

**THIS INSTRUMENT PREPARED BY
AND UPON RECORDING RETURN TO:**

Elise B. Lynn, Esq.
PIPER RUDNICK LLP
101 East Kennedy Boulevard
Suite 2000
Tampa, Florida 33602

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR DRAPER LAKE**

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THIS DECLARATION, is made effective as of the 15th day of July, 2004 by **DRAPER LAKE, LLC**, a Florida limited liability company.

BACKGROUND

DRAPER LAKE, LLC, a Florida limited liability company (defined below as the Founder), is the owner of certain real property in Walton County, Florida, which it intends to develop as a community to be known as Draper Lake. The Founder desires to establish a framework for the development and occupancy of Draper Lake and for the management, preservation, maintenance, enjoyment and use of the common areas of Draper Lake (the "**Project**").

NOW, THEREFORE, Founder hereby declares that the Property (defined below) shall be held, transferred, sold, mortgaged, leased, conveyed and occupied subject to the following easements, charges, liens, restrictions, covenants, and conditions (collectively the "**covenants and restrictions**"), which are for the purpose of protecting the value and desirability of, and which shall run with, the Property and be binding on and inure to the benefit of all parties having any right, title or interest in the Property, or any part thereof, their heirs, successors and assigns.

ARTICLE 1: DEFINITIONS

Unless the context expressly requires otherwise, the following terms will have the following meanings wherever used in this Declaration:

Section 1.1 "**Approved Architect**" means an architect approved by the Association to perform architectural services in connection with the construction of Dwellings and/or other buildings within Draper Lake, as provided for in Section 4.1. The approval of an architect may only extend to certain types of buildings or for limited numbers of buildings. The list of approved Architects shall be available from the Association and may be changed from time to time by the Association.

Section 1.2 "**Approved Builder**" means a Florida licensed contractor approved by the Association to build Dwellings and/or other buildings within Draper Lake, as provided for in Section 4.1. The approval of a builder may only extend to certain types of buildings or for limited numbers of buildings. The list of Approved Builders shall be available from the Association and may be changed from time to time by the Association.

Section 1.3 "**Articles**" means the Articles of Incorporation of the Association, as amended from time to time. The initial Articles are attached hereto as **Exhibit B**.

Section 1.4 "**Assessments**" means any sum of money payable to the Association which if unpaid can result in a lien against an Owner's Lot, including, without limitation, the General Assessments, Special Assessments, and Specific Assessments provided for in Article 7 of this Declaration.

Section 1.5 "**Association**" means the DRAPER LAKE HOMEOWNERS ASSOCIATION, INC., a Florida corporation not for profit, organized under Chapter 617, Florida Statutes, and its successors and assigns.

Section 1.6 "**Board**" or "**Board of Directors**" means the Board of Directors of the Association.

Section 1.7 "**Bylaws**" means the Bylaws of the Association, as amended from time to time. The initial Bylaws are attached hereto as **Exhibit C**.

Section 1.8 "**Certification of Completion**" means the certification issued by the Committee as required by Section 3.6.13, confirming that the subject Improvements have been completed in accordance with the requirements of this Declaration.

Section 1.9 "**Coastal Dune Lakefront Protection Zone**" means the area beginning at the mean high water line of the coastal dune lakes and extending 300' landward for all coastal dune lakes and their tributaries as more particularly depicted on the Walton County Coastal Lake System.

Section 1.10 "**Commercial Lot**" means the Commercial Parcel A, as shown on the Plat.

Section 1.11 "**Committee**" means, once established, the Architectural Control Committee established pursuant to this Declaration and the Articles and Bylaws and, prior to the establishment of the Committee, the Town Architect.

Section 1.12 "**Common Areas**" means the areas of or servicing the Property which are, from time to time, owned or leased by the Association or upon which the Association has easement or use rights, together with all other real and personal property owned or leased by the Association from time to time for the common use, benefit, and enjoyment of two or more of the Owners. Common Areas shall include, without limitation, (i) areas of the Property owned by Founder which are not yet transferred to the Association, but are intended to be transferred to the Association as Common Areas, and (ii) the Easement Areas. Nothing in this Declaration is intended as a dedication of any portion of the Common Areas to the public.

Section 1.13 "**Common Roads**" mean the vehicular roadways shown on the Plat(s), which are to be a part of the Common Areas.

Section 1.14 "**Compound**" means a group of three (3) to six (6) contiguous lots conveyed in a single transaction from Founder to an Owner and designated by Founder as a Compound at the time of such conveyance.

Section 1.15 "**Declaration**" means this Declaration, as amended from time to time.

Section 1.16 "**Design Regulations**" means, collectively, (i) the Draper Lake Design Regulations; (ii) the Urban Regulations; and (iii) the Regulating Plan and the Architectural Regulations, all dated July 15, 2004 and all originally prepared by Duany Plater - Zyberk & Company and, as amended from time to time.

Section 1.17 "**Draper Lake**" means the community being developed by Founder on the Property pursuant to the Master Plan and as shown on the Plat(s).

Section 1.18 "**Dwelling**" means a residential structure constructed within the Project.

Section 1.19 "**Easement Areas**" mean those areas in which easement rights may be granted to the Association for the benefit of Owners from time to time.

Section 1.20 "**Founder**" means Draper Lake, LLC, a Florida limited liability company or its successors or such assigns as may be expressly assigned rights hereunder by recorded instrument.

Section 1.21 "**Gulfview Heights Subdivision**" means that certain subdivision of land located to the west of the Project, as set forth in Plat Book 3, at Page 35, et seq., of the Public Records.

Section 1.22 "**Improvement**" means any building, structure, landscaping or other item not naturally existing on a Lot, whether temporary or permanent, including, by way of example only and not as a limitation, all satellite dishes, television and other antennas; statuary, fountains, flags, flagpoles or other ornamentation; clotheslines; children's playhouses; outbuildings; walkways; piping; garages; swimming pools, spas, basketball backboards or other recreational facilities; carports; driveways; parking areas; refuse and trash containers; fencing; walls; stairways; decks; landscaping, hedges, trees, shrubs, planting and other vegetation; poles; for sale, for rent and other signs (including, without limitation, signs in windows or elsewhere visible from the Common Area); water softening, air conditioning and heating and other equipment; and paint and all other coloring or texturing device or covering on all surfaces. Improvement does not include any improvements and decorations within a Dwelling which are not visible from the Common Areas.

Section 1.23 "**Initial 36 Months**" means the thirty-six (36) month period following the recording of the Plat.

Section 1.24 "**Lake Access Facilities**" means those facilities such as docks, boathouses and boardwalks that facilitate Owners' access to Draper Lake.

Section 1.25 "**Lot**" or "**Lots**" means each numbered, platted lot as established by the Plat(s), but does not include any Common Area owned by Founder or the Association.

Section 1.26 "**Master Plan**" means the Master Plan and final approved conditions of Draper Lake as approved by Walton County, as it may be amended from time to time.

Section 1.27 "**Members**" mean the Owners (including Founder) as more particularly described in Article 5.

Section 1.28 "**Mortgage**" means any valid instrument transferring any interest in or creating a lien on real property in favor of an unrelated third party as security for the repayment of indebtedness. "First Mortgage" means a valid Mortgage having priority over all other Mortgages on the same property.

Section 1.29 "**Owner**" means a Person who from time to time holds record fee simple title to any Lot. If more than one Person holds such title, all such persons are Owners, jointly and severally.

Section 1.30 "**Parcel**" or "**Parcels**" means each area, if any, designated as a "Parcel" on the Plat(s). Parcels are not Lots, except for the Commercial Lot.

Section 1.31 "**Person**" means any natural person or artificial entity having legal capacity.

Section 1.32 "**Plat**" or "**Plat(s)**" means the Plat of the Property recorded in Plat Book 16, at Pages 7, 7A and 7B of the Public Records, as amended or modified from time to time.

Section 1.33 "**Property**" means the Property described in **Exhibit A** and shown on the Plat.

Section 1.34 "**Public Records**" means the Public Records of Walton County, Florida.

Section 1.35 "**Recreational Common Areas**" means any swimming pool, clubhouse, amenity center, dock, boathouse, observation tower or park, or other recreational facilities, if any, which are Common Areas and are available for the use by the Owners, but shall not include the Common Roads.

Section 1.36 "**Rules and Regulations**" means the Rules and Regulations of the Association as provided for in Section 3.3. The initial Rules and Regulations are attached hereto as **Exhibit D**. The Rules and Regulations may be amended from time to time as provided for in Section 3.3.

Section 1.37 "**Stormwater Management System**" means the system for the Project which is designed, 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 to otherwise affect the quality and quantity of discharge from the system, and which shall include, but shall not be limited to all walls (including, but not limited to, retaining walls within individual Lots), inlets, ditches, swales, culverts, water control structures, retention and detention areas, ponds, lakes, floodplain compensation areas, wetlands and any associated buffer areas and wetland mitigation areas.

Section 1.38 "**Town Architect**" means the architect, designer or architectural firm designated by Founder to act as the Committee prior to the election of the Committee. All references herein to the Committee shall refer to the Town Architect until the Committee is established. If at any time the Town Architect is not a Florida licensed architect, the Town Architect shall be referred to as the Director of Design Review. The Committee need never be established so long as there is a Town Architect.

Section 1.39 "**Turnover**" means the termination of the Founder's Class B Membership as provided for in Section 5.4 of this Declaration.

ARTICLE 2: PROPERTY SUBJECT TO THIS DECLARATION

Section 2.1**Property**. The Property shall be held, transferred, sold, mortgaged, leased, conveyed, and occupied subject to this Declaration. The covenants and restrictions of this Declaration are to run with the land, regardless of whether or not they are specifically mentioned in any deeds or conveyances of Lots subsequently executed, and shall be binding upon, and enforceable against, all parties and all Persons claiming under such deeds and conveyances for a period of thirty (30) years from the date of recording, after which time, such covenants and restrictions shall automatically be extended for successive periods of ten (10) years, until terminated pursuant to Section 11.5 of this Declaration.

Section 2.2**Additions to Common Areas**. The Founder shall have the right, in its sole discretion, to lease or to convey title to any property owned from time to time by Founder, or any easement or interest therein, to the Association as a part of the Common Areas, and any such lease or conveyance shall be effective upon recording the deed or instrument of conveyance or memorandum of lease or assignment thereof, as applicable, in the Public Records. Any other Person may also lease or convey title to any property owned by such Person, or any interest therein, to the Association as a portion of the Common Areas; providing that the Association shall have expressly accepted such conveyance by executing the deed or lease or other instruments of conveyance or by recording a written acceptance of such conveyance or lease in the Public Records.

Section 2.3**Mergers**. Upon a merger or consolidation of the Association with another homeowners association (or similar organization) as may be provided in the Bylaws, the Association's properties, rights and obligations may be transferred to another surviving or consolidated homeowners association, or alternatively, the Association may constitute the surviving association pursuant to a merger. The surviving or consolidated homeowners association may administer the covenants and restrictions established by this Declaration together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants and restrictions established by this Declaration within the presently existing Property, except in accordance with the amendment procedures of this Declaration.

ARTICLE 3: EASEMENTS, RIGHTS AND REGULATIONS

Section 3.1 **Rights and Easements are Appurtenances.** Except as otherwise expressly provided herein, rights and easements granted herein constitute rights and easements which are appurtenant to fee simple ownership of the Lots from time to time; provided that the Association, acting as agent for the Owners under an irrevocable agency coupled with an interest, who are in turn the beneficiaries of all the covenants and restrictions herein contained, is vested with the right on its own behalf and on behalf of all Owners and parties interested in the Property to enforce all the covenants and restrictions of this Declaration.

Section 3.2 Easements Reserved to Founder and/or Association.

3.2.1 All easement areas shown on the Plat(s) are nonexclusive easement grants. Founder reserves, both for itself and the Association, the right to grant additional non-exclusive easements over, under, across and through such areas, provided that such additional easement grants do not materially interfere with the activities for which such areas were established.

3.2.2 Easements over, under, across and through each Lot are expressly reserved to the Founder and granted to the Association, their agents, contractors, representatives and employees for the purposes of making any repairs and performing any maintenance or other activities provided for or required by this Declaration, regardless of whether such repairs, maintenance or activities directly benefit the Lot upon which they are performed or over which access is required. Any damage to a Lot caused as a result of such access shall be repaired by the Association.

3.2.3 Easements over, under, across and through each Lot are expressly reserved to the Founder and granted to the Association, their agents, contractors, representatives and employees for the purposes of installing, maintaining, replacing and repairing the Stormwater Management Facilities. Any damage to a Lot caused as a result of such access shall be repaired by the Association.

3.2.4 Easements over, under, across and through each Lot and the Common Areas are expressly reserved to the Founder for the purposes of completing the initial infrastructure work for Draper Lake, including but not limited to the installation of utilities, the Stormwater Management System, roadways and other Project infrastructure (the "**Initial Construction**"). All Owners acknowledge that the Lots may be sold prior to the completion of the Initial Construction. In the event an Owner purchases a Lot prior to the completion of the Initial Construction, the Owners acknowledge and agree that the owner shall be prohibited from constructing any Improvements on the Lot or commencing any type of development work including any grading on the Lot until completion of the Initial Construction. Founder agrees to diligently pursue the completion of the Initial Construction in a good and workmanlike manner.

3.2.5 The Founder may grant to the Association additional easements over areas depicted on the Plat by separate instrument.

Section 3.3 Owners' Right to Use Common Areas. Founder grants to every Owner, subject to provisions of this Declaration and the Rules and Regulations, the right and easement to use the Common Areas for their normal and intended purposes, as designated by the Association from time to time. The Association shall, consistent with this Declaration, have the right to alter, change, improve, add to or eliminate portions of the Common Areas.

Section 3.4 Title to Common Properties. The Founder may retain the legal title to the areas of the Property to become Common Areas until such time as it has completed any contemplated improvements thereon, and, in the opinion of the Founder, the Association is able to maintain such areas.

Section 3.5 Limitations to Easement Rights. The rights and easements created herein for the benefit of the Owners, shall be subject to the following:

3.5.1 The right of the Association to limit the use of the Common Areas to Owners, to members of an Owner's family residing with the Owner, to social guests of the Owners, and to tenants of the Owner and their family residing with them and social guests.

3.5.2 The right of the Association to suspend any Owner's right to use any Recreational Common Areas for any period during which any Assessment against the Owner's Lot remains unpaid, or until the termination of any violation of the Rules and Regulations or any of the covenants and restrictions of this Declaration.

3.5.3 The right of the Founder prior to Turnover, or the Association after Turnover, to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility organized for a purpose consistent with the intent of this Declaration; provided that no such dedication or transfer shall be effective by the Association unless it shall have first been approved by the Owners entitled to at least a majority of the total votes of the Association. Notwithstanding the foregoing, the Board of Directors of the Association shall have the right, without notice to or the approval of or any vote by the Owners, to grant easements for the installation and maintenance of electrical, telephone or other telecommunication, natural gas, cable or satellite television, internet, water, irrigation, sewer and other utility facilities upon, over, under and across the Common Areas.

Section 3.6 General Restrictions. The following restrictive covenants are hereby imposed upon the Property as covenants running with the land.

3.6.1 No Lot or any Improvement thereon shall be used for any purpose in violation of the Master Plan or this Declaration.

3.6.2 No activity deemed by the Association to constitute a noxious, offensive or hazardous activity shall be permitted by any Owner on any Lot or Common Area, nor shall anything be done thereon which in the opinion of the Association constitutes an annoyance, nuisance or safety hazard to individual Owners or to the community in general. No Owner shall permit or allow anything to be done or kept in any Dwelling, on any Lot, or within the Common Areas, which would be a violation of any law, regulation, or other governmental restriction or requirement.

