any DRB action; provided, Declarant's right to veto must be exercised within 10 business days after it receives notice of the DRB's action. The party submitting the plans for approval shall not be notified of the DRB's action until after Declarant's right to veto has been exercised or has expired.

The Reviewer shall notify the applicant in writing of a final determination on any application within five days after such determination is made or, with respect to any DRB determination subject to Declarant's veto right, within five days after the earlier of: (i) receipt of

notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

If the Reviewer fails to respond in a timely manner, approval shall be deemed given, subject to Declarant's veto right. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 4.5.

Notice shall be deemed given at the time the envelope containing the response is deposited in U.S. mail. Personal or electronic delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

As part of any approval, the Reviewer may require that construction in accordance with approved plans commence within a specified time period. If construction does not commence within the required period, the approval shall expire and the Owner must reapply for approval before commencing any activities. Once commenced, construction must be diligently pursued to completion. All construction work shall be completed within one year of commencement unless otherwise specified in the notice of approval or the Design Guidelines, or unless the Reviewer, in its discretion, grants an extension in writing. If approved work is not completed within the required time, it shall be in violation of this Article and shall be subject to enforcement action by the Association or Declarant.

Declarant or the Board, with Declarant's consent, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. For example, Builders may be permitted to submit and receive pre-approval of landscaping or other plans for general application. Such pre-approved plans shall not require resubmission prior to use on a particular Lot.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the people reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, at which time, it may or may not be unreasonable to require that such objectionable features be changed. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval of similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with the Design Guidelines and any procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this

Declaration; or (c) prevent the Reviewer from denying a variance in other circumstances. A variance requires Declarant's written consent for so long as Declarant or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, and, thereafter, requires the Board's written consent.

4.6. Limitation of Liability.

This Article establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of WaterColor. The standards and procedures do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based on purely aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that every dwelling is of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to other Owners.

Declarant, Declarant's Affiliates, the Association, its officers, the Board, the DRB, the Association's management agent, any committee, or any member of any of the foregoing shall not be held liable for the approval of, disapproval of, or failure to approve or disapprove any plans; soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a Builder in the Community; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Association shall defend and indemnify the Board, the DRB, the members of each, and the Association officers as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request in writing that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Design Guidelines. The Association shall either grant or deny such written request within 30 days after receipt and may charge a reasonable administrative fee. The issuance of a certificate of architectural compliance shall prevent the Association from taking enforcement action against an Owner for any condition known to the Association on the date of the certificate.

4.8. Enforcement.

Any construction, alteration, or other work done in violation of this Article or the Design Guidelines is subject to enforcement action. Upon written request from the Association or Declarant, an Owner shall, at his/her own cost and expense, and within a reasonable time frame identified in the request, cure the violation or restore the Lot to substantially the same condition as existed before the violation occurred. Should an Owner fail to cure the problem or otherwise restore the property as required, the Association, Declarant, or their designees shall have the right to enter the property, remove the violation, and restore the property. All costs, together with

interest at the rate the Board establishes (not to exceed the maximum rate then allowed by law), may be assessed against the benefited Lot and collected as a Benefited Assessment.

Any approvals granted under this Article are conditioned upon completion of all elements of the approved work, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline imposed, Declarant or the Association may, after notifying the Owner and allowing an opportunity to be heard in accordance with the By-Laws, enter upon the Lot and remove or complete any incomplete work and assess all costs incurred against the Lot and its Owner as a Benefited Assessment.

Any act of any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Community, subject to the notice and hearing procedures contained in the By-Laws. Declarant, Declarant Affiliates, the Association, and their respective officers and directors, shall not be held liable to any Person for exercising the rights granted by this paragraph.

The Association shall be primarily responsible for enforcing this Article. If, however, in Declarant's discretion, the Association fails to take appropriate enforcement action within a reasonable time period, Declarant, for so long as it or any Declarant Affiliate owns any portion of the Community or has the unilateral right to annex property, may, but shall not be obligated to, exercise the enforcement rights set forth above. In such event, Declarant may assess and collect Benefited Assessments against the violating Owner and assert the Association's lien rights pursuant to Article VIII. The Association hereby assigns to Declarant such rights and authority, including the right to all funds collected, and no further assignments shall be required.

In addition to the foregoing, the Association and Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the Reviewer's decisions. If the Association or Declarant prevail, they shall be entitled to recover all costs including, without limitation, attorneys' fees and court costs, reasonably incurred in such action. The alternative dispute resolution provisions set out in Article XIV shall not apply to actions by Declarant or the Association to enforce the provisions of this Article or the Reviewer's decisions.

## Article V Maintenance and Repair

### 5.1. Maintenance of Lots.

Each Owner must maintain his or her Lot, including all structures, landscaping, and other improvements comprising the Lot, in a manner consistent with the Governing Documents, the Community-Wide Standard, and any other applicable covenants, unless such maintenance responsibility is otherwise assumed by the Association or a Neighborhood Association or assigned to the Association or a Neighborhood Association under any Supplemental Declaration or additional covenants applicable to such Lot.

Each Owner must maintain the sidewalk and landscaping located in the public right-of-way adjacent to his or her Lot unless the Association is assigned or assumes all or part of such maintenance responsibility or it is assigned to or assumed by a Neighborhood Association pursuant to a Supplemental Declaration.

5.2. Maintenance of Common Area Within or Adjacent to a Neighborhood.

If designated in a Supplemental Declaration, Owners within a Neighborhood shall be solely responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Common Maintenance Areas within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining buildings and other improvements, landscaping, signage, entry features, right-of-way and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that the Association may perform such maintenance. The Board also may, by resolution, assign such costs to the Owners within a Neighborhood; provided, all Neighborhoods which are similarly situated shall be treated the same.

If a Neighborhood Association is created, it shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance includes responsibility for repair and replacement as necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible, unless the Association or a Neighborhood Association (if any) carries such insurance (which either may, but are not obligated to do). If the Association assumes responsibility for insuring a Lot, the insurance premiums shall be levied as a Benefited Assessment against the benefited Lot and the Owner.

Within three months of any damage to or destruction of a structure on a Lot, the Owner shall repair or reconstruct the structure in a manner consistent with the original construction or other plans and specifications approved in accordance with Article IV; provided, under special circumstances, the Board, in its discretion, may extend such time period. Alternatively, the Owner shall clear the Lot and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs insurance proceeds do not cover. Additional Recorded covenants applicable to any Neighborhood may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on the Lots within the Neighborhood and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

This Section applies to a Neighborhood Association with respect to common property within the Neighborhood in the same manner as if the Neighborhood Association was an Owner and the common property was a Lot.