3.6.3 No accumulation of debris, rubble, piles of dirt, or fill or other unsightly material shall be allowed to accumulate or be deposited in any area of the Property. Trash, garbage or other waste shall be kept in closed sanitary containers or as otherwise required by the Association. All equipment for the storage or disposal of such waste shall (i) be of a type approved by the Committee, (ii) be kept in a clean and sanitary condition, and (iii) be kept in a location approved by the Committee.

3.6.4 If permitted by zoning and other applicable governmental restrictions and requirements, not more than one room in a Dwelling may be used as a home office in connection with the operation of a business, however, no employees of such business (other than family members) may work in a Dwelling and no clients or customers shall be seen or allowed in any Dwelling in connection with such business.

3.6.5 During any period when water and sewage disposal services are in operation and servicing Lots in accordance with the standard requirements of applicable governmental entities, no individual wells for potable water and no individual septic tanks will be permitted on any Lot; except to service any development or sales trailer operated by Founder in connection with the initial development of the Property and the sale of the Lots. This Section shall not be interpreted to prohibit the Association from utilizing irrigation wells.

3.6.6 Once a Lot has been sold by the Founder, the same shall be maintained in good appearance. During construction, each Lot shall be kept in a neat and orderly condition with construction debris and trash being neatly stacked or confined in containers or trash enclosures. The Association may charge a reasonable construction management fee for each new Dwelling, rebuilding or reconstruction, and may require a reasonable deposit be paid to be held during the period of any construction as security to assure compliance with the terms of this Declaration.

3.6.7 Following the completion of the Common Areas and conveyance of the Common Areas to the Association, nothing shall be placed on, altered in, constructed on or removed from the Common Areas, except with the prior written consent of the Association.

3.6.8 All utility lines and lead-in wires, including but not limited to, cable television lines, electrical lines and telephone lines, located within the confines of any Lot or within any Easement Areas, shall be located underground.

3.6.9 No time-share ownership of any Dwelling shall be permitted without, during the Initial 36 Months Founder's, and thereafter the Association's, consent. Time-share ownership shall include any method of ownership where the right of use, possession or occupancy is divided into time units or points and sold, leased or licensed to various individuals. Time-share ownership shall generally not include ownership by a group of individuals as tenants-in-common.

3.6.10 No changes in the elevation of the land shall be made on any Lot, without the consent of the Committee. No Lot or group of Lots shall be re-subdivided, except that, with the prior consent of the Committee, in its sole discretion, two or more Lots or one Lot and a partial Lot may be joined together to serve as one building site. It is the intent of this Section, that two or more Lots (or a Lot and a portion or portions of another Lot or Lots) may not be combined for a single use or single structure without the prior consent of the Committee, which may be granted or denied in the Committee's sole discretion. Notwithstanding the foregoing, a Compound may be developed as a single building site and the Lots within a Compound may be combined.

3.6.11 Any structure on any Lot which is damaged or destroyed in whole or in part must be rebuilt in accordance with the requirements of this Declaration or completely removed within one (1) year from the date of damage or destruction. All debris must be removed and the Lot restored to a slightly condition within sixty (60) days after such damage or destruction.

3.6.12 No Improvements upon any Lot shall be used or occupied until a "Certification of Completion" has been obtained from the Committee. The Committee shall issue a "Certification of Completion" or a written statement as to why it cannot be issued as to any Improvement within ten (10) days of a request therefor from the Owner or Approved Builder of such Improvements.

Section 3.7 **Zoning Conditions**. All development within Draper Lake is subject to the Master Plan, including the restrictions set out below. If any provision within this Declaration conflicts with the Master Plan, the Master Plan shall control.

3.7.1 The Association may own a maximum of thirty (30) electric golf carts for the benefit of the Association and the Owners. No privately owned golf carts are permitted within Draper Lake.

3.7.2 Golf carts within Draper Lake may not be operated by Persons under 18 years of age or by any Person who does not possess a valid driver's license.

3.7.3 Direct automobile access from Draper Lake to the roadways within the Gulfview Heights Subdivision is not permitted. This access restriction was a negotiated requirement of the Draper Lake Master Plan approval. Access is limited only to golf carts, bicycles and pedestrian traffic. To insure that this restriction is complied with, the

Association shall maintain the connections between Draper Lake and Betty and Buddy Streets in a manner so that automobile access is not allowed, and is physically restricted through the installation of, one or a combination of, landscaping, a fence, gate and/or posts, or other physical barrier capable of restricting automobile access. This Section 3.7.3 cannot be amended.

3.7.4 The Founder, and the Association after Turnover, shall post signs along Betty Street and Buddy Street notifying the residents and visitors of Draper Lake of the restriction set forth in Section 3.7.3.

3.7.5 An accessory structure, such as a carriage house, may not be rented separately from the primary Dwelling located on the Lot.

Section 3.8 Provisions Inoperative as to Initial Construction. Nothing contained in this Declaration will be construed or applied to prevent the Founder or, with Founder's written consent, any Approved Builder from doing or performing on all or any part of the Property owned or controlled by the Founder, or being constructed upon by such Approved Builder, whatever Founder determines to be reasonably necessary or convenient to complete the development of Draper Lake, the sale of the Lots and the construction of buildings, including without limitation:

3.8.1 Erecting, construction, and maintaining such structures and other improvements as Founder may deem to be necessary or convenient for the completion of the development of Draper Lake, the sale of the Lots, construction of buildings on all of the Lots, and the establishment of the Property as a residential community; including the construction and maintenance of construction and sales offices in permanent or temporary structures, model homes and model centers, and inventory homes to be used in the sales program; and

3.8.2 Maintaining any signs, billboards, flags, and placards as Founder may determine to be necessary or desirable in connection with the sale, lease, or other transfer of the Lots.

Section 3.9 Access by Association. The agents or representatives of the Association (including, without limitation, the Committee) shall have the right of entry upon each Lot and, except as limited below, any improvements existing thereon (including improvements under construction), to the extent reasonably necessary or appropriate to discharge any duty imposed, or exercise any right granted, by this Declaration, or to investigate compliance with or enforce the provisions of this Declaration or the Rules and Regulations. Such right of entry must be exercised in a peaceful and reasonable manner and at reasonable times. Notwithstanding the foregoing, entry into any enclosed non-public area of any completed structure upon any Lot may not be made without the consent of the Owner or occupant, except pursuant to court order or other authority conferred by law.

Section 3.10 **Maintenance**. Except as specifically provided herein to the contrary, each Owner shall be responsible for the maintenance, repair and replacement of all Improvements on their Lot(s) in a first-class condition. The surface of the Easement Areas, if any, within each Lot shall be maintained by the Owner of the Lot (subject to the rights of the Association hereunder), and the facilities within the Easement Areas shall be maintained by the Association or the public authority or utility company responsible for such facilities. Any area or Improvement located within or on a Lot and not specifically required by this Declaration to be maintained, repaired or replaced by the Association shall be maintained, repaired or replaced by the Owner of the applicable Lot.

Section 3.11 **Stormwater Facilities**. Without limiting the generality of the foregoing Section 3.10, the Association shall maintain in good and operational condition and repair the areas of the Owner's Lot constructed or approved for use for stormwater management, retention, storage, or treatment. No Owner shall alter or place any Improvements or allow Improvements to be placed or to remain in such areas without the prior written consent of the Committee.

Section 3.12 **Association's Performance of Owner's Duties**. If an Owner of any Lot shall fail to comply with any of its obligations under this Declaration and such failure continues for ten (10) days after written notice of such failure from the Association, the Association shall have the right, through its agents, employees or contractors, to enter upon said Lot and to perform such acts and pay such amounts necessary to fulfill such obligations and bring the Lot and Owner into compliance with this Declaration and all costs and expenses incurred in connection therewith shall be a Specific Assessment against such Lot.

Section 3.13 **Rules and Regulations**. The Board may, from time to time, without the vote or consent of the Owners, adopt new Rules and Regulations or amend the existing Rules and Regulations governing the operation, use, enjoyment, maintenance, management and control of the Common Areas and the facilities incident thereto and the conduct of the Owners and their family, guests, tenants and invitees on the Common Areas and on their Lots (outside of the buildings thereon) and the operation of Draper Lake generally. Copies of the Rules and Regulations shall be furnished to each Owner at least ten (10) days in advance of the time such Rules and Regulations become effective. The Association shall have available copies of the most current Rules and Regulations and provide them to each Owner upon request. The Association shall have the right to charge a reasonable fee for additional copies of the Rules and Regulations requested by any Owner to offset production costs. The Rules and Regulations must, at any time, be consistent with the Master Plan and this Declaration.

ARTICLE 4: ARCHITECTURAL AND CONSTRUCTION RESTRICTIONS

Section 4.1 **Approved Architects and Builders**. Dwellings, buildings and other structures on all Lots within Draper Lake shall be designed by an Approved Architect and built by an Approved Builder. Upon the request of an Owner, the Association shall provide the Owner with a list of the Approved Architects and Approved Builders as well as with application forms for builders and architects to apply for approval from the Association. The Association shall have the option to charge all or any builders and architects a reasonable non-refundable

application fee for the processing of any application for approval to be an Approved Architect or an Approved Builder within Draper Lake. Founder's or the Association's approval of an architect as an Approved Architect or of a builder as an Approved Builder shall only mean that such Person is entitled to act as an architect or builder within Draper Lake and shall not constitute any representation or implication as to such Person's abilities or skills.

Section 4.2 **Compliance with Design Regulations.** All Improvements on all Lots shall comply with the Design Regulations in effect at the time such Improvements were approved by the Committee. The Committee may limit the time of the effectiveness of any approval. Upon the expiration of the effectiveness of the approval the proposed Improvement must be resubmitted for approval under the then current Design Regulations.

Section 4.3 **Approval of Plans and Architectural Control Committee.**

4.3.1 No Improvement, regardless of size or purpose, whether attached to or detached from a main Dwelling or other building, whether temporary or permanent, shall be commenced, placed, erected, or allowed to remain on any Lot, nor shall any modification, addition to, or exterior change or alteration thereto be made, unless and until a request therefor has been submitted to and approved in writing by the Committee in the manner provided for in this Declaration. The applicant for such approval shall, together with the request therefor, submit such plans, specifications, drawings, information and materials as the Committee may request from time to time in order to make an informed decision (collectively, the "**plans and specifications**"), which shall include, without limitation, the materials required by the Design Regulations.

4.3.2 In reviewing the plans and specifications and other submitted materials, the Committee may take into consideration such factors as it deems appropriate, including, without limitation, the consistency of the proposed Improvements with the Design Regulations, the suitability and desirability of the proposed Improvements and of the materials of which the same are proposed to be constructed, the Lot upon which they are proposed to be constructed, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood, and the effect and appearance of such construction as viewed from neighboring Lots and Common Areas.

4.3.3 The Committee shall have thirty (30) days from submittal of a full and complete package within which to approve or reject the plans and specifications. The Committee shall have the absolute and exclusive right to refuse to approve any such plans and specifications which are not fully consistent with the Design Regulations or which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons and reasons relating to future development within Draper Lake. The Committee's failure to respond within said 30-day period shall be deemed a disapproval of the plans and specifications. In the event the Committee rejects such plans and specifications as submitted, the Committee shall so inform the Owner in writing to the applicant's address indicated on the submittal stating with reasonable detail the reason(s) for disapproval and the Committee's recommendations to obtain Committee approval. In the event that the

applicant makes all the changes requested by the Committee within ninety (90) days after approval is denied and resubmits its application in conformity with the requirements of this Declaration, the plans and specifications shall be approved by the Committee within fifteen (15) business days after resubmission, provided the applicant makes no other changes or alterations to the plans and specifications. In the event the applicant makes such additional changes or alterations to the plans and specifications, the applicant must resubmit the plans and specifications as new in accordance with this Section 4.3.3.

4.3.4 Upon the Committee's written approval, construction shall be started and prosecuted to completion diligently, continuously and promptly and in conformity with the approved plans and specifications. A copy of the Committee's approval of construction shall be posted on the Lot during construction. The Committee shall be entitled to stop any construction in violation of these restrictions, and any Improvement made without application having first been made and approval obtained as provided above, shall be deemed to be in violation of this Declaration and the Association may require that the unapproved Improvement be removed and the Lot restored to its prior condition at the Owner's expense.

4.3.5 The Committee shall have the right to charge a reasonable fee for reviewing each application for approval of plans and specifications. If any approval lapses due to passage of time or otherwise, a new review fee may be charged.

4.3.6 The Committee's review of plans and specifications shall be conducted for the purpose of the Association's architectural control responsibilities hereunder. Such approval shall not constitute any representation, warranty or certification as to the correctness, completeness, accuracy or feasibility of such documents or any work, items or systems shown thereon or contemplated thereby or of their compliance with governmental restrictions or requirements.

Section 4.4**Waivers**. The Committee shall have the right to waive any requirements of the Design Regulations (without the obligation to satisfy the requirements of Section 11.7 hereafter) as to any Lot or Lots if the Committee in its discretion deems such waiver consistent with the spirit and intent of the Design Regulations.

Section 4.5**Design Regulations**. The Design Regulations may be amended from time to time by a majority vote of the Board, except that the Design Regulations may not be amended without Founder's prior written consent during the Initial 36 Months.

Section 4.6**Form of Approval**. Any approval required from the Committee under this Declaration shall be evidenced by a letter of approval signed by, (i) prior to establishment of the Committee, the Town Architect, and (ii) after the establishment of the Committee, the chair of the Committee. No owner may rely on any verbal approval or any written approval not executed by the required parties.

ARTICLE 5: MEMBERSHIP AND VOTING RIGHTS

Section 5.1 **Membership**. Every Owner of a Lot shall become a Member of the Association. If title to a Lot is held by more than one Person each such Person is a Member. An Owner of more than one Lot is entitled to one membership for each Lot owned (subject to Section 5.3 below). Each membership is appurtenant to the Lot upon which it is based and is transferred automatically by conveyance of title. No person other than an Owner may be a Member of the Association, and membership in the Association may not be transferred except by the transfer of title to a Lot.

Section 5.2 **Voting**. The Association shall have two classes of voting membership: Class A and Class B. So long as there is Class B membership, Class A members are all Owners except Founder. The Class B member shall be the Founder. Upon termination of Class B membership, as provided below, Class A members are all Owners, including Founder so long as Founder is an Owner. All Members, Class A or Class B, are entitled to cast one vote for each Lot owned (and in the case of Lots which have been consolidated with other Lots or partial Lots pursuant to the provisions of this Declaration, voting rights for such consolidated Lot(s) shall be adjusted in proportion to the change in size by virtue of such consolidation); but as provided in the Association's Bylaws, the Class B member is entitled to elect the Board of Directors until the termination of the Class B membership.

Section 5.3 **Co-Ownership**. If more than one Person owns an interest in any Lot, or if more than one Person owns separate portions of a Lot, all such Persons are Members; but there may be only one vote in the aggregate cast with respect to each such entire Lot. Such vote may be exercised as the co-Owners determine among themselves; but no split vote is permitted among co-Owners. Prior to any meeting at which a vote is to be taken, each co-Owner must file the name of the voting co-Owner with the secretary of the Association to be entitled to vote at such meeting, unless such co-Owners have filed a general voting authority with the Secretary applicable to all votes until rescinded. Notwithstanding the foregoing, if title to any Lot is held jointly by a husband and wife, either spouse is entitled to cast the vote for such Lot unless and until the Association is notified by either spouse otherwise in writing.

Section 5.4 **Class B Termination**. The Class B membership will terminate and convert automatically to Class A membership (to the extent the Founder then owns Lots) ("**Turnover**") upon the happening of any of the following, whichever occurs first:

5.4.1 Three (3) months after the Founder conveys, other than to a successor developer, all of its right, title and interest in and to ninety percent (90%) of the total of all Lots in the Property. For purposes of this provision, a Lot shall be considered conveyed when the deed is duly recorded in the Public Records.

5.4.2 The Founder records a disclaimer of its Class B membership in the Public Records.

Upon termination of the Class B membership, all provisions of this Declaration, Articles, or Bylaws referring to Class B membership will be obsolete and without further force or effect, including any provision requiring voting by classes of membership. However, notwithstanding the termination of the Class B membership, Founder may, at its option, in place of voting its Class A membership votes for the election of the Board of Directors, appoint one of the Directors to the Board of Directors, so long as Founder holds for sale in the ordinary course of business at least five percent (5%) of the existing Lots in the Property. If Directors are being elected for different terms the Founder shall be entitled to appoint a Director who will sit for the longest term being offered. Any Director appointed by Founder cannot be removed without Founder's consent.

Section 5.5 **Amplification**. The provisions of this Declaration are amplified by the Association's Articles and Bylaws. The Founder intends the provisions of this Declaration on the one hand, and the Articles and Bylaws, on the other, be interpreted, construed, applied and enforced to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Founder intends that the provisions of this Declaration control over the Articles or Bylaws and that the provisions of the Articles control over the Bylaws.

ARTICLE 6: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 6.1 **General Duties of the Association**. The following are the basic and general duties of the Association:

6.1.1 The Association shall enforce the Rules and Regulations and all covenants and restrictions of this Declaration and control and manage the Common Areas and Draper Lake pursuant to the terms and provisions of this Declaration and the Association's Articles and Bylaws.

6.1.2 The Association may, but is not obligated to and shall have no liability for failure to, employ security guard(s) or a security guard service. All Owners acknowledge that the Founder, while in control of the Association, does not intend to hire or pay for security guard(s), and shall have no liability in connection therewith.

6.1.3 The Association shall provide for the maintenance, management, repair and, if necessary, replacement of the Common Areas in good and attractive condition, except as to any portion of the Common Areas which are required to be maintained as a portion of a Lot by the Lot Owner.

6.1.4 The Association shall provide for the maintenance, management, repair and, if necessary, replacement of the Community Property, if any.

6.1.5 The Association shall pay the ad valorem taxes and other governmental taxes assessed against the Common Areas owned by Founder or the Association and obtain and pay the premiums for public liability and casualty insurance as to the Common Areas and such other types of insurance as it deems advisable. Said insurance policy(s)

shall be for the benefit of the Association, the Founder, Members of the Association and such other parties as the Association determines. The aforesaid insurance policy(s) shall be in such amounts, subject to such conditions and contain such provisions (including deductible provisions) as the Board determines.

6.1.6 The Association shall have the power to establish reserves for the improvement, repair, maintenance, and replacement of the Common Areas.

6.1.7 The Association shall have the power to incur all costs and expenses necessary or desirable to carry out its duties and responsibilities under this Declaration and in furtherance of the purposes set forth in this Declaration. It shall be the duty and responsibility of the Association, through its Board of Directors, to fix and determine from time to time, the sum or sums necessary and adequate to provide for the costs and expenses of the Association. The procedure for the determination of such Assessments shall be as hereinafter set forth in this Declaration.

Section 6.2 **Management Contracts**. The Association shall expressly have the power to contract for the management of the Association, the Common Areas and the Community Property. The Association shall further have the power to employ personnel to perform the services required for proper administration of the Association.

Section 6.3 **Additional Services by the Association**. The Association may provide such additional services to the Owners as the Board of Directors may deem advisable for the convenience of the Owners. Such services may include, but are not limited to (i) the provision of cable or satellite television or internet service through a master contract entered into by the Association with the service provider, (ii) trash pick-up services, (iii) the painting and cleaning of the exterior of the Dwellings, (iv) the maintenance and cleaning of the roofs of the Dwellings, and (v) irrigation, mowing, planting, trimming, replanting and/or other landscaping services. Such services, if provided, shall be provided in accordance with such rules, regulations and conditions as the Board may reasonably adopt, and, if provided, shall be made available to all Owners. The costs and expenses incurred by the Association in providing such services shall be included in the Association's budget and paid out of assessments received by the Association, which costs and expenses shall be equally allocated to each Lot regardless of whether or not such Lot uses any particular services. Following Turnover, the approval of the Owners of a majority of the Lots shall be obtained before any additional services (not provided at the time of Turnover) are provided by the Association under this Section.

Section 6.4 **Stormwater Management System**. The Association shall have the following specific obligations with respect to the Stormwater Management System for Draper Lake:

6.4.1 The Association shall establish and maintain in all common retention areas vegetation to prevent erosion and maintain soil porosity; landscape maintenance should be done on a bimonthly basis during active growing season, and inspected and maintained as required during non-growing season; and

6.4.2 The Association shall monitor sediment deposits in surface detention and retention areas and subsurface exfiltration system at least two (2) times a year. Sediment should be removed from pipes, catch basin bottom and retention areas whenever an accumulation of three inches (3") or more is present.

The Owners shall have the following specific obligations with respect to the Stormwater Management System for Draper Lake:

6.4.3 where portions of the Stormwater Management System exist on Lots, the Lot Owner shall establish and maintain vegetation to prevent erosion and maintain soil porosity; landscape maintenance should be done on a bimonthly basis during active growing season, and inspected and maintained as required during non-growing season; and

6.4.4 where portions of the Stormwater Management System exist on Lots, the Lot Owner shall not change, divert or obstruct such drainage and shall re-grade swale/retention areas as needed to maintain approved design cross section, line and grade; and

6.4.5 whenever exfiltration systems are established on individual Lots, the Lot Owner shall monitor sediment deposits in subsurface exfiltration system at least two (2) times a year; sediment should be removed from pipes and catch basin bottom whenever an accumulation of three inches (3") or more is present.

6.4.6 where portions of the Stormwater Management System exist on Lots, any Dwelling or other Improvement shall be constructed on raised piers and with finish floor elevations a minimum of one foot above the elevation of the top of the retaining wall on that Lot.

Except as set out above, the Association shall maintain the Stormwater Management System, including portions on individual Lots, in good and clean condition and in compliance with all applicable permits, and shall have the right to enforce all maintenance requirements under this section.

Section 6.5 Owner's Responsibility for Property Damage. Any damage to roads, walkways, paths, ditches, utility lines, irrigation facilities, landscaping, natural areas or vegetation, curbs or pathways, recreational facilities, or other improvements or any furnishings or other personal property that constitutes Common Area on or serving the Property caused by any Owner, Owner's tenant's, contractor or subcontractor or its or their agents, employees or invitees shall, at the request of the Association, be repaired (in conformity with such requirements as the Association may impose) by such Owner or the Association may itself make any necessary or desirable repairs or replacements and all costs incurred in connection therewith shall be a Specific Assessment against the responsible Owner's Lot.

ARTICLE 7: ASSESSMENTS

Section 7.1 **Assessments Established**. In accepting a deed to any Lot within the Property, each Owner, whether or not it is so expressed in such deed, is deemed to covenant to pay to the Association:

7.1.1 An annual General Assessment, as defined in Section 7.2; and

7.1.2 Special Assessments, as defined in Section 7.3; and

7.1.3 Specific Assessments against any particular Lot that are established pursuant to any provision of this Declaration, as defined in Section 7.4; and

7.1.4 All excise or other taxes, if any, that from time to time may be imposed upon all or any portion of the Assessments established by this Article.

All of the foregoing, together with late fees and interest as specified in Section 7.9 and all costs and expenses of collection, including without limitation attorneys' fees, shall be a continuing charge on the land and secured by a continuing lien upon the Lot (and improvements thereon) against which each Assessment is made as provided in Section 7.9. Each such Assessment, together with late fees and interest and all costs and expenses of collection, including attorneys' fees incurred, is also the personal obligation of the Person or Persons who was or were the Owner(s) of such Lot when such Assessment fell due. Such personal obligation for delinquent assessments shall become the joint and several obligation of the Owner's successors in title upon transfer of a Lot while delinquent Assessments are outstanding.

Section 7.2 **General Assessment**. Subject to the provisions of the following sentence and Section 7.4 hereafter, the Assessments levied by the Association must be used exclusively (as determined by the Board) to promote the common good and welfare of the residents of Draper Lake, for the operation of the Association, for the operation, maintenance, management, repair and replacement of the Common Areas, and to pay the costs and expenses of the Association incurred in furtherance of its duties, responsibilities and rights hereunder. To effectuate the foregoing, the Association may levy an annual general assessment ("**General Assessment**") to provide and be used for payment of the costs and expenses of the Association. The initial General Assessment shall be in an amount which shall not be greater than Two Thousand Four Hundred and No/100 Dollars (\$2,400.00) per lot. Subject to the foregoing, the amount of the annual General Assessment shall be fixed by the Board at least thirty (30) days in advance of each General Assessment period based upon an adopted budget. The General Assessment period shall coincide with the Association's fiscal year. Written notice of the amount of the General Assessment will be given to every Owner; but the failure to give or receive such notice, or both, shall not invalidate any otherwise valid Assessment. The General Assessment may be payable in such installments as may be determined, from time to time, by the Board.

Section 7.3 Special Assessments. In addition to the General Assessment, the Association may levy in any fiscal year a special assessment ("**Special Assessment**") applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of any capital improvement or repair upon or to the Common Areas or for the purpose of defraying known expenses which exceeded, or when mature will exceed, the budget prepared and on which the General Assessment was based. Any such Special Assessment shall have the approval of at least two-thirds (2/3) of the votes of each class of Owners who are voting in person or by proxy, at a meeting duly called for that purpose, provided however as follows: (a) no such approval shall be required unless the amount of any such Special Assessment exceeds a sum equal to one half the General Assessment payable by the Owners of the Lots for the year immediately prior to the date of such Special Assessment; (b) Special Assessments for taxes and governmental or quasi-governmental charges or assessments shall not require such approval; (c) Special Assessments for needed replacements or repairs to capital improvements shall not require such approval; and (d) Special Assessments for repairs or restoration to the Common Areas made necessary by a hurricane or other named storm, or a tornado or other natural disaster shall not require such approval.

Section 7.4 Specific Assessments. In addition to General Assessments and Special Assessments, the Association may levy reasonable fine(s) ("**Fines**") against the Owner of any Lot from time to time for violations of the covenants and restrictions set forth herein or of the Rules and Regulations by the Owner or the Owner's family, tenants, guests or invitees, and may levy an assessment against the Owner of any Lot to reimburse itself for any costs and expenses incurred by the Association to fulfill the obligations of the Owner under this Declaration, as provided for in Section 3.12 and Section 6.5 of this Declaration. Fines shall not exceed Two Hundred Fifty Dollars (\$250.00) per violation, or such higher amount as may be permitted by Florida law, from time to time and approved by a vote of the Members. The Association may, from time to time, increase this amount, without a vote of the Members, to reflect general inflationary devaluation, as reflected by the increase in consumer prices, measured by a Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, or other generally used measure of increase in consumer prices. In the event of any willful violation of the covenants and restrictions of this Declaration or the Rules and Regulations which continues after ten (10) days written notice to the Owner, each day the violation continues may be considered a separate violation for purposes of assessing Fines. Any such Fine(s) and assessments, together with any other charges or indebtedness of any Owner to the Association or to Founder (if the collection of such indebtedness by the Association is specifically provided for herein) may be assessed by the Association as a specific assessment ("**Specific Assessment**") against such Owner's Lot(s). No such Fine(s) shall be imposed on any Lot, however, without notice to the Owner sought to be fined and the opportunity for hearing before a committee of at least three (3) Members appointed by the Board who are not officers, directors or employees of the Association or a spouse, parent, child, brother or sister of an officer, director or employee of the Association. If such committee does not approve the Fine, it may not be imposed. In addition, Fines against Lots based on any one violation shall not exceed in the aggregate more than Five Thousand Dollars (\$5,000.00), unless the committee approving the Fine specifically permits a higher amount or an additional meeting is held authorizing such higher amount. The

restrictions and requirements set out above relative to the Fines do not apply to other Specific Assessments.

Section 7.5 Uniform Amount of Assessments. The General Assessment and any Special Assessments must be uniform throughout the Lots. Notwithstanding any other provision herein contained, in the event Lots are consolidated with other Lots or partial Lots as permitted by this Declaration, General and Special Assessments shall thereafter be imposed against any such consolidated Lot(s) in proportion to the increase in size by virtue of the consolidation.

Section 7.6 Assessments for Compounds. Owners of Compounds shall pay all assessments levied pursuant to this Article 7 as if the Owner purchased the Lots individually. For example, if an Owner purchases a Compound consisting of three (3) platted Lots, the Owner will be assessed an amount equal to the assessments levied on three (3) individual Lots.

Section 7.7 Capital Contribution Fee and Commencement of General Assessment. Upon the closing of the Founder's sale of each Lot, the purchasing Owner shall pay to the Association a Capital Contribution Fee equal to twenty-five percent (25%) of the then current annual General Assessment per Lot. No part of such Capital Contribution Fee shall be applied, as a credit or otherwise, toward the General Assessment due for such Lot nor shall any portion of such fee be refundable for any reason whatsoever, but such fee shall be applied toward costs incurred by the Association as determined by the Board. The General Assessment as to each Lot owned by an Owner commences on the day of the closing of the purchase of the respective Lot by the Owner from the Founder. Founder shall be under no obligation to treat any portion of the Capital Contribution Fee as a reserve to be expended only for certain purposes.

Section 7.8 Transfer Fee. Upon the transfer of a Lot, the new Lot Owner shall pay to the Association a transfer fee equal to 25% of the then current General Assessment.

Section 7.9 Founder's Assessments. Notwithstanding anything contained herein to the contrary, until Turnover, Founder may, at its sole option, prior to each fiscal year of the Association, elect to either (i) be excused from the payment of any Assessments under this Declaration, but, in lieu thereof, Founder shall pay all expenses incurred by the Association in excess of the Assessments and Capital Contribution Fees collected by the Association or (ii) pay Assessments as provided for in this Declaration for the existing Lots which Founder owns. Founder shall render an accounting of income and expenses incurred as may be required by law. Prior to Turnover, while it is in control of the Association by virtue of its ability to elect the Board of Directors, the Founder shall not be required to establish or contribute to any reserve accounts.

Section 7.10 Remedies of Association and Lien for Assessment. If any Assessment is not paid within thirty (30) days after its due date, (i) a five percent (5%) administrative late fee may be added to the Assessment and (ii) such overdue Assessment shall bear interest (beginning on the first day following such 30 day period) at a rate equal to the lesser of (a) eighteen percent (18%) per annum or (b) the maximum rate permitted by Florida law. The Association may bring an action at law against the Owner personally obligated to pay such Assessment, foreclose its lien against such Owner's Lot and improvements thereon or both. No Owner may waive or

otherwise escape liability for the Association's Assessments. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing, waiving, or otherwise impairing the security of the Association's lien or its priority. All sums assessed to any Lot, together with late fees, interest and all costs and expenses of collection, including reasonable attorneys' fees, may be the basis for a money or other judgment and are secured by a lien on such Lot (and improvements thereon) in favor of the Association. Such lien is subject and inferior to the lien of any First Mortgage encumbering such Lot as provided for in Section 7.11. Except for liens of any First Mortgage, all other lienors acquiring liens on any Lot after this Declaration is recorded are deemed to consent that such liens are inferior to the lien established by this Article 7, whether or not such consent is specifically set forth in the instrument creating such lien. The recordation of this Declaration constitutes constructive notice to all subsequent purchasers and creditors of the existence of the Association's lien and its priority. The Association from time to time may record a notice of lien for the purpose of further evidencing the lien established by this Article, but neither the recording of, nor failure to record, any such notice of lien will affect the existence or priority of the Association's lien.