## PART THREE: COMMUNITY GOVERNANCE AND ADMINISTRATION

*This Declaration establishes the Association as a way for each Owner to participate in the governance and administration of WaterColor. While the Board of Directors has responsibility for the Association's day-to-day management and operation, some decisions are considered of such importance that they are reserved for the Association's membership -- the Lot Owners.*

### Article VI The Association and its Members

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Common Maintenance Areas, including the Stormwater Management System. The Association also has primary responsibility for administering and enforcing the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Florida law as may be amended from time to time. The Board shall be responsible for management for the Association and, as the Governing Documents permit, may contract with a property manager for such purposes. The Board is appointed or elected as provided in the By-Laws.

6.2. Membership.

Every Owner is a Member of the Association; provided, there is only one membership per Lot. If a Lot is owned by more than one Person, each co-Owner shares the privileges of the membership, subject to reasonable Board regulation and the voting restrictions described in Section 6.3(c) and in the By-Laws. Co-Owners are jointly and severally obligated to perform the responsibilities of an Owner. The membership rights of an Owner which is not an individual (e.g., a corporation) may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a written instrument provided to the Association's Secretary.

6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members are all Owners except the Class "B" Member and, during the period of Class "B" membership, any Declarant Affiliate. Class "A" Members have one equal vote for each Lot they own, except that there is only one vote per Lot. No vote shall be exercised for any property which is exempt from assessment under Section 8.10, or any property whose voting rights have been suspended for non-payment of assessments in accordance with applicable Florida law as may be amended from time to time.

Class "B". The sole Class "B" Member shall be Declarant. The Class "B" Member shall not vote, but may appoint a majority of the Board members during the Class "B" Control Period, as specified in the By-Laws, and may exercise the additional rights specified throughout the Governing Documents.

The Class "B" membership terminates upon the earlier of:

(i) when 95% of the Lots permitted under the Master Plan are issued certificates of occupancy and are owned by Class "A" Members other than Builders; or

(ii) when, in its discretion, Declarant declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant and Declarant Affiliates shall be Class "A" Members entitled to one Class "A" vote for each Lot they own.

(b) Exercise of Voting Rights.

Each Class "A" Lot shall have one (1) vote. The vote shall be cast by the Member. In the event a Lot is owned by more than one (1) person or entity, then the person designated, pursuant to Section 6.2, to exercise membership rights shall cast the vote. Votes for directors shall be cast by written ballot and shall be counted at a meeting of the Association membership. Ballots shall be sent or supplied to the Members thirty (30) days in advance of any meeting at which votes are to be counted. Members may cast their votes at any time up until the counting of the votes at a noticed membership meeting. Voting shall be anonymous. Voting may be done both, by mail, or in person. If more than one (1) vote is cast for one (1) Lot all votes cast by the Lot shall be declared invalid.

6.4. Neighborhoods and Neighborhood Representatives.

(a) Neighborhoods. Every Lot shall be located within a Neighborhood. Lots within a particular Neighborhood may be subject to covenants in addition to those contained in this Declaration and, if required by law or if Declarant otherwise approves, the Owners within the Neighborhood may be members of a Neighborhood Association in addition to the Association.

Exhibit "A" to this Declaration and any Supplemental Declaration, and any Plat may assign property to a specific new or existing Neighborhood (by name or other identifying designation). So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally Record a Supplemental Declaration, or amend this Declaration or any Supplemental Declaration, to create Neighborhoods, re-designate Neighborhood boundaries, or combine two or more existing Neighborhoods. Thereafter, the Board may amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries; provided, it may not combine two or more existing Neighborhoods without the consent of Owners of a majority of the Lots in the affected Neighborhoods. However, in any event, two or more existing Neighborhoods may not be combined without the consent of Owners of a majority of the Lots in each of the affected Neighborhoods.

Owners within any Neighborhood may request that the Association provide a higher level of service than the Association generally provides to all Neighborhoods or may request that the

Association provide special services for the benefit of Lots in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Lots within the Neighborhood, the Association shall provide the requested services. In addition, the Association may provide a higher level or special services to any Neighborhood in accordance with a Supplemental Declaration, or if deemed necessary or appropriate by the Board, in its discretion. The Board shall assess the cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate against the Lots within such Neighborhood as a Neighborhood Assessment; provided, any such administrative charge shall apply at the same rates per Lot to all Neighborhoods receiving the same service.

(b) Neighborhood Representatives. Each Neighborhood shall elect a Neighborhood Representative to represent the Neighborhood, on an Advisory Committee to the Board. Neighborhood Representatives shall be Owners in good standing of a Lot in the Neighborhood they represent and meet the same requirements as prescribed for Association Board's under Florida law, as may be amended from time to time. Each Neighborhood Representative shall serve a two-year term. Neighborhood Representatives may serve any number of consecutive terms.

For any Neighborhood Representative election, the candidate who receives the greatest number of votes shall be elected. The candidate receiving the next greatest number of votes shall be elected as the alternate Neighborhood Representative and shall act in the Neighborhood Representative's absence.

Votes for Neighborhood Representatives shall be cast by written ballots, or at a meeting of the Class "A" Members within the Neighborhood, or at a meeting of all Class "A" Members within the Community. Ballots shall be provided thirty (30) days in advance of any meeting in which the ballots are to be counted.

The presence, in person or by proxy, or the filing of ballots by Class "A" Members representing at least 25% of the total Class "A" votes attributable to Lots in the Neighborhood shall constitute a quorum at any Neighborhood meeting or election. In the event of a failure to obtain a quorum or if there is a vacancy in such positions for any Neighborhood, the Board may appoint a Neighborhood Representative or alternate Neighborhood Representative to represent the Neighborhood until a successor is elected.

Any Neighborhood Representative may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the Lots owned by Class "A" Members in the Neighborhood which the Neighborhood Representative represents.

6.5. Condominiums.

Neighborhoods may consist of condominiums, which shall be governed by both a separate condominium declaration and by this Declaration.