Section 7.11 **Foreclosure**. The lien for sums assessed pursuant to this Article may be enforced by judicial foreclosure in the same manner in which mortgages on real property from time to time may be foreclosed in the State of Florida. In any such foreclosure, the Owner is required to pay all costs and expenses of foreclosure, including reasonable attorneys' fees. All such costs and expenses are secured by the lien foreclosed. The Owner also is required to pay to the Association any Assessments against the Lot that become due during the period of foreclosure, which Assessments also are secured by the lien foreclosed and accounted on a pro rata basis and paid as of the date the Owner's title is divested by foreclosure. The Association has the right and power to bid at the foreclosure or other legal sale to acquire the Lot foreclosed, or to acquire such Lot by deed or other proceeding in lieu of foreclosure, and thereafter to hold, convey, lease, rent, encumber, use, and otherwise deal with such Lot as its owner for purposes of resale only. If any foreclosure sale results in a deficiency, the court having jurisdiction of the foreclosure may enter a personal judgment against the Owner for such deficiency. Nothing herein shall be construed as a limitation on the right of Founder to bid at any foreclosure sale pursuant to this Section 7.10.

Section 7.12 **Subordination of Lien**. The lien for the Assessments provided in this Article is subordinate to the lien of any valid First Mortgage. Sale or transfer of any Lot does not affect the assessment lien, except that the sale or transfer of any Lot pursuant to the valid foreclosure of any First Mortgage, or any valid voluntary conveyance or other proceeding in lieu of such foreclosure, extinguishes the assessment lien as to payments that became due prior to such sale or transfer, without prejudice, however, to the Association's right to collect such delinquent amounts by suit against any Owner personally liable for their payment. No such sale or transfer relieves such Lot from liability for Assessments thereafter becoming due, or from their lien. The Association shall endeavor to give any institutional holder of a First Mortgage of record thirty (30) days notice within which to cure any delinquency in the payment of Assessments before instituting foreclosure proceedings against the Lot. Any encumbrancer holding a lien on a Lot may pay, but is not required to pay, any amounts secured by the lien

established by this Article; provided that in no event shall such encumbrancer be subrogated to any rights of the Association with respect to the lien established hereby.

Section 7.13 **Lien Priority and Homestead.** Each Owner, by accepting the deed for a Lot is charged with actual or constructive notice of the lien provisions of this Declaration and the intent of this Declaration that the Lots and improvements thereon stand as security for certain obligations of the Owners under this Declaration. The lien created by this Declaration is deemed to relate back to the time of the filing of this Declaration and will be deemed a pre-existing lien for purposes of homestead and will prevail over the homestead rights of any Owner. The subordination of the lien for Assessments to any First Mortgage provided in Section 7.11 of this Declaration shall not affect the relation back of the lien, except only to the extent necessary to subordinate the lien to any valid First Mortgage.

Section 7.14 **Certificate.** Upon demand, and for a reasonable charge, the Association will furnish to any interested person a certification signed by an officer of the Association setting forth whether the General Assessment, and any Special Assessment or Specific Assessment for any specific Lot has been paid and, if not, the unpaid balance(s).

ARTICLE 8: ENVIRONMENTAL PROTECTIONS

Section 8.1 **Development Activities.** Development activities (including clearing activities) within the Project and on each Lot within the Coastal Dune Lakefront Protection Zone shall be governed by the Design Regulations and shall be consistent and in compliance with the Coastal Dune Lake Protection Zone.

Section 8.2 **Development.** No development activities, with the exception of the Lake Access Facilities, shall be permitted within one hundred feet (100') of the ordinary high water line of Draper Lake.

ARTICLE 9: RIGHT OF FIRST OFFER

It is the Founder's intent that the Lots within Draper Lake shall not be purchased for short-term speculation. Therefore, each Lot is subject to the repurchase right hereby reserved to the Founder as set forth in this Article 9. Unless a Dwelling has been constructed, prior to any transfer, other than by gift, pursuant to the fiduciary of a trust, pursuant to a will or intestate succession, or by foreclosure or deed in lieu thereof, if the Owner intends to sell the Lot before the earlier of (i) the completion of a Dwelling or (ii) one year from the date of conveyance of the Lot by Founder, the Owner shall offer the Lot to the Founder at the original purchase price set forth in last purchase and sale agreement between Founder and Owner. The Lot shall be transferred to Founder within sixty (60) days of said offer by Special Warranty Deed, without being subject to any additional title exceptions. The Owner shall pay off any existing liens and mortgages prior to such conveyance. Founder shall be given a credit at closing for the cost of title insurance.

ARTICLE 10: COMMERCIAL LOTS

Notwithstanding anything to the contrary in this Declaration, that certain parcel identified as Parcel E on the Plat shall be used for commercial purposes only. The architectural and construction restrictions set forth in Article 4 shall apply to the Commercial Lot. The Owner of the Commercial Lot shall have all of the rights and obligations of an Owner as set forth in this Declaration, except that no guest, invitee, customer or employer (except guests accompanied by Owner) of the Owner shall have the right to use any of the Common Areas within Draper Lake except for that portion of the roadway located outside of the entry gate for the purpose of access to and from the Commercial Lot.

ARTICLE 11: GENERAL PROVISIONS

Section 11.1 **Operation**. The covenants and restrictions of this Declaration are self-executing and will run with the Property and be binding upon all Persons having any right, title, or interest therein, or any part thereof, their respective heirs, successors and assigns. All deeds and contracts pertaining to the sale, transfer, lease, encumbering or other disposition of a Lot shall specifically contain a reference to the same being subject to the covenants and restrictions of this Declaration, provided that failure to include such references shall not obviate the provisions of this Section 11.1.

Section 11.2 **Condemnation**. If all or any part of the Common Area is taken by condemnation or transferred under threat of or in lieu of condemnation all compensation and damages shall be paid to and be the property of the Association. The Board shall have the right to act on behalf of the Association with respect to any negotiation and litigation in connection therewith and the Owners shall have no rights in connection therewith. The Association shall, however, provide notice to the Owners of any condemnation proceeding filed against any portion of the Common Areas.

Section 11.3 **Interpretation**. Unless the context expressly requires otherwise: (i) use of the singular includes the plural and vice versa; (ii) the use of one gender includes all genders; (iii) the use of the terms "including" or "include" is without limitation; and (iv) the words "must", "should", and "will" have the same legal effect as the word "shall". This Declaration should be interpreted, construed, applied, and enforced in a reasonable, practical manner to effectuate its purpose of protecting and enhancing the value, marketability, and desirability of the Lots by providing for a plan for the development, use, operation and enjoyment of Draper Lake. The various headings used in this Declaration are for indexing and organizational purposes only and are not to be used to interpret, construe, apply, or enforce any of the terms or provisions of this Declaration.

Section 11.4 **Enforcement**. Unless expressly provided otherwise, the Association, or any Owner, has the right to enforce, by any appropriate proceeding at law or in equity, all covenants and restrictions and the Rules and Regulations now or hereafter imposed by, or pursuant to, the provisions of this Declaration. If the Association or any person entitled to enforce any of the provisions of this Declaration, is the prevailing party in any litigation involving this Declaration, or any Rule or Regulation, such party may recover from the losing

party all costs and expenses incurred, including reasonable attorneys' fees (including, without limitation, attorneys' fees incurred through all appellate and post-judgment proceedings and during any bankruptcy or arbitration proceedings). If the Association is the prevailing party against any Owner, such costs and expenses, including reasonable attorneys' fees incurred by the Association, may be assessed against such Owner's Lot as a Specific Assessment. Failure by the Association or by any Owner to enforce any covenant or restriction will not constitute a waiver of the right to do so at any time.

Section 11.5 **Amendment**. The Founder may amend any and all provisions of this Declaration by an instrument executed with the formalities of a deed without notice to or the approval or joinder of any other party at any time prior to Turnover. After Turnover, this Declaration may be amended or terminated: (i) on or before the fifth (5th) anniversary of Turnover, by an instrument executed by the Association with the formalities from time to time required of a deed and joined in by either (i) during the Initial 36 Months, Founder, or (ii) the Owners of seventy-five percent (75%) of all Lots. No amendment is effective until recorded in the Public Records; and the Association's proper execution will entitle it to be publicly recorded, notwithstanding the informal execution by the requisite percentage of Owners. The joinder by the requisite number of Owners may be contained in an exhibit to the amendment. Notwithstanding the foregoing, no instrument of amendment or termination shall be effective while Founder owns one or more Lots within the Property unless Founder shall approve and join in such instrument. For purposes of this Section, a Lot shall be considered conveyed when the deed is duly recorded in the Public Records. Notwithstanding anything to the contrary herein, following Turnover, by a majority vote of the Board, the Association may at any time, amend this Declaration, without the necessity of any joinder or consent from the Owners, where necessary to comply with regulations of the Veterans Administration, the Federal Housing Administration, the Office of Interstate Land Sales Registration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank Board or other similar federal or state governmental entity.

Section 11.6 **Rights of Mortgagee**. Any holder of any First Mortgage shall have the following rights:

11.6.1 During normal business hours, and upon reasonable notice and in a reasonable manner, to inspect the books, records, and papers of the Association at the location where they are commonly kept;

11.6.2 Upon payment of any reasonable, uniform charge that the Association may impose to defray its costs, to receive copies of the Association's books, records, or papers, certified upon request;

11.6.3 Upon written request to the Secretary of the Association, to receive copies of the annual financial statements of the Association; provided, however, the Association may make a reasonable charge to defray its costs incurred in providing such copies;

11.6.4 To designate a representative to attend all meetings of the membership of the Association, who is entitled to a reasonable opportunity to be heard in connection with any business brought before such meeting but in no event entitled to vote thereon; and

11.6.5 By written notice to the Secretary of the Association, and upon payment to the Association of any reasonable annual fee that the Association from time to time may establish for the purpose of defraying its costs, to receive any notice that is required to be given to the Class A members of the Association under any provision of this Declaration, or the or Bylaws.

Section 11.7 **Variances**. The right and discretion is hereby reserved to the Association to grant variances with respect to individual Lots from the obligations of Articles 3 and 4 in cases where not to grant such variance would create hardship in the opinion of the Board or where the granting of such variances would in the opinion of the Board be in keeping with the spirit and intent of this Declaration and would not materially adversely affect any neighboring Lot or the Property as a whole. Such variances, if granted, shall be granted upon application to the Board by the Owner in writing setting forth in detail the variance requested and reasons therefor. Copies of each application for variance shall be forwarded (certified mail, return receipt requested) to each Owner of a Lot within 100 feet of the Lot for which the variance is requested. If appropriate, any such variance shall be granted by the Board in writing, and shall be executed by the Board and the Owner with the formalities of a deed and recorded in the Public Records. The variance may be conditioned on the Owner's compliance with such conditions as the Board deems advisable. The Owner requesting a variance will be responsible for payment of all costs associated with processing a variance request whether or not the variance is granted.

Section 11.8 **Severability**. Invalidity of any particular provision of this Declaration, by judgment or court order will not affect any other provision or any valid portion or application of such invalid provision, all of which shall remain in full force and effect; provided, however, any Court of competent jurisdiction is hereby empowered, to the extent practicable, to reform any otherwise invalid provision contained in this Declaration, when necessary to avoid a finding of invalidity while effectuating Founder's intent of providing a comprehensive plan for the use, development, sale, and beneficial enjoyment of the Property.

[Signature and notary on following page]

IN WITNESS WHEREOF, the Founder has duly executed this instrument on the day and year first above written.

Witnesses:

FOUNDER:

DRAPER LAKE, LLC,
a Florida limited liability company

Robin Maynard
Printed Name: Robin Maynard

Alison Schultz
Printed Name: Alison Schultz

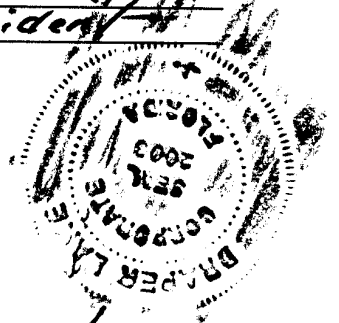
STATE OF FLORIDA)

COUNTY OF WALTON)

By:

Patrick Bienvenue
Name: Patrick Bienvenue
Its: President

(SEAL)



The foregoing instrument was acknowledged before me this 14th day of July, 2004, by PATRICK D. BIENVENUE, as FOUNDER of Draper Lake, LLC, a Florida limited liability company, on behalf of said entity. He/she is personally known to me or has produced _____ as identification.

(Notarial Seal)

Sue Heskett
Notary Public
Printed Name SUE HESKETT
State of FL at Large
Commission No. DD0114151
My commission expires: 5/28/06

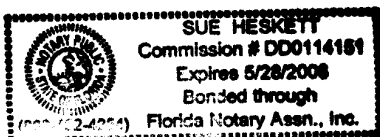


EXHIBIT "A"

PROPERTY

Legal Description:

(AS WRITTEN)

PARCEL "A"

A PARCEL OF LAND LYING IN SECTION 2, TOWNSHIP 3 SOUTH, RANGE 20 WEST, WALTON COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A FOUND SCRIBED 4" X 4" LIGHTWOOD POST AT THE SOUTHEAST CORNER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 20 WEST, WALTON COUNTY, FLORIDA; THENCE PROCEED NORTH 88°42'16" WEST ALONG THE SOUTH LINE OF SAID SECTION 2, A DISTANCE OF 1358.96 FEET; THENCE DEPARTING SAID SOUTH LINE, PROCEED NORTH 01°57'44" EAST, A DISTANCE OF 932.82 FEET TO A POINT ON A CURVED SOUTHEASTERLY RIGHT OF WAY LINE OF WALTON COUNTY ROAD C-30 A (66' RIGHT OF WAY) BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 1943.80 FEET; THENCE ON SAID CURVED SOUTHEASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 01°14'48", AN ARC DISTANCE OF 42.29 FEET, (CHORD BEARING = NORTH 58°10'24" EAST, CHORD = 42.29 FEET), TO THE POINT OF TANGENCY OF SAID CURVE; THENCE PROCEED NORTH 57°33'00" EAST ALONG SAID SOUTHEASTERLY RIGHT OF WAY LINE, A DISTANCE OF 315.27 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY AND HAVING A RADIUS OF 1877.80 FEET; THENCE ON SAID CURVED SOUTHEASTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 24°03'31", AN ARC DISTANCE OF 788.48 FEET, (CHORD BEARING = NORTH 68°36'31" EAST, CHORD = 782.71 FEET); THENCE DEPARTING SAID SOUTHEASTERLY RIGHT OF WAY LINE PROCEED SOUTH 02°34'42" EAST, A DISTANCE OF 100.89 FEET; THENCE PROCEED SOUTH 89°08'21" EAST ALONG SAID NORTH LINE, A DISTANCE OF 310.08 FEET TO A POINT ON THE EAST LINE OF THE AFORESAID SECTION 2; THENCE SOUTH 01°09'00" WEST ALONG SAID EAST LINE, A DISTANCE OF 1321.95 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED. SAID PARCEL CONTAINING 38.83 ACRES, MORE OR LESS. [1,882,790.97 SQUARE FEET]

AND

PARCEL "B"

A PARCEL OF LAND LYING IN SECTION 2, TOWNSHIP 3 SOUTH, RANGE 20 WEST, WALTON COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT A FOUND 4" X 4" PERMANENT REFERENCE MONUMENT, STAMPED L.B. 6911 AT THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 20 WEST, WALTON COUNTY, FLORIDA; THENCE PROCEED SOUTH 88°43'54" EAST ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE AFORESAID SECTION 2, A DISTANCE OF 487.19 TO A POINT ON A CURVED NORTHWESTERLY RIGHT OF WAY LINE OF WALTON COUNTY ROAD C-30A (66' RIGHT OF WAY) BEING CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1943.80 FEET; THENCE ON SAID CURVED NORTHWESTERLY RIGHT OF WAY LINE, THROUGH A CENTRAL ANGLE OF 08°04'59", AN ARC DISTANCE OF 274.23 FEET, (CHORD BEARING = SOUTH 61°37'15" WEST, CHORD = 274.00 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE PROCEED SOUTH 57°33'00" WEST ALONG SAID NORTHWESTERLY RIGHT OF WAY LINE, A DISTANCE OF 300.95 FEET; THENCE DEPARTING SAID NORTHWESTERLY RIGHT OF WAY LINE; PROCEED NORTH 01°23'30" EAST, A DISTANCE OF 302.60 FEET TO THE POINT OF BEGINNING OF THE PARCEL HEREIN DESCRIBED. SAID PARCEL CONTAINING 1.60 ACRES, MORE OR LESS. [89,901.69 SQUARE FEET]

OVERALL PARCELS HEREIN DESCRIBED CONTAIN 40.26 ACRES, MORE OR LESS. [1,753,901.12 SQUARE FEET]

EXHIBIT "B"

ARTICLES

INITIAL ARTICLES FOLLOW THIS PAGE

B-1

State of Florida



Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of DRAPER LAKE HOMEOWNERS ASSOCIATION, INC., a Florida corporation, filed on June 28, 2004, as shown by the records of this office.