**Article VII Association Powers and Responsibilities**

7.1. Acceptance and Control of Association Property.

(a) The Association may acquire, hold, mortgage or otherwise encumber, lease (as landlord or tenant), operate, and dispose of tangible and intangible personal property and real property. The Association may enter into leases, licenses, or operating agreements, for payment or no payment, as the Board deems appropriate, permitting use of portions of the Common Area by others.

(b) Declarant or its designees may transfer to the Association, and the Association shall accept, personal property and/or fee title or other property interests in any improved or unimproved real property included within the property described in Exhibit "A" or "B." Upon Declarant's written request, the Association shall transfer back to Declarant any unimproved real property originally conveyed to the Association for no payment, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association is responsible for management, operation, and control of the Common Area, subject to any covenants, easements, or restrictions set forth in the deed or other instrument transferring the property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate. The Association may enter into a property management agreement with any Person, including Declarant or any Declarant Affiliate.

7.2. Maintenance of Common Maintenance Areas.

The Association shall maintain the Common Maintenance Areas in accordance with the Community-Wide Standard. The Common Maintenance Areas shall include, but are not limited to:

(a) the Common Area, including landscaping, structures, and other improvements;

(b) landscaping within public rights-of-way within or abutting WaterColor;

(c) such portions of any additional property as may be dictated by this Declaration, any Supplemental Declaration, any Plat, or any contract, covenant, or agreement for maintenance entered into by, or for the benefit of, the Association; and

(d) the Stormwater Management System, all ponds, streams, and/or wetlands located within WaterColor which serve as part of the Community's stormwater drainage system, including associated improvements and equipment, but not including any such areas maintained by a community development district. Maintenance of the Stormwater Management System shall mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance, or other surface water or stormwater management capabilities as permitted by the Florida Department of Environmental Protection. Any repair or reconstruction of the surface water or stormwater management system shall be as permitted or, if modified, as approved by the Florida Department of Environmental Protection.

Without limiting the generality of the foregoing, upon conveyance of Common Areas and Stormwater Management Systems to the Association, the Association shall assume all of Declarant's (and Declarant's Affiliates') responsibilities to Walton County and its governmental or quasi-governmental subdivisions, any state and federal agencies, and similar entities of any kind with respect to the Common Area and the Stormwater Management System, and shall indemnify and hold Declarant and its Affiliates harmless with respect to such assumed responsibilities.

The Association may maintain other property which it does not own, including property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and the property owner consents.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Common Maintenance Areas in continuous operation, except for any periods necessary, as determined by the Board, to perform required maintenance or repairs. The Common Maintenance Areas may not be reduced, nor shall operation of its facilities and equipment be discontinued, without Declarant's prior written approval as long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B" to this Declaration.

The costs associated with maintenance, repair, and replacement of the Common Maintenance Areas shall be a Common Expense. However, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Maintenance Areas pursuant to this Declaration, a Supplemental Declaration, or other Recorded covenants or agreements. The maintenance, repair, and replacement of Limited Common Areas shall be a Neighborhood Expense assessed against the Lots (either all or just those benefited) within the benefited Neighborhood(s).

Unless Declarant expressly agrees in writing with the Association to pay the costs of maintaining any portion of the Common Maintenance Areas, Declarant shall have no such obligation, regardless of any inferences which may be drawn from promotional or other materials.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within other portions of the Common Maintenance Areas to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All Association property insurance policies shall

have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Common Maintenance Areas, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least $2,000,000.00 per occurrence and in the aggregate with respect to bodily injury, personal injury, and property damage;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage; and

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment, but not less than an amount equal to one-quarter of the annual Regular Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits.

Premiums for Common Maintenance Area insurance shall be a Common Expense, except that (i) premiums for property insurance on Lots within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Limited Common Areas within a Neighborhood may be a Neighborhood Expense unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Walton County area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or tenants, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Benefited Assessment.

To the extent available upon reasonable cost and terms, all insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Florida which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by individual Owners, their Mortgagees, or any occupants of a Lot;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(viii) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners (as a class) as additional insureds and provide:

(i) a waiver of subrogation as to any claims against Declarant, Declarant's Affiliates, the Association, or their respective directors, officers, employees, and agents, or the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to maintain and/or insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless 100% of the total Class "A" votes in the Association and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area, repairs shall be made unless at least 100% of the Owners to which such Limited Common Area is assigned vote not to repair or reconstruct and the Class "B" Member, if any, consents. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period may be extended until such funds or information are available. No Mortgagees shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Association shall retain in a reserve fund for capital items any insurance proceeds remaining after paying the costs of repair or reconstruction, or after an agreed-upon settlement, for the benefit of the Members or the Owners of Lots within the insured Neighborhood, as appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the applicable insurance coverage premiums.

7.4. Compliance and Enforcement.

(a) The Board may impose sanctions for Governing Document violations, which sanctions include those listed below and any others described elsewhere in the Governing Documents. The Board may establish a range of penalties for different violations, with violations of the Declaration, unsafe conduct, and harassment or intentionally malicious conduct treated more severely than other violations. The following sanctions require prior notice and an opportunity for a hearing in accordance with the By-Laws:

(i) imposing reasonable monetary fines, not to exceed the limit established for individual violations under Florida law (or per day limitations in the case of a continuing violation), which shall constitute a lien upon the violator's Lot if authorized by Florida law (fines may be imposed within a graduated range). There is no limit on the aggregate amount of any fine for a continuing violation;

(ii) suspending an Owner's right to vote (unless otherwise provided by law, no notice or hearing is required if the Owner is more than 90 days delinquent in paying any Regular Assessment);

(iii) suspending any Person's right to use Common Area amenities (unless otherwise provided by law, no notice or hearing is required if the Owner is more than 90 days delinquent in paying any assessment or other charge owed the Association); provided, nothing shall authorize the Board to impair an Owner or occupant's access to his or her Lot;

(iv) suspending any services the Association provides (unless otherwise provided by law, no notice or hearing is required if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association);

(v) exercising self-help or taking action to abate any violation of the Governing Documents occurring on a Lot in a non-emergency situation (including removing personal property that violates the Governing Documents); and

(vi) levying Benefited Assessments to cover costs the Association incurs to bring a Lot into compliance with the Governing Documents.

In addition, the Board may take the following enforcement actions to ensure compliance with the Governing Documents without the necessity of complying with the procedures set forth in the By-Laws:

(i) exercising self-help or taking action to abate a violation on a Lot in an emergency situation (including, without limitation, towing vehicles that are in violation of parking rules and regulations);

(ii) exercising self-help or taking action to abate a violation on the Common Area under any circumstances (including, without limitation, issuing citations for traffic violations); or

(iii) bringing suit at law for monetary damages or in equity to stop or prevent any violation, or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform the required maintenance and assess its costs against the Lot and the Owner as a Benefited Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform the maintenance and assess the costs as a Benefited Assessment against all Lots within the Neighborhood. Except in an emergency situation, the Association

shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

The above sanctions shall not apply to Declarant or any Declarant Affiliate or to any Lot owned by Declarant or any of its Affiliates. All sanctions and remedies set forth in the Governing Documents are in addition to any remedies available at law or in equity. In any action to enforce the Governing Documents, the prevailing party may recover all of its costs incurred in the action, including, without limitation, court costs and reasonable attorneys' fees.

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

By contract or other agreement, the Association may enforce applicable state, county, local laws, ordinances and regulations.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly or by reasonable implication by the Governing Documents, and may take action reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents or by law, the Board may exercise all of the Association's rights and powers without a vote of the membership.

The Board may institute, defend, settle, or intervene on the Association's behalf in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Common Maintenance Areas, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation on behalf of or in the name of the Association or the Members.

In exercising the Association's rights and powers, making decisions on the Association's behalf, including, without limitation, deciding whether to file a lawsuit under any circumstances, and conducting the Association's affairs, Board members and the Association's officers are subject to, and their actions shall be judged in accordance with, the standards set forth in the By-Laws. In the absence of any other standards, the Board's actions shall be judged in accordance with the Business Judgment Rule.

7.6. Indemnification of Officers, Directors, and Others.

The officers, directors, and committee members, acting in such capacity, shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability for any contract or other commitment made or action taken in good faith on the Association's behalf.

Subject to Florida law, as may be amended from time to time, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which the indemnitee's personal liability is limited under this Section.

This right to indemnification shall not be exclusive of any other rights which any present or former officer, director, or committee member may have. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

7.7. Powers of the Association Relating to Neighborhoods.

Any Neighborhood Committee (as described in the By-Laws) is an Association committee. The Board shall have all of the power and control over Neighborhood Committees that it has over other Association committees.

The Association may require that a Neighborhood Association, if any, take specific action in connection with its obligations and responsibilities, such as requiring that specific maintenance or repairs or aesthetic changes be made and requiring that a proposed budget include certain items. A Neighborhood Association shall take such action within the reasonable time frame the Association sets. If the Neighborhood Association fails to comply, the Association may act on behalf of the Neighborhood Association and levy Neighborhood or Benefited Assessments to cover the costs, as well as an administrative charge and sanctions.

7.8. Provision of Services, Activities, and Programs.

The Association may provide, or provide for, services, activities, and programs (collectively, "services") for all or any of the Members and their Lots, and may enter into contracts or agreements with other entities, including Declarant or its Affiliates, to provide such services. The Board may charge use or service fees for any such services, or may include the

costs, including the cost of personnel employed to facilitate or administer such services, in the Association's budget as a Common Expense and assess it as part of the Regular Assessment, if provided to all Lots. If provided to less than all Lots, the Association may assess such costs as a Neighborhood or Benefited Assessment, as applicable.

By way of example, such services might include, without limitation, landscape maintenance; pest control service; cable television service; telephone; internet access; security monitoring; caretaker; transportation; fire protection; utilities; trash collection and recycling; recreational and social activities or programs; educational programs; cultural, artistic, and environmental programs; charter clubs; and other similar services, activities, or programs designed to further a sense of community among Owners, residents, and occupants within WaterColor.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, subject to the contract terms, the Board may modify or cancel existing contracts for services, activities, or programs in its discretion, unless the services are otherwise required by the Governing Documents. Non-use of services provided to all Owners or Lots as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.9. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with neighboring properties or Private Amenities to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.10. Facilities and Services Open to the Public.

Certain of the Common Maintenance Areas, including facilities, may be open for public use and enjoyment. Such facilities and areas may include, for example: greenbelts, beach areas, bike and pedestrian trails and paths, parks, areas conducive to gathering and interaction, roads, sidewalks, and medians. During Class "B" Control Period, Declarant may designate such facilities and areas as open to the public. Thereafter, except for Limited Common Areas, the Board, with the consent of Neighborhood Representatives representing a majority of the Association's Class "A" votes, may designate facilities and areas as open for public use. In addition, certain areas within the Community are required by the Development Order to be open for public use. Public use of such areas shall not be terminated except as permitted under, and in accordance with, the Development Order.

7.11. Relationship with Governmental and Tax-Exempt Organizations.

The Association may enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to, state or local governments, public utility providers, and non-profit, tax-exempt organizations for the benefit of the Community, the Association, and the Members. The Association may contribute money, real property (including Common Area), personal property, or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget.

For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

7.12. Right To Designate Sites for Governmental and Public Interests.

For so long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B," Declarant may, but is not obligated to, designate sites within the Community for government, education, or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks, and other public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

7.13. Use of Technology.

In recognition of the opportunities offered through computers and continuing advancements in the high technology fields, the Association may, as a Common Expense, provide for or offer services, which make use of computers and other technological opportunities. For example, to the extent Florida law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send required notices by electronic means; hold Board or Association meetings and permit attendance and voting by electronic means; send and collect assessment and other invoices over the computer; sponsor a community cable television channel; create and maintain a community intranet or Internet home page offering interactive participation opportunities for users; maintain an "online" newsletter or bulletin board; and provide funding for any of the above purposes.