The document number of this corporation is N04000006362.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Twenty-eighth day of June, 2004



CR2EO22 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State

ARTICLES OF INCORPORATION**OF****DRAPER LAKE HOMEOWNERS ASSOCIATION, INC.**FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
04 JUN 28 AM 11:46

The undersigned, acting as the sole incorporator, adopts these Articles of Incorporation (these "Articles") and forms a not for profit corporation (the "Association") under the Florida Not For Profit Corporation Act.

ARTICLE 1
NAME OF ASSOCIATION

The name of the Association is **DRAPER LAKE HOMEOWNERS ASSOCIATION, INC.**

ARTICLE 2
PRINCIPAL OFFICE AND MAILING ADDRESS

The initial principal office address of the Association is c/o Piper Rudnick LLP, 101 East Kennedy Boulevard, Suite 2000, Tampa, Florida 33602 and the mailing address of the Association is Draper Lake Homeowners Association, P.O. Box 611070, Rosemary Beach, Florida 32461.

ARTICLE 3
PURPOSES

The purpose of the Association is to serve as the property owners association under the Declaration of Covenants, Conditions, Restrictions and Easements for Draper Lake to be executed by Founder (defined below) and recorded in the public records of Walton County, Florida (as amended from time to time, the "Declaration"). The Declaration governs the community being developed by Founder in Walton County, Florida known as "Draper Lake."

ARTICLE 4
POWERS

Except as may be limited by these Articles, the Declaration or the Bylaws of the Association, the Association will have and exercise all rights and powers in furtherance of its purposes as are now or may hereafter be conferred on not for profit corporations under the laws of the State of Florida.

ARTICLE 5
LIMITATIONS ON ACTIVITIES

5.1 No part of the net earnings of the Association will inure to the benefit of, or be distributable to, any member, director or officer of the Association or any other private individual (except that reasonable compensation may be paid for services rendered to or for the Association in connection with one or more of its purposes).

5.2 No substantial part of the activities of the Association will be the carrying on of propaganda or otherwise attempting to influence legislation, and the Association will not participate in or intervene in any political campaign (including the publication or distribution of statements) on behalf of any candidate for public office.

ARTICLE 6
TERM OF EXISTENCE

The date when corporate existence will commence is on the date of the filing of these Articles with the Florida Department of State. The Association will have perpetual existence thereafter.

ARTICLE 7
MEMBERSHIP

The Association will have members. The manner of admission of members, the classes of membership, qualification for membership, the rights of members, and other membership matters will be as provided in the Declaration and in the Bylaws of the Association.

ARTICLE 8
BOARD OF DIRECTORS

8.1 The business and affairs of this Association will be managed by a Board of Directors. Directors will be elected, removed and hold office as provided in the Declaration and in the Bylaws of the Association.

8.2 The names and addresses of the persons who will serve as the Directors of the Association as of the date of the adoption of these Articles are:

<u>Name</u>	<u>Address</u>
Patrick D. Bienvenue	Leucadia Financial Corporation 529 East South Temple Salt Lake City, UT 84102

Lawrence W. Pinnock

Leucadia Financial Corporation
529 East South Temple
Salt Lake City, UT 84102

Joseph Orlando

Leucadia Financial Corporation
529 East South Temple
Salt Lake City, UT 84102

Corinne Maki

Leucadia Financial Corporation
529 East South Temple
Salt Lake City, UT 84102

Morton Steinberg, Esq.

Piper Rudnick LLP
203 N. LaSalle Street
Suite 1800
Chicago, IL 60601-1293

8.3 The number of Directors of the Association will be not less than three (3) nor more than nine (9). Except as limited by Section 9.2 below, the number Directors may be changed from time to time as provided in the Bylaws.

ARTICLE 9 **FOUNDER**

9.1 **Founder**. The Founder of Draper Lake is Draper Lake, LLC, a Florida limited liability company. Draper Lake, LLC or any successor as Founder under the Declaration is referred to herein as "Founder."

9.2 **Certain Rights of Founder**. So long as Founder owns any real property included in Draper Lake, the Association, without the prior written consent of the Founder, will have no authority to, and will not, undertake any action which will:

9.2.1 prohibit or restrict in any manner the Draper Lake sales and marketing program or the development or other activities of Founder within or relating to Draper Lake, except as may be required for the enforcement of the Declaration;

9.2.2 decrease the level or quality of the maintenance services of the Association;

9.2.3 increase the General Assessment under the Declaration by more than five percent (5%) or make any Special or Specific Assessment against, or impose any fine upon, Founder or any property owned by Founder;

9.2.4 change the Town Architect or membership of the Architectural Control Committee of the Association or alter, amend or supplement the Design Regulations (each as defined in the Declaration);

9.2.5 alter, amend or supplement the Declaration, these Articles, the Bylaws or the Rules and Regulations of the Association;

9.2.6 sell or otherwise transfer, lease, mortgage, alienate, or pledge any Common Areas (as defined in the Declaration);

9.2.7 increase or decrease the number of directors on the Board of Directors; or

9.2.8 result in the dissolution or merger of the Association.

ARTICLE 10 **INDEMNIFICATION**

The Association will indemnify any director or officer or any former director or officer to the fullest extent permitted by law.

ARTICLE 11 **BYLAWS**

The power to adopt, alter, amend or repeal bylaws will be vested in the Association's Board of Directors.

ARTICLE 12 **AMENDMENTS**

Except as limited by Section 9.2 above, these Articles may be amended in the manner provided in the Bylaws.

ARTICLE 13 **DISSOLUTION**

Upon dissolution of this Association, or the liquidation of its assets, whether voluntary or involuntary or by operation of law, the assets remaining may be distributed to a successor property owners association or to the State of Florida or one of its political subdivisions, or as otherwise permitted by law.

ARTICLE 14
INITIAL REGISTERED OFFICE AND AGENT

The street address of the initial registered office of the Association is 1200 South Pine Island, Road, Plantation, Florida 33324, and the name of its initial registered agent at such address is CT Corporation System.

ARTICLE 15
INCORPORATOR

The name and address of the incorporator signing these Articles is:

<u>Name</u>	<u>Address</u>
John T. Diamandis	c/o Piper Rudnick LLP 101 East Kennedy Boulevard Suite 2000 Tampa, Florida 33602

IN WITNESS WHEREOF, the undersigned has executed these Articles of Incorporation on behalf of the Association, this 24th day of June 2004.



JOHN T. DIAMANDIS, Incorporator

ACCEPTANCE BY REGISTERED AGENT

Having been named Registered Agent and designated to accept service of process for the above-stated Corporation, at the place designated in these Articles of Incorporation, CT Corporation System hereby accepts the appointment as registered agent and agrees to act in this capacity. CT Corporation System is familiar with and accepts its obligations as Registered Agent and agrees to comply with the provisions of all statutes relative to the proper and complete performance of its duties.

CT Corporation System

By: _____

Name: **PETER F. SOUZA**

Its: **ASSISTANT SECRETARY**

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
04 JUN 28 AM 11:46

EXHIBIT "C"

BYLAWS

INITIAL BYLAWS FOLLOW THIS PAGE

C-1

**BYLAWS OF
DRAPER LAKE HOMEOWNERS ASSOCIATION, INC.
Dated: July 15, 2004**

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**BYLAWS
OF
DRAPER LAKE HOMEOWNERS ASSOCIATION, INC.
a Florida association not for profit**

**ARTICLE 1
Identity**

Section 1.1 **Name**. The name of the Association is Draper Lake Homeowners Association, Inc.

Section 1.2 **Principal Office**. Initially, the principal office of the Association will be located at c/o Piper Rudnick, 101 East Kennedy Boulevard, Suite 2000, Tampa, Florida 33602. However, the Board of Directors, at any time and from time to time, may change the principal office of the Association to any other location in Florida as the Board of Directors may, in their sole discretion, select.

Section 1.3 **Other Offices**. The Association may have offices at such other place or places within or without the State of Florida as the Board of Directors may from time to time establish.

Section 1.4 **Registered Agent for Service of Process**. The Association's Board of Directors will have the right to designate a registered agent for service of process, who may be an individual or a corporation. The registered agent so designated will serve until a successor is elected by the Board of Directors. C T Corporation System has been named by the Board of Directors as the initial registered agent.

**ARTICLE 2
Definitions**

For purposes of these Bylaws, the following terms will have the following definitions and meanings:

Section 2.1 **"Articles"** means the Articles of Incorporation of Draper Lake Homeowners Association, Inc., as amended from time to time.

Section 2.2 **"Assessments"** mean the Assessments provided for in the Declaration.

Section 2.3 **"Association"** means the DRAPER LAKE HOMEOWNERS ASSOCIATION, INC., a corporation not for profit, and its successors and assigns, and it will include in the context of acts of the Association, the acts of its officers, directors, employees and agents and independent contractors under contract with the Association, when such are acting for and pursuant to the authority or directives of the Association.

Section 2.4 "**Board**" or "**Board of Directors**" means the Board of Directors of the Association.

Section 2.5 "**Bylaws**" means the Bylaws of the Association as amended from time to time.

Section 2.6 "**Common Expenses**" means those costs, expenses and expenditures of the Association for the activities required or authorized to be performed by the Association.

Section 2.7 "**Founder**" means DRAPER LAKE, LLC, a Florida limited liability company, its successors and such assigns as provided for in the Declaration.

Section 2.8 "**Declaration**" means the Declaration of Covenants, Conditions, Restrictions and Easements for Draper Lake to be executed by Founder and to be recorded in the Public Records of Walton County, Florida, together with all changes and amendments and supplements thereto and modifications thereof as are from time to time recorded among the Public Records of Walton County, Florida.

Section 2.9 "**Developer**" means the Founder or any successor developer of Draper Lake.

Section 2.10 "**Governing Documents**" means the Declaration, the Articles and the Bylaws.

Section 2.11 "**Lot**" means each numbered, platted lot as established by the recorded Plat(s) of Draper Lake which is capable of separate conveyance and of which the Owner is obligated by the Governing Documents to be a Member of the Association and to pay Assessments.

Section 2.12 "**Member**" means an Owner or the Founder.

Section 2.13 "**Owner**" means any person who from time to time holds record fee simple title to any Lot. If more than one person holds such title, all such persons are Owners, jointly and severally.

Section 2.14 "**Property**" means and includes all lands and real property subject to the Declaration upon the recording thereof or at any time and from time to time thereafter made subject to the Declaration.

Section 2.15 "**Draper Lake**" means the community being developed by Developer on the Property pursuant to the Master Plan and as shown on the Plat(s).

Section 2.16 "**Turnover**" means the date that is the earlier of (i) three (3) months after the Founder conveys, other than to a successor developer, all of its right, title and interest in and to ninety percent (90%) of the total of all existing Lots in the Property and any planned lots in

the remaining Annexation Area (all as described in the Declaration) and (ii) the date Founder records a disclaimer of its Class B Membership in the Public Records of Walton County, Florida.

Section 2.17 **Other Definitions.** Other definitions contained in the Declaration are hereby specifically incorporated into these Bylaws by this reference and words used in these Bylaws without definition which are defined in the Declaration will have the same meaning in these Bylaws as in the Declaration.

ARTICLE 3 **Objects and Purposes**

The Association has been created and established for the objects and purposes of, and will have exclusive jurisdiction over and responsibility for, the ownership, leasing, administration, management, operation, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Area; the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in the Declaration; the payment of all Common Expenses and other expenses and expenditures as provided in the Declaration; the administration and enforcement of the covenants, conditions, restrictions, easements, reservations, terms and provisions of the Declaration (except to the extent, if any, that the administration and enforcement of any of same may be vested exclusively in the Developer or the Architectural Control Committee); and the promotion and advancement of the health, safety and general welfare of the Members of the Association; all as more particularly provided in the Governing Documents and the Rules and Regulations of the Association, and all having to do with or being related to Draper Lake.

ARTICLE 4 **Powers and Duties**

Section 4.1 **Powers and Duties of the Association.** The Association, acting by and through its Board of Directors, will, in addition to those general and specific powers, duties, responsibilities and obligations imposed upon it by law and those specified in the Governing Documents, have the following specific powers, duties, responsibilities and obligations:

4.1.1 **Ownership, Leasing Dealing With and Management of Common Area.** Except as may be limited by the covenants, conditions, restrictions, easements, reservations, terms and provisions of the Declaration, to acquire, own, hold, control, administer, manage, operate, regulate, care for, maintain, repair, replace, restore, preserve, protect, buy, sell, lease, transfer, convey, or otherwise deal in or with real or personal property (or any interest therein, including easements) which is, or upon its acquisition by the Association will thereupon become, Common Area.

4.1.2 **Payment of Common Expenses.** To pay all Common Expenses incurred by the Association in performing and carrying out its duties, responsibilities and obligations and exercising its rights, all as described in the Governing Documents and any Rules and Regulations promulgated by the Association from time to time, including, without limitation,

(i) all expenses incurred in connection with the enforcement of any and all of the covenants, conditions, restrictions, easements, reservations, assessments, terms and provisions of the Governing Documents and Rules and Regulations of the Association or in evaluating and amending any of same; (ii) all expenses incurred in the administration of the business and affairs of the Association; (iii) all expenses associated with the ownership or leasing, management, holding, controlling, administration, operation, regulation, care, maintenance, repair, replacement, restoration, preservation and protection of all Common Area; and (iv) all other expenses arising from activities of the Association required or authorized by the Governing Documents or Rules and Regulations of the Association, and any amendments properly made to any of same.

4.1.3 **Levy and Collection of Assessments.** To establish, make, levy, impose, enforce and collect all Assessments for which provision is made in the Declaration or which will otherwise be necessary to provide and assure the availability of such funds as may be reasonably necessary to pay all Common Expenses as provided in the foregoing subsection, including, without limitation, to establish and maintain any and all reserves and sinking funds that may be necessary or appropriate to provide the funds for necessary or appropriate capital expenditures, such as, for example, and not by way of limitation, the maintenance, repair, restoration or replacement of common streets and roads, pedestrian pathways and other areas, lighting and other Common Area, or that may be required by any governmental authority or regulation. To impose, foreclose and otherwise enforce all liens for Assessments for which provision is made in the Declaration in accordance with the terms and provisions of the Governing Documents.

4.1.4 **Insurance.** To provide and contract for adequate insurance protection on and for the Association and the Common Area and, consistent with their respective duties, responsibilities and liabilities, provide adequate insurance protection on and for the Association's Members, officers and directors, as well as for the members of the Architectural Control Committee established pursuant to the Declaration.

4.1.5 **Adopt Rules and Regulations.** To adopt, publish, promulgate and enforce the Rules and Regulations provided for by the Declaration.

4.1.6 **Establish Reserves.** To create, establish, maintain and administer such reserve funds or accounts, and to make expenditures therefrom, as will, in the discretion of the Board of Directors, be reasonably necessary or appropriate to provide and assure the availability of the funds necessary for the care, maintenance, repair, replacement, restoration, preservation and protection of all common streets and roads, pedestrian pathways and other Common Areas and for such other purposes as its Board of Directors, in its reasonable discretion, will deem necessary or appropriate.

4.1.7 **Sue and Be Sued.** To sue and be sued, to prosecute to completion or settle any suits or other action to obtain or enforce its rights hereunder and to defend to completion or settle any suits or other action brought against it. Notwithstanding the foregoing, in order for the Association to bring any type of legal action, other than an action to enforce the

assessment provisions herein, the action must be approved by a majority of the Owners eligible to vote.

4.1.8 **Employ and Contract.** To employ such persons or to contract with such independent contractors or managing agents as will be reasonably required or appropriate, in the reasonable judgment of the Board of Directors, in order for the Association to carry out, perform and discharge all or any part of its duties, obligations and responsibilities pursuant to the Governing Documents.

4.1.9 **Provide Public or Quasi-Public Services.** To itself provide equipment, facilities and personnel for, or to contract with an independent contractor or independent contractors, for such public or quasi-public services as provided in the Declaration or as may be deemed by the Board of Directors to be reasonably necessary, appropriate or desirable for the common health, safety and general welfare of the residents of Draper Lake including, without limitation, internal protection services, garbage and trash pickup and disposal services, landscape services, telephone or telecommunication services, and street-lighting services.

4.1.10 **Other Activities.** To engage in any and all other activities permitted to be engaged in by a corporation not for profit under the laws of the State of Florida as may be necessary or appropriate for the fulfillment of the duties, responsibilities, and obligations of the Association and for the achievement of the objects and purposes for which the Association has been created, formed and established.

Section 4.2 **Limitations on Powers.** In addition to such other restrictions or limitations on the powers of the Association as may be imposed by law, elsewhere in these Bylaws or in the Declaration, and without limiting the generality of any of same, the Association will be prohibited from taking any of the following actions without the prior approval of a majority of the votes present, in person or by proxy, at a meeting of the Association at which a quorum is present:

4.2.1 **Contracts for a Term in Excess of One Year.** Except for contracts for common lighting systems, security and cable or community antenna television, telecommunications services, or any public, quasi-public or governmentally regulated utility service, the entry into any employment contracts or other contracts for the delivery of services or materials to the Association having a term in excess of one (1) year, except in the case of prepaid insurance, casualty or liability contracts or policies for not more than three (3) years duration; provided that the applicable contract or policy provides, by its express terms, that it will be terminable (i) for cause at any time on not more than thirty (30) days written notice by the Association and (ii) without cause at any time after one (1) year on not more than ninety (90) days written notice by the Association.

4.2.2 **Pledge of Assessment Rights.** The borrowing of any funds secured by a pledge, assignment or encumbrance of the right and duty of the Association to exercise its power to establish, make, levy, impose, enforce and collect any Assessments for which provision is made in the Declaration, whereby as a result of such pledge, assignment or encumbrance such

right and power of Assessment may be exercised by a party other than the Association or whereby the Association will become obligated to establish, levy, enforce and collect any Assessment or Assessments in a particular amount or within a particular time so as to effectively divest from the Association and its Board of Directors the right, duty and discretion to establish, make, levy, impose, enforce and collect Assessments in such amounts and within such time periods as the Board of Directors of the Association, in its discretion, will deem necessary and reasonable.

4.2.3 **Sale or Transfer of Real Property.** The sale, transfer or other disposition, whether or not for consideration, of any real property owned or leased by the Association as Common Area; provided, further however, while the Founder still owns any Lots, in no event will the Association be entitled or empowered to sell, convey or transfer any real property constituting Common Area transferred and conveyed by the Founder to the Association without first receiving the prior written consent of the Founder.

4.2.4 **Payment of Compensation to Officers or Directors.** The payment to the elected directors of the Association or to officers of the Association for services performed in the conduct of their duties as such directors or officers; provided, however, that nothing herein contained will preclude the Association from reimbursing any such elected director or officer for reasonable expenses incurred in the conduct of the business and affairs of the Association; and provided, further, that nothing herein contained will preclude the employment by the Association and payment by it of compensation to a manager or executive director of the Association who will not be an elected director or officer of the Association.

ARTICLE 5

Membership

Section 5.1 **Member.** The Association will have two (2) Classes of Members, Class A and Class B.

5.1.1 **Class A Member.** A Class A Member is any person who from time to time is the record owner of legal title to a Lot as more fully described in the Declaration. Initially there are no Class A Members.

5.1.2 **Class B Member.** The Founder is the Class B Member, as more fully described in the Declaration. The Class B Membership will cease upon Turnover and the Founder will become a Class A Member for any Lots owned by it at that time.

Section 5.2 **Eligibility.** As more particularly described in the Declaration and these Bylaws, every record owner of legal title of a Lot subject to the Declaration will become a Member of the Association. Ownership of a Lot subject to the Declaration will be the sole qualification for membership in the Association. Membership will become effective upon the recording of the instrument of conveyance to the Lot in favor of the Owner. The foregoing notwithstanding, membership will not run to persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. When any Lot is owned of record in

joint tenancy or tenancy in common or by some other multiple ownership or legal entity, voting rights will be determined as provided in the Declaration. Membership will be appurtenant to and may not be separated from a Lot. Transfer of ownership of any Lot will automatically transfer membership in the Association, and the new Owner will automatically be a Member.

Section 5.3 **Default.** If a Member will be in default in the payment of any Assessment levied by the Association, or in violation of the Governing Documents or Rules and Regulations, such Member's right to the use of any Recreational Common Areas and services which the Association may provide may be suspended and fines may be levied on such defaulting Member as provided for in the Declaration.

Section 5.4 **Members' Rights.** The rights of every Member of the Association will be subject to and governed by the terms and provisions of the Governing Documents and Rules and Regulations of the Association.

ARTICLE 6

Voting Rights

Section 6.1 **Vesting of Voting Rights.** A Member's right to vote will vest immediately upon becoming a Member pursuant to Article 5 of these Bylaws. All voting rights of a Member will be exercised in accordance with and subject to any restrictions and limitations provided in the Governing Documents and the Rules and Regulations of the Association.

Section 6.2 **Voting Rights.** The number of votes each Member has is as set forth in the Declaration. As provided for in the Declaration, the Class B Member, for so long as there will be a Class B Member, will be entitled to elect the Board of Directors. The existence of Class B membership will cease and the Class B Member will be converted to a Class A Member with respect to each Lot then owned upon Turnover. Notwithstanding the termination of the Class B Membership, Founder may, at its option, in place of voting its Class A Membership votes for the election of the Board of Directors, appoint one of the Directors to the Board of Directors, so long as Founder holds for sale in the ordinary course of business at least five percent (5%) of the existing Lots in the Property.

Section 6.3 **Voting Rights Appurtenant to Ownership of Lots.** The voting rights of the membership will be appurtenant to the ownership of the Lots.

Section 6.4 **Voting.** There may be multiple classes of voting membership as set forth in the Declaration. At every meeting of the Members, the Members present, either in person or by proxy, will have the right to vote as set forth in the Governing Documents. The provisions of the Declaration regarding the classes and regarding the votes appurtenant to each class are, by this reference, automatically and specifically incorporated herein the same as if they were fully set forth herein. Each amendment, if any, to the Declaration having to do with the classes of Members or the votes appurtenant to each class of Member will be, by this reference, automatically incorporated herein the same as if fully set forth herein regardless of when the same may be adopted and made effective, including, without limitation, each amendment, if any,

adopted at any time after the adoption of these Bylaws. The vote of the majority of those votes present, in person or by proxy (including, in the aggregate, the votes of the Class A Members and the Class B Member; provided, however, that after Turnover, the same will include only the votes of the Class A Members), will decide any question brought before a meeting at which a quorum is present and will constitute official action by the Members of the Association, or the vote of the majority of those Members (including, in the aggregate, Class A Members and, until Turnover, the Class B Member) responding to a mail referendum administered in accordance with the requirements of Section 6.5 hereof will decide any question presented to the Members by such mail referendum and will constitute official action by the Members of the Association, unless, the foregoing provisions for meetings or mail referenda notwithstanding, the question is one upon which, by express provisions of statute, or of the Governing Documents, a different vote is required, in which case such express provision will govern and control. Nothing contained herein will be construed in derogation of the rights of the Class B Member set forth in Governing Documents.

Section 6.5 **Method of Voting.** Voting on all matters except the election or removal of Directors will be by voice vote or by show of hands, unless more than one-third of the Members present at the meeting will, prior to voting on any matter, demand a written ballot vote on that particular matter. Directors will be elected or removed by written ballot. Where Directors or officers are to be elected by the Members, the solicitation of proxies for such elections may be conducted by mail. The Board of Directors may conduct a membership referendum on any specific matter by mail with only a majority of those Members responding to the mail referendum being necessary to authorize a specific act or omission; provided, however, that such mail referendum will have been mailed, at least thirty (30) days but not more than forty-five (45) days prior to the final response date, by certified mail, return receipt requested, to each Member at the address last specified by such Member to the Association.

Section 6.6 **Proxies.** A Member may appoint any person as a proxy. All proxies will be in writing, dated, state the date, time and place of the meeting for which it is given, and signed by the Member voting by proxy and filed with the Secretary at least twenty-four (24) hours before any meeting or meetings for which the proxy was given before the proxy may vote. Proxies will be valid only for the particular meeting for which it is originally given, as the meeting may lawfully be adjourned and reconvened from time to time, and automatically expires ninety (90) days after the date of the meeting for which it is originally given. A proxy is revocable at any time by the Member executing it. If the proxy form expressly provides, any proxy holder may appoint, in writing, a substitute to act in his or her place. If a Lot is owned jointly by two or more co-owners, and if the said co-owners have not designated one (1) of them as the voting Member, then a proxy, to be valid, must be signed by all such co-owners. Anything herein to the contrary notwithstanding, every proxy will automatically cease upon sale, transfer, demise, or other disposition by the Member of such Member's Lot.

Section 6.7 **Management.** Subject to the rights of the Founder set forth in the Declaration, the Association will be managed by the Board of Directors of the Association, and except as expressly provided to the contrary in the Governing Documents of the Association, all issues before the Association may be decided by the Board of Directors.

Section 6.8 **Annual Meetings.** The annual meetings of the Members of the Association will be held each year in the month of October. At the annual meeting, the Members will elect Directors and may transact such business of the Association as may properly come before them. The time, place, and date of all meetings will be set by the Directors, and the Directors, by majority vote, may change the month of the annual meeting.

Section 6.9 **Special Meetings.** Special meetings of the Members may be called by the President of the Association, and the President of the Association must call a special meeting of the Members upon the request in writing of a majority of the Board of Directors or at the request in writing of the Class B Member or, after Turnover, at the request in writing of one-fourth (1/4) of the total votes of the Class A Members. Such requests will state the purpose or purposes of the proposed meeting. No business will be transacted at a special meeting except as stated in the Notice.

Section 6.10 **Notice of Meetings.** It will be the duty of the Secretary to give notice of each meeting of the Members, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his or her address as it appears in the membership book of the Association, or if no such address appears, at his or her address as last specified for such Member, at least fourteen (14) days, but not more than forty-five (45) days, prior to such meeting. Notice must be given either personally or by telephone, telegram, cablegram, first class mail, confirmed facsimile transmission or any other means of person delivery providing evidence of actual delivery; and if mailed, the notice will be deemed to be given when deposited in the United States mail addressed to the Member at the Member's address as it appears in the records, of the Association, with postage thereon prepaid.

Section 6.11 **Waiver of Notice.** Before or after any meeting any Member may waive notice of the meeting in writing and such waiver will be deemed the equivalent of such notice. Attendance of a Member at a meeting will constitute a waiver of notice of such meeting and waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the Member attends a meeting for the express purpose, as stated at the beginning of the meeting, of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Members need be specified in any written waiver of notice.

Section 6.12 **Closure of Membership Books.** For the purpose of determining Members entitled to notice of, or to vote at, any meeting of Members or any adjournment thereof, the Board may provide that the membership books be closed for a period of not less than five (5) nor more than thirty (30) days immediately preceding such meeting. If the membership books are not closed and no record date is fixed by the Board, the date on which notice of the meeting is mailed will be the record date for the determination of Members entitled to notice, or to vote.

Section 6.13 **Quorum.** Except as otherwise required by the laws of the State of Florida, or the Governing Documents, the presence in person or by proxy of the Members representing one-tenth (1/10) of the total votes of the Association will constitute a quorum.

Section 6.14 **Adjourned Meetings.** If any meeting of Members cannot be organized because a quorum has not attended, a majority of the Members who are present, either in person or by proxy, and entitled to vote thereat may adjourn the meeting to a time not later than ten (10) days from the time the original meeting was called, and hold the meeting so adjourned, without additional notice, provided that a quorum can be obtained for such meeting. At any such adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally noticed; but only those Members entitled to vote at the meeting as originally noticed will be entitled to vote at any adjournment or adjournments thereof.

Section 6.15 **Action Without a Meeting.** Any action required by law to be taken at a meeting of Members, or any action which may be taken at a meeting of Members, may be taken without a meeting if a consent in writing setting forth the action so taken will be signed by the Members entitled to vote in such action and having not less than the minimum number of votes necessary to authorize such action at a meeting at which all Members entitled to vote on such action were present and voted, and such consent will have the same force and effect as a unanimous vote of the Members.

Section 6.16 **Conduct of Meetings.** The President will preside over all meetings of the Association, and the Secretary will keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as all transactions occurring at the meeting. The order of business at all annual or special meetings of the Members will be as follows:

- (a) Calling meeting to order.
- (b) Roll call.
- (c) Proof of notice of meeting, filing any waivers of notice and determination of a quorum.
- (d) Reading of the minutes of preceding meeting and any written actions in lieu of meetings signed subsequent to the preceding meeting.
- (e) Reports of officers.
- (f) Reports of committees.
- (g) Election of directors (if an election is to be held).
- (h) Unfinished business.
- (i) New business.
- (j) Adjournment.

ARTICLE 7

Obligations and Rights of Members

Section 7.1 **Compliance with Law, Governing Documents and Rules and Regulations.** Each Member and his or her tenants, guests, and invitees are governed by and

must comply with Chapter 617, Florida Statutes, the Governing Documents and the Rules and Regulations. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with the law, the Governing Documents or the Rules and Regulations may be brought by the Association or by any Member against (i) the Association, (ii) a Member, (iii) any director or officer of the Association who willfully and knowingly fails to comply with the law, the Governing Documents or the Rules and Regulations, or (iv) any Member's tenant, guest or invitee occupying a Lot or using the Common Areas. The prevailing party in any such litigation is entitled to recover reasonable attorney's fees and costs.

Section 7.2 **No Authority to Act on behalf of Association.** A Member does not have authority to act for the Association by virtue of being a Member.