7.14. Compliance with the Development Order.

The Association shall be responsible for complying with all applicable requirements of the Development Order; provided, to the extent the Development Order requires, Declarant shall fulfill the Association's obligations in this regard until termination of the Class "B" Control Period. Among other things, the Development Order assigns to Declarant and the Association various responsibilities concerning preservation, management, and maintenance of the Community's common open space and natural areas and the protection of the Community's existing environment and various indigenous plant and animal species. The Association shall be authorized to perform such responsibilities, whether directly assigned under the Development Order or delegated or assigned to the Association by Declarant, in the manner required under the Development Order and as deemed appropriate in the Board's discretion. The costs incurred by the Association in carrying out its responsibilities under the Development Order shall be assessed against all Owners as a Common Expense in accordance with Article VIII. Among other things, the Association shall be authorized or required to do the following:

(a) engage an "on-site naturalist" who will have responsibility for the active management of common "open space" areas and other natural areas within the Community, and for performing such other tasks as may be required under the Development Order. The on-site

naturalist shall be a degreed professional with expertise in biology, ecology, forestry, environmental sciences, physical geography, geology, or related natural sciences. The on-site naturalist shall prepare annually a report to the Association which describes the conditions of the Community's common open space and natural areas (particularly the natural areas around the lake known as "Western Lake") and recommend or otherwise identify steps required to properly maintain such areas;

(b) engage a qualified, domestic, non-profit corporation or association to provide a written report to the Association setting forth an annual independent assessment of the Community's common open space and natural areas. Such entity shall possess the qualifications required under the Development Order and shall work and cooperate with the on-site naturalist in providing reports, evaluations, and recommendations to the Association relating to the long-term protection of the Community's common open space and natural areas;

(c) maintain the Surface Water Management System, subject to the Florida Department of Environmental Protection's regulatory requirements. The Association's obligation in this regard shall include maintaining the Community's irrigation system and keeping current all necessary and required permits;

(d) implement and administer the Habitat Management Policy Plan included in The Villages at Seagrove Planned Unit Development, adopted by the Board of County Commissioners in Walton County, Resolution No. 99-40;

(e) establish and provide for the implementation of a hurricane public information and evacuation plan, and provide Owners and occupants with such services, education, and facilities as may be necessary or appropriate for the implementation of such plan;

(f) conduct annual water quality sampling in Western Lake with samples furnished to the on-site naturalist and the qualified organization described in sub-Section (b) above; and

(g) manage and maintain common open space, natural areas, and wetlands which Declarant conveys to it.

This Section may be amended only as permitted under, and in accordance with, the terms of the Development Order and/or with Walton County's approval.

7.15. Compliance with Consent Amended Final Judgment.

The Community also is subject to that certain Consent Amended Final Judgment-Topsail and Deer Lake, entered in the matter of State of Florida Department of Environmental Protection, *et al. v.* St. Joe Paper Company, *et al.*, Civil Action No.: 94-923-CA, in the Circuit Court of the First Judicial Circuit of Florida in and for Walton County ("Consent Amended Final Judgment"), a copy of which is attached to and incorporated in the Development Order. All development and use of the Community shall be consistent with the Consent Amended Final Judgment, including, without limitation, requirements regarding wetlands and wetlands buffers. In the event of a conflict between a Development Order provision and a provision contained in the Consent Amended Final Judgment, the more restrictive provision shall apply. The

requirements set forth in the Consent Amended Final Judgment shall be binding upon the Association and all Owners.

7.16. Coastal Dune Lakefront Protection Zone.

The Consent Amended Final Judgment establishes a "Coastal Dune Lake Protection Zone," extending 300 feet landward from the mean or ordinary high water line of all "Coastal Dune Lakes" (including the lake known as "Western Lake"). All development within the Coastal Dune Lake Protection Zone shall adhere to the specific limitations and performance criteria set out in the Consent Amended Final Judgment which limitations are incorporated as if fully set forth in this Section. The transfer of real property within the Coastal Dune Lake Protection Zone to the Association as Common Area, or to any other Person, shall be subject to such limitations and performance criteria.

7.17. Incidental Take Permit — U.S. Fish and Wildlife Service.

WaterColor is subject to that certain "Incidental Take Permit for WaterColor and Camp Creek," issued by the U.S. Fish and Wildlife Service under the Endangered Species Act, and which incorporates that certain Habitat Conservation Plan dated June, 1999 (collectively, the "Incidental Take Permit"). Each Owner and the Association by taking title to a Lot or any other portion of WaterColor, acknowledges the obligation to comply with the terms and conditions of the Incidental Take Permit. The Association's costs incurred in complying with the Incidental Take Permit, including actions taken as minimization or mitigation measures, shall be Common Expenses and shall be included in the Association's annual budget and assessed against all Owners as provided in Article VIII.

**Article VIII Association Finances**

8.1. Budgeting and Allocating Common Expenses.

The Association is authorized to levy Regular Assessments against all Lots subject to assessment under Section 8.6 to fund the Common Expenses. The Regular Assessment allocated to each Lot shall be determined in accordance with the allocation formula set out in Exhibit "D" to this Declaration.

Before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.3. The budget shall separately reflect all fees for recreational amenities and shall reflect the sources and estimated amounts of funds to cover such expenses, including any prior year's surplus or deficit, any non-assessment income, and anticipated assessment income.

The Common Expenses shall include, without limitation, costs associated with the maintenance and repair of the Stormwater Management System, as required under this Declaration.

In determining the Regular Assessment, the Board may consider any assessment income expected to be generated from any property reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall send a copy of the final budget and notice of the amount of the Regular Assessment to each Owner at least 30 days before the fiscal year begins. The budget shall not be subject to Owner approval and there shall be no obligation to call an Owners' meeting to consider the budget.

Declarant may, but shall not be obligated to, reduce the Regular Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

If any proposed budget is disapproved under Section 8.9, or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Regular Assessment from time to time during the year, subject to Section 8.9 and the notice requirements set forth above and in Florida law, as may be amended from time to time.

8.2. Budgeting and Allocating Neighborhood Expenses.

The Association is authorized to levy Neighborhood Assessments against all Lots subject to assessment in a Neighborhood to fund Neighborhood Expenses in accordance with the allocation schedule set forth on Exhibit "D" or such other allocation schedule as may be provided for in a Supplemental Declaration. If specified in a Supplemental Declaration, any portion of the assessment intended for the exterior or structural maintenance of structures, insurance on structures, replacement reserves pertaining to particular structures, or services provided within the Neighborhood may be levied on just the benefited Lots equally, in proportion to the benefit received, or in any other reasonable manner, as determined in the Board's discretion.

Before the beginning of each fiscal year, the Board shall prepare separate Neighborhood budgets covering the estimated Neighborhood Expenses, if any, for each Neighborhood during the coming year. Each such budget shall include any costs for additional services or a higher level of services approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.3. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, including any prior year's surplus or deficit, any anticipated non-assessment income, and assessment income anticipated from the Lots in the Neighborhood.

The Board shall send a copy of the Neighborhood budget and notice of the amount of the Neighborhood Assessment for the coming year to each Owner in the Neighborhood at least 30

days before the fiscal year begins. The budget shall not be subject to Owner approval and there shall be no obligation to call an Owner's meeting to consider the budget.

If the proposed budget for any Neighborhood is disapproved under Section 8.9, or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the year before shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements above and pursuant to Florida law and the right of the Owners of Lots in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts the Association collects as Neighborhood Assessments shall be held and expended solely for the benefit of the Neighborhood for which they were collected. Such amounts shall be accounted for separately from the Association's general funds.

Declarant may, but shall not be obligated to, reduce the Neighborhood Assessment for any Neighborhood for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.7(b)) which may be either a contribution, an advance against future assessments due from Declarant, or a loan, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the Neighborhood budget. The payment of such subsidy in any year shall not obligate Declarant to continue paying a subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

8.3. Budgeting for Reserves.

The Board may include in the Common Expense budget or the Neighborhood Expense budgets, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period. Reserve budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. Reserve accounts shall be funded or maintained or shall have their funding waived in the manner provided under Florida law as may be amended from time to time.

The Board may adopt resolutions regarding the expenditure of any reserve funds, including policies designating the nature of assets for which reserve funds may be expended. These policies may differ for general Association purposes and for each Neighborhood. So long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B," neither the Association nor the Board shall adopt, modify, limit, or expand such policies without Declarant's prior written consent.

8.4. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments may be levied against the entire membership in accordance with the allocation schedule set out in Exhibit "D," if the Special Assessment is for Common Expenses, or against the Lots within any Neighborhood, if the Special Assessment is for Neighborhood Expenses.

Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the consent in writing by a majority of the total votes allocated to Lots which will be subject to the Special Assessment, and to the extent such Special Assessment shall apply to any Units or Lots owned by the Declarant, the consent in writing of the Declarant. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5. Benefited Assessments.

The Association may levy Benefited Assessments against one or more particular Lots as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services which an Owner requests pursuant to any menu of special services which the Association may offer (which might include the items identified in Section 7.8) or which the Association otherwise provides in the Board's discretion. Benefited Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing a Lot into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Benefited Assessment under this subsection.

The Association may also levy a Benefited Assessment against the Lots within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Lots in the Neighborhood and an opportunity for such Owners to be heard before levying the assessment.

Lots which Declarant or any Declarant Affiliate owns are exempt from Benefited Assessments.

8.6. Commencement of Assessment Obligation; Time of Payment.

The obligation to pay assessments commences as to each Lot on the first day of the month following: (a) the month in which the Lot is made subject to this Declaration; or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Regular Assessment and Neighborhood Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Owners shall pay assessments in the manner and on the dates the Board establishes. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and may impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in quarterly or monthly installments. Unless the Board otherwise provides, the Regular Assessment and any Neighborhood Assessment shall be due and

payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require that the outstanding balance on all assessments be paid in full immediately.

8.7. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any Lot, covenants and agrees to pay all assessments authorized in the Governing Documents for each Lot owned. All assessments, together with interest (computed from the assessment's due date at a rate of at least 12% per annum or such higher rate as the Board may establish, subject to Florida law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Regular Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner is exempt from liability for assessments by non-use of Common Area, abandonment of his or her Lot, or any other means. The obligation to pay assessments is a separate and independent covenant by each Owner. No reduction or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some required function, or for inconvenience or discomfort arising from making repairs or improvements, or for any other reason.

Upon written request, the Association shall furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may satisfy the obligation for assessments on Lots which it or any Declarant Affiliate owns either by paying assessments in the same manner as any other Owner or by funding the budget deficit. The budget deficit is the difference between the amount of assessments levied on Class "A" Member-owned Lots, plus any other income received during the fiscal year, and the amount of the Association's actual expenditures during the fiscal year, but excluding expenses exclusively for capital improvement costs and reserves. Unless Declarant otherwise notifies the Board in writing at least 30 days before the beginning of the fiscal year, Declarant shall continue paying on the same basis as during the previous fiscal year.

Regardless of Declarant's election, Declarant's assessment obligations may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of

these. After termination of the Class "B" Control Period, except with respect to Benefited Assessments, Declarant shall pay assessments on Lots which it or its Affiliates own in the same manner as any other Owner.

Declarant may make the election provided for under this Section 8.7(b) both with respect to Regular Assessments and with respect to Neighborhood Assessments within any Neighborhood.

8.8. Lien for Assessments.

The Association shall have a lien against each Lot, including Declarant's Lots, to secure payment of delinquent assessments, as well as interest, late charges (subject to Florida law, as may be amended from time to time), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, unless otherwise provided by Florida law, as may be amended from time to time. The Association's lien may be enforced by suit, judgment, and judicial or non-judicial foreclosure.

Notwithstanding the above, and subject to Florida law, any lien for Association assessments or charges levied solely for the purpose of acquisition, development, or construction of infrastructure or capital improvements serving the Community (or to pay the cost to underwrite, service, and repay any debt incurred to finance any such acquisition, development, or construction) may be designated by the Board as a "Capital Improvement Assessment" which shall be superior to (a) the Association's lien for other Common Expenses, and (b) all other liens except those deemed superior under Florida law, as may be amended from time to time, and which may not be made subordinate by this provision.

At a foreclosure sale, the Association may bid for the Lot and acquire, hold, lease, mortgage, and convey the Lot. The Association may sue for unpaid assessments and other charges without foreclosing or waiving its assessment lien.

Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. Upon sale or transfer of any Lot pursuant to foreclosure by the first mortgagee, the lien shall be extinguished only if provided by Florida law, as may be amended from time to time. The purchaser of a foreclosed Lot, including the first mortgagee, shall be jointly and severally liable with the previous owner for any unpaid assessments that came due on such Lot up to the time of transfer of title, unless otherwise is provided by Florida law, as may be amended from time to time. This liability is without prejudice to any right the purchaser may have to recover from the previous owner the amounts paid by the purchaser.

The person or entity acquiring title, including by foreclosure sale, shall pay the amount owed to the Association within thirty (30) days after transfer of title. Failure to pay the full amount when due shall entitle the Association to record a claim of lien against the parcel and proceed in the same manner as provided in this section for the collection of unpaid assessments.

Notwithstanding the above, while the Association owns a Lot: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association.