Section 7.3 **Inspection and Copying of Records.** The Official Records of the Association (as described in Article 18 of these Bylaws) will be maintained in the State of Florida and will be open to inspection and available for photocopy by Members or their authorized agents at reasonable times and places within ten (10) business days after receipt of a written request for access. The Board of Directors may provide in the Rules and Regulations reasonable rules governing the frequency, time, location, notice and manner of such inspections and may impose fees to cover the costs of providing copies of the Official Records. The Association shall maintain an adequate number of copies of the recorded Governing Documents, to ensure availability to Members and prospective Members and may impose fees to cover actual costs of reproducing and furnishing such copies.

ARTICLE 8

Termination of Membership

The termination of membership in the Association will not relieve or release any such former Member from any liability or obligations incurred pursuant to or in accordance with the provisions of the Governing Documents or the Rules and Regulations or arising as a result of membership in the Association or ownership of a Lot during the period of such membership in the Association. Further, the termination of membership in the Association will not impair any rights or remedies which the Association may have against such former Member arising out of or in any way connected with membership in the Association (or the duties and obligations arising from such membership) prior to termination.

ARTICLE 9

Board of Directors

Section 9.1 **Number and Qualification.** The affairs of the Association will be governed and managed by a Board of Directors. The number of directors which will constitute the Board of Directors will not be less than three (3) nor more than nine (9). The initial Board of Directors will consist of five (5) persons. The exact number of directors will be determined by vote of the Board of Directors, provided, however, it must be an odd number. Directors need not be Members of the Association.

Section 9.2 **Term of Office of Directors.** The directors will serve for terms of three (3) years, except initially after Turnover in order to stagger the terms, some directors will serve for one (1) year, others for two (2) years and still others for three (3) years. Whenever the number of directors is increased or decreased, the terms of additional directors will be established so as to maintain as balanced staggering of terms as possible and the terms of existing directors will be adjusted if necessary to the same end. The foregoing notwithstanding, the term of each director will extend until (i) his or her successor is duly elected and qualified, or (ii) such director resigns as a director by written notice of resignation to the President of the Association, or (iii) he or she is removed in the manner hereinafter provided, whichever event occurs first.

Section 9.3 **Removal of Directors.** Any director may be removed with or without cause by (a) prior to Turnover, by the Class B Member, and (b) after Turnover, by a majority of all votes of the Class A Members cast in writing at a valid meeting of the Members. A special meeting of the Members may be called for that purpose by the Class B Member prior to Turnover or, after Turnover, by one-fourth (1/4) of the Class A Members by notice stating the specific director sought to be removed at the special meeting. A proposed removal of a director at a meeting will require a separate vote for each member of the Board sought to be removed. If the removal is sought by written agreement, a separate agreement is required for each member of the Board to be removed. Any vacancy in the Board of Directors created by the removal of a director will be filled by the Class B Member, prior to Turnover, and thereafter by majority vote, in the aggregate, of the Class A Members present at the meeting at which the vacancy was created or at the annual meeting of the Members or at a special meeting called for such purpose. Any director who is removed from the Board will not be eligible to stand for reelection until the next annual meeting of the Members. Any director removed from office will turn over to the Board within 72 hours any and all records of the Association in his possession. If a removed director does not relinquish his office or turn over the Association's records, the Circuit Court in and for Walton County, Florida may summarily order the director to relinquish his or her office and turn over the Association's records upon application by the Association or any Member.

Section 9.4 **Filling of Vacancies.** Except as to vacancies caused by removal of directors as hereinabove provided, vacancies in the Board of Directors occurring between annual meetings of Members will be filled by majority vote of the remaining directors.

ARTICLE 10

Election of Directors

Section 10.1 Election of Directors.

10.1.1 **Directors - Election Prior to Turnover.** Notwithstanding any provision to the contrary herein contained, until Turnover, the Developer, as the Class B Member, will have the sole right to nominate, vote upon and elect the members of the Board of Directors. The balance of the provisions in this Article 10 will apply only subsequent to Turnover and not prior to Turnover.

10.1.2 **Directors - Election Subsequent to Turnover.** After Turnover the directors or the Board of Directors will thereafter be elected by a plurality of the votes cast by written ballot of the Class A Members present in person or by proxy at an annual meeting of the Members, or a special meeting of the Members called for that purpose. After Turnover, directors will be elected by written ballot at the annual meeting (unless written ballot is waived by unanimous consent of the Members attending) and by a plurality of the votes cast at, or presented to, the meeting of the Association. Each Member will be entitled to vote in any election of directors subsequent to Turnover.

ARTICLE 11

Powers and Duties of the Board of Directors

Section 11.1 **Powers and Duties, Generally.** All of the powers and duties of the Association as are, respectively, conferred and imposed upon it pursuant to Chapter 617 of the Florida Statutes, the Governing Documents will be exercised by and through the Board of Directors.

Section 11.2 **Specific Powers and Duties.** The Board of Directors will, in addition to those general and specific powers and duties as are, respectively, conferred and imposed upon the Association as set forth in Article 4 of these Bylaws, have the following specific powers and duties:

11.2.1 **Call Meetings.** To call special meetings of the Members whenever it deems necessary.

11.2.2 **Keep Records.** To cause to be kept a complete record of all of its acts and all affairs of the Association, including specifically, but without limitation, financial records and accounts in accordance with Article 17 of these Bylaws.

11.2.3 **Elect Officers, Etc.** In accordance with Section 14.2 of these Bylaws, to elect all officers of the Association, and with respect to such officers prescribe such duties as the Board of Directors may deem expedient.

11.2.4 **Supervise Officers, Etc.** To supervise and direct all officers, employees and agents of the Association, and to see that their duties are properly performed.

11.2.5 **Approve Budget.** To cause to be prepared, and to receive, review and approve budgets for costs and expenses incurred, or to be incurred, (a) in connection with the upkeep and maintenance of the Common Area and (b) in connection with the performance of all other duties of the Association as set forth in the Declaration, the Articles and these Bylaws.

11.2.6 **Adopt Rules and Regulations.** To adopt, publish and enforce the Rules and Regulations, as more particularly set forth in the Declaration.

11.2.7 **Require Bonding.** To require and cause, at the expense of the Association, all or any officers or employees or contractors of the Association having fiscal responsibilities for the Association to be bonded, as the Board of Directors may deem appropriate.

11.2.8 **Exercise Powers and Discharge Duties.** To generally exercise all powers, rights and privileges of the Association and to generally discharge all duties, obligations and responsibilities of the Association, as the same are conferred by and imposed in the Declaration, the Articles or these Bylaws, and to take any action which it deems necessary or advisable in connection therewith.

11.2.9 **Prepare Financial Reports.** To prepare a detailed report of the acts, accounts and statements of income and expense for the previous year, and present same in accordance with Section 17.6 hereafter.

11.2.10 **Taxes.** To pay taxes or assessments or other charges against the property of the Association. To opt to cause the Association to make the annual election with respect to the Association's federal income tax treatment under Section 528 of the Internal Revenue Code of 1986, as amended from time to time.

11.2.11 **Handle Deposits.** To determine the depositories for the funds of the Association.

Section 11.3 **Directors' Reliance.** In performing his or her duties, a director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employees of the Association whom the director reasonably believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants or other persons as to matters which the director reasonably believes to be within such person's professional or expert competence; or

(c) A committee of the Board of which he is not a member if the director reasonably believes the committee merits confidence.

A director will not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance described above to be unwarranted. A director is not liable for any action taken as a director, or any failure to take any action, if he performed the duties of his office in compliance with this Section 11.3.

ARTICLE 12

Meetings of the Board of Directors

Section 12.1 **All Business.** The business and affairs of the Association may be transacted by the Board of Directors at any regular or special meeting.

Section 12.2 **Annual Meetings.** An annual meeting of the Board of Directors will be held in the month of October each year immediately following and at the same place as the annual meeting of the Members of the Association for the purpose of electing officers and transacting such other business as may be brought before the meeting; provided, however, that the Board of Directors may, by resolution designate another month for the annual meetings. The Board of Directors shall by resolution provide for the specific date, time and place of each annual meeting.

Section 12.3 **Regular Meetings.** The Board of Directors may, by resolution, establish the day, hour and frequency of regular meetings. If the day for any regular meeting shall fall upon a Saturday, Sunday or a holiday, the meeting shall be held at the same hour on the first day following which is not a Saturday, Sunday or a holiday.

Section 12.4 **Special Meeting.** Special meetings of the Board of Directors will be held when called by the President or by a majority of directors after notice to Members as stated in this Article and not less than three (3) days' notice to each director, except that such notice to directors may be waived as provided in Section 12.6 hereof.

Section 12.5 **Notice of Meetings.** As long as the Association has less than 100 Members, notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each Board meeting must be mailed or delivered to each Member at least seven (7) days before the meeting, except in an emergency.

When the Association has more than 100 Members, no notice of regular meetings of the Board of Directors need be given if Members have previously been provided with a schedule of such regular meetings. Notice of all other meetings of the Board of Directors may be made by publication.

An Assessment may not be levied at any Board of Directors meeting unless the notice of the meeting includes a statement that assessments will be considered, and the nature of the assessments.

This Section 12.5 also applies to meetings of any committee or other similar body of the Association, including the meetings of any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a Member.

Section 12.6 **Majority Vote.** Matters approved by a majority vote of the directors present at a meeting of the Board of Directors at which a quorum is present will constitute official action of the Board of Directors, except as may be otherwise specifically provided or required by the terms and provisions of the Declaration, the Articles or these Bylaws.

Section 12.7 **Waiver of Notice and Consent.** The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, will be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals will be filed by the Secretary of the Association with the corporate records of the Association and made a part of the minutes of the meeting. Attendance by a director at any meeting of the Board of Directors will be a waiver of notice by him or her of the meeting and consent to the meeting, unless he or she objects at the beginning of the meeting to the lack of notice.

Section 12.8 **Attendance by Telephone.** Any member of the Board or any committee is deemed to be present and voting at a meeting of the Board or committee if said member or members participate in the meeting by means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Section 12.9 **Quorum.** A majority of the members of the Board of Directors from time to time will constitute a quorum thereof. If at any meeting of the Board of Directors there will be less than a quorum present, the majority of those directors present may adjourn the meeting from time-to-time until a quorum is present. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by a majority of those directors present at the time of adjournment.

Section 12.10 **Open Meeting.** Any meeting of the Board of Directors of the Association will be open to all Members of the Association for purposes of observation. Provided, however, and notwithstanding anything contained in these Bylaws to the contrary, that the Board of Directors may prohibit Members from attending meetings between the Board of Directors and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege.

Section 12.11 **Minutes.** Except as otherwise provided in these Bylaws, minutes of all meetings of the Board of Directors and any committee thereof will be kept in a business-like manner and will be available for inspection by any director or Member of the Association at any reasonable time during normal business hours. A vote or abstention from voting for each matter voted upon for each director present at a Board of Directors meeting must be recorded in the minutes. The Secretary of the Association will keep the minutes of all meetings of the Board of Directors.

Section 12.12 **Presiding Officer**. The presiding officer at all meetings of the Board of Directors will be the President of the Association and in his or her absence the Vice President will preside. In the absence of the President or Vice President, the directors present at such meeting will designate a presiding officer from among themselves.

ARTICLE 13 **Parliamentary Rules and Recording**

Section 13.1 **Parliamentary Rules**. All meetings of the Members of the Association and all meetings of the Board of Directors of the Association will be governed by the latest edition of Roberts' Rules of Order; provided, however, that if such rules of order are in conflict with any terms or provisions of Florida law or the Governing Documents, then the applicable terms and provisions of law or the Governing Documents will control.

Section 13.2 **Recording**. Any Member may tape record or videotape meetings of the Board and meetings of the Members. The Board may adopt reasonable rules governing the taping of such meetings.

ARTICLE 14 **Officers**

Section 14.1 **Officers**. The day to day business and affairs of the Association will be administered by a President, Vice President, Secretary, Treasurer, and such other officers as the Board of Directors may from time to time by resolution determine. The offices of Vice President, Secretary and Treasurer, or any other offices may be combined from time to time by the Board of Directors in its discretion, except that the office of President will not be combined with any other office. All officers of the Association must be members of the Board of Directors.

Section 14.2 **Election**. The officers will be elected by the directors of the Association from among themselves by majority vote at a meeting of the directors held immediately following the termination of the annual meeting of the Members at which the directors are elected.

Section 14.3 **Term**. All officers will hold office for a term of one (1) year or until their successors are elected, but may be removed from office by the Board of Directors, with or without cause, at any time. An officer may resign at any time by delivering notice to the Association. A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the Association accepts the future effective date, the board may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date of the pending vacancy.

Section 14.4 **Refund of Payment**. In the event that the Internal Revenue Service determines, in whole or in part, that any payment made to an officer of the Association, is

unreasonable or constitutes private inurement, such officer will reimburse the Association to the full extent of such disallowance. The Board has the duty to require each such officer to make such reimbursement, and it will be the legal duty of each such officer thus to reimburse the Association.

Section 14.5 **President**. The President of the Association will preside at all meetings of the Members and Board of Directors, cause to be called special meetings of the Members and the special and regular meetings of the Board in accordance with the Governing Documents, will see that orders and resolutions of the Board of Directors are carried out, will sign all notes, contracts, leases, mortgages, deeds and all other written instruments required to be executed by or on behalf of the Association, see that the books, reports, statements and certificates required by law, the Governing Documents are properly kept, made and filed, sign certificates representing shares, notes, drafts or bills of exchange, warrants or other orders for the payment of money duly drawn on behalf of the Association and have general charge of and control over the affairs of the Association and perform all the duties incident to such position and office, including the purchase by the Association of any tangible or intangible assets, the enforcement of the Governing Documents and all other things which the President is required to do by law, or the Governing Documents.

Section 14.6 **Vice President**. The Vice President of the Association will perform all the duties of the President in the absence of the President and will have such other duties as may from time to time be imposed upon him by the Board of Directors.

Section 14.7 **Secretary**. The Secretary of the Association will be the Secretary of the Board of Directors. The Secretary will record the votes and keep or cause to be kept the minutes of all meetings of the Board of Directors and Members of the Association in a minute book or books to be kept for that purpose; will keep all other records of the Association; will see that all notices are duly given as required by law and as provided in accordance with the Governing Documents or the Rules and Regulations of the Association; will record in a book kept for that purpose the names of all Members of the Association together with their addresses as filed by such Members; will together with the President or Vice President sign all notes, contracts, leases, mortgages, deeds and all other written instruments (other than checks) executed by or on behalf of the Association; and will, in general, perform all duties incident to the office of Secretary and such duties as from time to time may be assigned by the President or imposed by the Board of Directors.

Section 14.8 **Treasurer**. The Treasurer of the Association will receive and deposit in appropriate bank accounts of the Association all monies of the Association and will disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors will not be necessary for disbursements of funds made in the ordinary course of business of the Association conducted within the limits of the budget adopted by the Board of Directors. Further, the Treasurer will sign all checks of the Association along with either the President, Vice President, or Secretary; provided that in the Treasurer's absence any two of the other officers may sign checks. Additionally, the Treasurer will keep or cause to be kept proper books of account of the Association; will supervise and assist in the preparation of

an annual budget and other financial statements of the Association; will establish any reserves which are established in accordance with the Declaration or as required by law; may select and utilize, with the approval of the Board of Directors a Certified Public Accountant for the Association; and will, in general, perform all duties incident to the financial affairs of the Association, and such other duties as may from time to time be assigned by the President or imposed by the Board of Directors.

Section 14.9 **Delegation of Duties.** In the case of the absence or disability of any officer of the Association or for any other reason deemed sufficient by a majority of the Board, the Board may delegate such officer's respective powers or duties to any other officer or to any director for a specified period or until said delegation is revoked by the Board.