8.9. Limitation on Assessment Increases.

Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations, after termination of the Class "B" Control Period, any Regular Assessment that is more than 10% greater than such assessments for the immediately preceding fiscal year is subject to disapproval by vote in writing of a majority of the Class "A" Members subject to such assessment. Except for increases necessary for emergency situations, after termination of the Class "B" Control Period, any Neighborhood Assessment that is more than 10% greater than such assessment for the immediately preceding fiscal year is subject to disapproval at a meeting by Members representing a majority of the Class "A" votes within the Neighborhood subject to such assessment. There shall be no obligation to call a meeting for the purpose of considering the disapproval of any budget except on petition of the Members subject to assessment under the budget, as provided for special meetings in the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

An emergency situation is any one of the following:

(a) an extraordinary expense required by an order of a court, or other governmental or regulatory authority;

(b) an extraordinary expense necessary to repair or maintain any portion of the Community for which the Association is responsible where a threat to personal safety is discovered;

(c) an extraordinary expense necessary to repair or maintain any portion of the Community for which the Association is responsible and which could not reasonably have been foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 8.1. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Notice of the Board meeting at which such resolution is to be considered, explaining the nature of the assessment proposed, shall be provided to the Members along with the notice of such assessment; or

(d) to defend itself in litigation, arbitration, or other legal or administrative actions brought against it.

(e) an extraordinary expense to secure property or repair damage caused by a severe weather event.

8.10. Exempt Property.

The following property shall be exempt from payment of Regular Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and other portions of the Community which are not Lots;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property a Neighborhood Association owns for the common use and enjoyment of its members, or owned by Neighborhood Association members as tenants-in-common.

In addition, both Declarant and the Association shall have the right, but not the obligation, to grant permanent or temporary exemptions to schools, houses of worship, hospitals, police or fire stations (or other similar public service uses), or Lots owned by and used by Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code. Exemptions granted by Declarant shall be binding on the Association.

8.11. Use and Consumption Fees: Licenses and Royalties.

The Board may charge use and consumption fees to any Person using Association services or facilities and may determine the amount and method of determining such fees. Different fees may be charged to different classes of users *(e.g.,* Owners and non-Owners).

As set forth in Section 10.7, the Association may enter into license agreements with Declarant or other parties which permit the Association's use of trade names or service marks *(e.g.,* use of the name WaterColor). To the extent permitted by such license agreements, the Board may enter into sub-license agreements, under negotiated terms, which permit others within the Community to use such trade names and/or service marks. The Association may charge fees and collect royalties in connection with such sub-license agreements; provided, Declarant and any Declarant Affiliate shall be exempt from payment of such license fees.

8.12. Transfer Fee.

Declarant has created the Northwest Florida Improvement Foundation, Inc. ("Foundation") to provide funding for various programs, projects, services, and activities which, in its judgment, provide benefit to the people of the Northwest Florida region and/or the areas within and around WaterColor. (The "Foundation" shall include any successor or assign which meets the qualifications for tax-exempt status required under Section 501(c) of the Internal Revenue Code, as it may be amended.) Upon each initial transfer of title to a Lot by Declarant or a Declarant Affiliate to a Class "A" Member, Declarant shall be obligated to pay to the Foundation a transfer fee in the amount of one-half percent (1/2%) of the total purchase price of the Lot. Upon each subsequent transfer of title to a Lot in WaterColor, the purchaser shall be obligated to pay to the Foundation a transfer fee in the amount of one-half percent (1/2%) of the total purchase price of the Lot. Such transfer fee shall be due and payable at the closing of each transfer of title to a Lot.

Notwithstanding the above, any transfer of a Lot to Declarant or any Declarant Affiliate shall be exempt from the payment of the transfer fee and the Foundation, in its discretion, may exempt certain other transfers from the payment of the transfer fee. For example, without limitation, a transfer made solely for legitimate estate planning purposes, but which does not change the beneficial ownership of the Lot, may be deemed exempt. The classification of any transfer as exempt shall not be deemed a waiver of the Foundation's right to collect the transfer fee on future title transfers under similar circumstances. The Association shall cooperate with the

Foundation in the collection of the transfer fee by, among other things, notifying the Foundation, or its designee, of any pending transfer.

The obligation to pay such transfer fees shall be the obligor's personal obligation. In addition, the Foundation shall have a lien against each Lot to secure payment of such transfer fee, as well as interest (in the amount of 12% per annum) and any costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the Association liens under this Article VIII, (b) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (c) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Foundation may enforce its lien and the obligor's personal obligation to pay by suit, judgment, and judicial or non-judicial foreclosure in the same manner as the Association under this Article.

This Section may not be amended without the Foundation's written consent, and any amendment without such consent shall be void and of no force and effect.

## PART FOUR: COMMUNITY DEVELOPMENT

*The Declaration reserves various rights to the developer in order to facilitate the smooth and orderly development of WaterColor and to accommodate changes in the master plan which inevitably occur as a community the size of WaterColor grows and matures.*

### Article IX Expansion of the Community

9.1. Annexation by Declarant.

Declarant may, from time to time, subject to this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the property being subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to annex property pursuant to this Section expires when all property described in Exhibit "B" has been subjected to this Declaration or 35 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be memorialized in a Recorded instrument executed by Declarant.

Nothing in this Declaration shall require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Annexation by the Association.

The Association also may annex property to the provisions of this Declaration by Recording a Supplemental Declaration describing the additional property. Annexation by the Association shall require the affirmative vote or written consent of more than 50% of the Class "A" votes and consent of the property Owner or Owners of the property being annexed. In

addition, so long as Declarant or any Declarant Affiliate owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent is required. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is required.

9.3. Additional Covenants and Easements.

By Supplemental Declaration, Declarant may impose additional covenants and easements on any property owned by it or its Affiliates, including covenants obligating the Association to maintain and insure specific property and authorizing the Association to recover its costs through Neighborhood Assessments.If someone other than Declarant owns the property, then such owner's consent and execution of the Supplemental Declaration is required. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

Unless otherwise specified, a Supplemental Declaration shall be effective upon the earlier of (a) notice to the Persons who are affected by such Supplemental Declaration; or (b) Recording. The Lots subjected to this Declaration by Supplemental Declaration shall have equal voting rights in the Association and equal pro rata liability for Regular Assessments with all other Lots.

**Article X Additional Rights Reserved to Declarant**

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex property pursuant to Section 9.1, to remove any unimproved portion of WaterColor from the coverage of this Declaration. "Unimproved" means that no structure has yet been built on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. Except as provided in Section 7.1(b), if the property is Common Area, the Association's consent is required for such withdrawal.

Until termination of the Class "B" Control Period, Declarant reserves the right to amend the Declaration and remove any Neighborhood, regardless of whether Declarant owns all or any of the property within the Neighborhood, from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than Declarant. In addition, in such event, the Association shall reconvey to Declarant, or its designee, any of the property being withdrawn which it owns.

10.2. Marketing and Sales Activities.

Notwithstanding anything in the Governing Documents to the contrary, Declarant and its Affiliates, and their designees or assigns, may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities, activities, and things as, in

Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities, activities, and things shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, Declarant and Declarant's Affiliates, and their employees, agents, and designees, may park vehicles in areas other than garages or driveways, including on streets. The rights of any Declarant designee or assign under this Section are subject to Declarant's approval.

10.3. Right to Develop.

Declarant and its Affiliates, and their respective employees, agents, and designees, shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area, and to the Exhibit "B" property, as it deems appropriate in its sole discretion.

10.4. Right to Approve Changes in WaterColor Standards.

No amendment to or modification of any Use Restrictions, Rules, or the Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant or any Declarant Affiliate owns any portion of the Community.

10.5. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a Recorded instrument signed by Declarant. Declarant may allow other Persons to exercise, on a one-time or limited basis, any Declarant right without transferring the entire right. In such case, a Recorded instrument is not required.

10.6. Central Telecommunication, Receiving, and Distribution System.

Declarant reserves for itself, its Affiliates, successors, and assignees, the exclusive and perpetual right and easement to operate within WaterColor, and to service the buildings and the structures within any Lot, a central telecommunication (including cable television and security monitoring) receiving and distribution system, including conduits, wires, amplifiers, towers, antennae, and other related apparatus and equipment (the "Community Systems") as Declarant, in its discretion, deems appropriate. Such exclusive and perpetual right shall include, without limitation, Declarant's right to select and contract with companies licensed to provide telecommunications and cable television service in the WaterColor area, and to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Prior to termination of the Class B Control Period, Declarant may require that the Board enter into a bulk rate service agreement for the provision of Community Systems to all Lots as a

Common Expense. If particular services or benefits are provided to particular Owners or Lots at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the costs as a Neighborhood Assessment or Benefited Assessment, as appropriate.

10.7. Rights To Use Names; License Agreements.

The names "Arvida®," "St. Joe," "WaterColor," "The St. Joe Company," and all similar or derivative names, along with all associated logos, are the proprietary trade names and service marks of The St. Joe Company or its Affiliates. No Person shall use such trade names or service marks for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, or in any logo or depiction without the prior written consent of the Person who owns such mark. In addition, due to the integrated nature of WaterColor as a planned community, and the public identification of the Lots with WaterColor, any name or "logo" to be used in connection with or displayed on any Lot, and any sales or other materials or documentation related to the use of the Lot, shall be subject to Declarant's prior written consent. Such approval may be given or withheld in Declarant's discretion and may be subject to such terms and conditions as Declarant deems appropriate.

Notwithstanding the above, Owners may use the name "WaterColor" where such term is used solely to specify that particular property is located within "the WaterColor Community" (subject, however, to such terms and conditions as Declarant may impose in order to protect its trade names and service marks) and the Association may use the word "WaterColor" in its name, or to specify property the Association owns is located within "The WaterColor Community". Other use by the Association or any Owner is subject to the restrictions set out in this Section.

10.8. Right To Use Common Area for Special Events.

As long as Declarant or any Declarant Affiliate owns any property described in Exhibit "A" or "B," Declarant may use the Common Area to sponsor special events for charitable, philanthropic, political, or marketing purposes, subject to the following conditions:

(a) the availability of the facilities at the time requested;

(b) Declarant shall pay all costs and expenses incurred and shall indemnify the Association against any loss or damage resulting from the special event; and

(c) Declarant shall return the facilities and personal property used in conjunction with the special event to the Association in the same condition as existed prior to the special events.

Declarant shall have the right to assign its rights to charitable organizations or foundations selected by Declarant. Declarant's right to use the Common Area for special events shall be enforceable by injunction, by any other remedy in law or equity, and by the terms of this Declaration.

10.9. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of WaterColor, including Lots, and a nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a dwelling or other structure on a Lot shall be permitted without the Owner's consent, which consent shall not unreasonably be withheld, conditioned, or delayed. The failure or refusal to permit reasonable access to the Lot for the purposes contemplated under this paragraph shall excuse Declarant or its designee from responsibility for repairs or damages relating to defective workmanship or materials. The Person exercising this easement shall promptly repair, and pay for, any resulting damage.

10.10. Right to Notice of Design or Construction Claims.

No Person shall bring suit for the design or construction of any structures or improvements within WaterColor unless Declarant and any Builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the property Owner and conduct an inspection. For purposes of this Section, a Notice of Intent pursuant to Section 558, F.S., shall satisfy the Notice requirements.

10.11. Termination of Rights.

Rights granted under this Article shall terminate upon the earlier of (a) the period specified in the particular Section; (b) 40 years from the date this Declaration is Recorded; ~~or~~ (c) Declarant's Recording of a statement that all sales activity has ceased, or (d) such period as prescribed by Florida law. Thereafter, Declarant may continue to use the Common Areas for the purposes stated in this Article only pursuant to a rental or lease agreement between Declarant and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas. Notwithstanding the above, Declarant reserves for itself and its Affiliates a perpetual, nonexclusive easement of access to and use of the Common Areas in connection with the marketing and sale of other properties in order to show the Community as an example of Declarant's projects. This Article shall not be amended without Declarant's written consent.

10.12. Exclusion of Declarant's Other Properties.

By accepting a deed to a Lot, each Owner, specifically acknowledges that nothing contained in this Declaration shall in any way, either expressly or by implication, restrict, limit, or otherwise affect the use or disposition by Declarant or any Declarant Affiliate of any property either of them owns, whether contained within or contiguous to WaterColor. Declarant and its Affiliates shall have full, free, and unrestricted use of its other lands, notwithstanding any incompatibility of such use with restrictions this Declaration imposes upon the Lots. By accepting a deed to a Lot, each Owner, specifically and expressly disclaims any reciprocal negative easement in any property Declarant or any Declarant Affiliate owns.