ARTICLE 15

Committees

Section 15.1 **Standing Committees.** The only standing committee of the Association required to be established will be the Architectural Control Committee established pursuant to the Declaration. The Board of Directors may also in its discretion establish and make appointments to other committees of the Association, which may include a Budget Committee, Nominations Committee, Maintenance Committee, and such other committees as it deems necessary or desirable in order to facilitate the operation of the Association and to fulfill the duties and functions of the Association. No committee will have the power to:

- (a) Approve or recommend to Members actions or proposals required by law, the Governing Documents to be approved by Members;
- (b) Amend the Articles;
- (c) Adopt a plan of merger, consolidation, recapitalization or other form of reorganization;
- (d) Sell, lease, exchange or otherwise dispose of any Common Area;
- (e) Adopt a plan of voluntary dissolution of the Association;
- (f) Fill vacancies on the Board or any committee thereof;
- (g) Adopt, amend or repeal these Bylaws.

Section 15.2 **Appointment of Committee Chairpersons and Members.** If the Board of Directors elects to establish a committee, the Chairpersons and members of each standing committee of the Association will be appointed by the Board of Directors at each annual meeting to serve (unless earlier terminated by action of the Board of Directors) from the close of such annual meeting until the close of the next annual meeting, and such appointments will be announced at each such annual meeting.

ARTICLE 16
Transactions in Which Directors
or Officers are Interested

Section 16.1 **Validity of Contracts.** No contract or other transaction between the Association and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested (including, without limitation, the Developer and any affiliate of the Developer) will be either void or voidable because of such relationship or interest, because such director or directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because of his or their votes are counted for such purpose, if: (i) the fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purposes without counting the votes or consents of such interested directors; (ii) the fact of such relationship or interest is disclosed or known to the Members entitled to vote on such contract or transaction (if any) and they authorize, approve or ratify such contract or transaction by vote or written consent; or (iii) the contract or transaction is fair and reasonable as to the Association at the time it is authorized by the Board of Directors, a committee, or the Members.

Section 16.2 **Interested Directors Counted in Quorum.** Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies a contract or transaction of the type referred to in Section 16.1 of these Bylaws.

Section 16.3 **Duty to Disclose.** Notwithstanding the foregoing, any officer or director of the Association will have a duty to disclose to the Board of Directors of the Association that such officer or director is also an officer or director of or otherwise has a financial interest, direct or indirect, in any individual or business organization or entity (other than the Developer) with which the Association proposes to contract or otherwise transact business. Such disclosure will be reflected in the minutes of the meeting at which any vote is taken on a proposed contract or business transaction with any individual or business organization or entity in which an officer or director of the Association has any interest.

ARTICLE 17
Fiscal Management

Section 17.1 **Fiscal Year.** The fiscal year of the Association will be the calendar year.

Section 17.2 **Accounting Methods.** The Association will use the accrual basis method of accounting and will maintain accounting records in accordance with good accounting practices, which will be open to inspection in accordance with Section 18.1 of these Bylaws. Written summaries of the accounting records will be prepared by the Treasurer and will be made available at least annually to the Members of the Association. Such records will include, but not

be limited to, a record of all receipts and expenditures, and an accurate account for each Lot which will designate the name and address of the Owner thereof, the amount of the Regular Assessments and all other assessments, if any, assessed against or charged to such Lot the amounts and due dates for payment of same, and the amounts paid upon the account and the balance due thereunder.

Section 17.3 **Budget.** The Association will prepare an annual budget. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Developer, or another person. Each year, after the budget is approved, the Association must provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the Member.

Section 17.4 **No Deficit Spending.** The Board of Directors will not be required to anticipate revenue from any Assessments nor to expend funds to pay any expense of the Association not budgeted or which will exceed budgeted items, and further the Board of Directors will not be required to engage in any deficit spending. Should there exist any deficiency as a result of Association expenses exceeding monies received from assessments for such expenses, then such deficits will be carried into the Association's next succeeding year's budget as a deficiency or will be the subject of a Special Assessment, but only in accordance with and pursuant to the Declaration.

Section 17.5 **Deposit of Funds.** The monies of the Association, whether collected by Assessments or otherwise, will be deposited in accounts in such bank or banks as will be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts will be only by checks signed by such officers as are authorized pursuant to Article 14 of these Bylaws. All sums collected by the Association from assessments or any other source may be commingled in a single fund or divided into more than one fund, as determined by the Board of Directors; provided, however, that all reserve funds will be maintained as, and deposited in, a separate bank account, and will be used only for the purpose or purposes for which such reserve fund is created and maintained.

Section 17.6 **Financial Reporting.** The Association shall prepare an annual financial report within 60 days after the close of the fiscal year. The Association shall provide each Member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the Member. The financial report must consist of either:

(a) Financial statements presented in conformity with generally accepted accounting principles; or

(b) A financial report of actual receipts and expenditures, cash basis, which report must show:

2. The amount of receipts and expenditures by classification; and
3. The beginning and ending cash balances of the Association.

ARTICLE 18

Books and Records

Section 18.1 **Official Records**. Subject to the discretion of the Board of Directors to have any of such records of the Association kept, temporarily or permanently, at the offices of accountants and/or attorneys representing the Association from time to time, the Association shall maintain each of the following items (the "**Official Records**") of the Association:

- (a) Copies of any plans, specifications, permits, and warranties related to improvements constructed on the Common Areas or other property that the Association is obligated to maintain, repair, or replace.
- (b) A copy of the Bylaws of the Association and of each amendment to the Bylaws.
- (c) A copy of the Articles of Incorporation of the Association and of each amendment thereto.
- (d) A copy of the Declaration and a copy of each amendment thereto.
- (e) A copy of the current Rules and Regulations.
- (f) The minutes of all meetings of, or record of all actions taken without a meeting of, the Board of Directors and of the Members, and a record of all actions taken by a committee of the Board, which minutes, or records of action, must be retained for at least 7 years.
- (g) A current roster, in alphabetical order, of all Members and their mailing addresses and parcel identifications.
- (h) All of the Association's insurance policies or a copy thereof, which policies must be retained for at least 7 years.
- (i) A current copy of all contracts to which the Association is a party, including, without limitation, any management agreement, lease, or other contract under which the Association has any obligation or responsibility. Bids received by the Association for work to be performed are also Official Records and must be kept for a period of 1 year.

(j) The financial and accounting records of the Association, kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least 7 years. The financial and accounting records must include:

2. Accurate, itemized, and detailed records of all receipts and expenditures.
3. A current account and a periodic statement of the account for each Member, designating the name and current address of each Member who is obligated to pay Assessments, the due date and amount of each Assessment or other charge against the Member, the date and amount of each payment on the account, and the balance due.
4. All tax returns, financial statements, and financial reports of the Association.
5. Any other records that identify, measure, record, or communicate financial information.

ARTICLE 19

Compliance and Default

Section 19.1 **Violations**. In the event of a violation (other than the non-payment of an Assessment or a violation specified in the Governing Documents as not requiring notice or requiring a specified shorter period of notice) by a Member, including the Member's family (or a Member's tenants, guests or invitees), of any of the provisions of the Governing Documents or the Rules and Regulations of the Association, the Association, through its Board of Directors, may, in addition to any other remedies or sanctions provided in the Governing Documents or the Rules and Regulations, notify such Member by written notice in accordance with Article 20 of these Bylaws of such violation and demand that such violation cease and be discontinued immediately and direct that any damages or injury caused thereby be immediately repaired or corrected at the sole cost and expense of such Member. If such violation will continue for a period of thirty (30) days from date of such notice as aforesaid, except as otherwise provided in Section 19.1.1 of these Bylaws, the Association, through its Board of Directors, will have the right to treat such violation as an intentional, inexcusable and material breach of the Governing Documents or the Rules and Regulations of the Association, as appropriate, and the Association may then, at its option, elect to undertake any of the rights provided to the Association in the Governing Documents, including, without limitation, the following:

19.1.1 **Fine and/or Suspension**. The Association may suspend for a reasonable length of time the right of any Member, and/or a Member's tenants, guests or invitees, to use the Recreational Common Areas. The Association may also levy a fine not to exceed \$50.00 (or such higher amount designated by the Board and as may be permitted by Florida law) per violation against any Member for the Member's violation or that of the Member's tenants, guests

or invitees. The Member must be given at least fourteen (14) days written notice of the violation and the Association's intention to impose a suspension or fine. Upon written request to the Association within such fourteen-day period, the Member must then be given an opportunity for a hearing before a committee consisting of at least three (3) persons appointed by the Board who are not officers, directors or employees of the Association. No fine or suspension may be imposed unless approved by a majority of the members of such committee. No suspension will impair the right of a Member, tenant, guest or invitee to have vehicular and pedestrian ingress to and egress from the Property, including, but not limited to the right to park. The Association will not suspend the voting rights of any Member.

19.1.2 **Action at Law.** The Association may undertake an action at law against the violating Member to recover for damages suffered by or on the Association or its Members; and/or

19.1.3 **Action in Equity; Specific Performance.** The Association may undertake an action in equity against the violating Member to enforce specific performance on the part of the violating Member; and/or

19.1.4 **Action in Equity; Injunctive Relief.** The Association may undertake an action in equity against the violating Member for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Section 19.2 **Emergency Action.** Notwithstanding the foregoing provisions of this Article 19, any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association and the cost thereof will be charged to the violating Member as a Specific Assessment in accordance with the terms and provisions of the Governing Documents.

Section 19.3 **Non-Payment of Assessments.** In the event of non-payment of Assessments pursuant to the Declaration, the Association, through its Board of Directors, will be entitled to exercise all of the rights conferred upon the Association in the Declaration, including, without limitation, the right to impose, collect, enforce and foreclose any lien for assessments in accordance with the terms and provisions of the Declaration.

Section 19.4 **Negligence or Carelessness of Member.** Each Member will be liable for the costs and expenses incurred by the Association for any maintenance, repair or replacement rendered necessary by said Member's (or a his or her tenant's, guest's or invitee's) acts, neglect or carelessness but only to the extent that such expense is not met by the proceeds of any insurance carried by the Association. Such liability will include, without limitation, any increase in insurance rates occasioned by the use, misuse, occupancy or abandonment of any Lot or any Common Area or the appurtenances thereto. Nothing herein contained, however, will be construed so as to constitute any waiver by any insurance company of its rights of subrogation. The costs and expenses for any maintenance, repair or replacement required, as provided in this Section 19.4, will be charged to said Member as a Specific Assessment pursuant to the Declaration.

Section 19.5 **Costs and Attorneys Fees.** In any proceeding arising because of an alleged default by a Member under the Governing Documents or the Rules and Regulations of the Association, the prevailing party will be entitled to recover the costs of the proceeding and such reasonable attorneys' fees, including costs (including, without limitation, charges for paralegal, expert, investigative and word processing services) and reasonable attorneys' fees on appeal, as may be determined by the Court or other body having jurisdiction over the proceeding.

Section 19.6 **No Waiver of Rights.** The failure of the Association or of any Member to enforce any right, provision, covenant or condition which may be granted by the Governing Documents or the Rules and Regulations of the Association will not constitute a waiver of the right of the Association or any Member to enforce such right, provision, covenant or condition in the future.

Section 19.7 **Election of Remedies.** All rights, remedies and privileges granted to the Association or any other party pursuant to the Governing Documents or the Rules and Regulations of the Association, or at law or in equity, will be deemed to be cumulative and the exercise of any one (1) or more of the same will not be deemed to constitute an election of remedies, nor will it preclude the party exercising the same, or any other party, from exercising such other and additional rights, remedies or privileges as may be granted by the Governing Documents or the Rules and Regulations of the Association, whether the exercise of any of same be at law or in equity or both.

ARTICLE 20

Notice

Section 20.1 **Notice to Members.** Except as may be specifically provided to the contrary in these Bylaws, any notice required or permitted to be given to a Member pursuant to the provisions of these Bylaws will be deemed to have been properly delivered and given on the third day after being placed in the first class United States mail, postage prepaid, or on the next business day following the date sent by commercial express next day courier, such as Federal Express, UPS Overnight, Purolator, Airborne, etc., to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address has been furnished, then to the street address of such Owner's Lot. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners and will be deemed to be and constitute delivery on all such co-owners. If a Member wishes to use an address for notices and other mailings in connection with the Governing Documents or the Rules and Regulations other than the Member's Lot, then such Member shall file with the Secretary of the Association, in writing, a statement of the mailing address to which such Member wishes all notices and other mailings, statements, or other communications sent. Such address may be changed from time to time by such Member upon a proper filing of a revised statement by such Member in accordance with this Section 20.1.

Section 20.2 **Notice to Association.** Any notice required or permitted to be given to the Association will be deemed to have been properly delivered on the third day after being placed in the first class United States mail, postage prepaid or on the next business day following

the date sent by commercial express courier, such as Federal Express, Purolator, Airborne, etc., to the address furnished by the Association or to the address of its principal place of business.

Section 20.3 **Notice to the Developer.** Any notice required or permitted to be given to the Developer will be deemed to have been properly delivered on the third day after being placed in the first class United States mail, postage prepaid or on the next business day following the date sent by commercial express courier, such as Federal Express, Purolator, Airborne, etc., to the address furnished by the Developer to the Association or the address of its principal place of business.

Section 20.4 **Affidavit.** The affidavit of an officer or authorized agent of the Association declaring under penalty of perjury that a notice has been mailed to any Member at the address shown on the records of the Association, or otherwise in accordance with these Bylaws, will be deemed conclusive proof of the delivery of such notice, whether or not such notice is actually received.

ARTICLE 21

Paramount Rights of Founder; Conflicts

Section 21.1 **Paramount Rights of Founder.** With respect to any rights, privileges or powers reserved by, conferred upon or granted to the Founder pursuant to the Declaration or the Articles, all of the terms and provisions of these Bylaws will be subject thereto, and the terms of the Declaration and Articles will be deemed to be paramount to any provisions of these Bylaws or any amendments hereto.

Section 21.2 **Conflicts.** In the case of any conflict between Florida law and these Bylaws, Florida law will control; in the case of any conflict between the Articles and these Bylaws, the Articles will control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration will control.

ARTICLE 22

Amendments to Articles

Section 22.1 **Amendments, Generally.** The Articles may only be changed, amended, modified or rescinded in the following manner:

22.1.1 **Resolution of Board of Directors.** The Board of Directors will initially propose any amendments to the Articles. Any such proposal will be by resolution duly adopted by the Board of Directors setting forth the specific terms and provisions of the proposed amendment and directing that the proposed amendment be submitted to a vote of the Members of the Association at the next annual meeting or at a special meeting of the Members of the Association duly called for such purpose.

22.1.2 **Notice of Meeting.** Written notice setting forth the date and time of the meeting at which the proposed amendment is to be voted upon and also setting forth the specific

terms and provisions of proposed amendment, or a summary of the changes to be effected by the proposed amendment, will be given in accordance with the provisions of these Bylaws to each Member of the Association entitled to vote thereon. Such meeting may not occur less than thirty (30) days nor more than forty-five (45) days from the date of the giving of the notice of the meeting at which the proposed amendment is to be considered and voted upon.

22.1.3 **Vote of Members.** A vote of the Members of the Association entitled to vote thereon, will be taken on the proposed amendment at the meeting of which notice has been duly given. The proposed amendment will be adopted upon receiving the affirmative vote of two-thirds (2/3) of the votes of the Members of the Association cast at such meeting, whether in person or by proxy. Any number of amendments may be proposed by the Board of Directors and voted upon by the Members of the Association at any one meeting.

Section 22.2 **Articles of Amendment.** Upon the approval of an amendment to the Articles in accordance with the provisions of this Section 22, the officers of the Association will cause amended Articles of Amendment to be executed and delivered to the Office of the Secretary of State of the State of Florida as provided by law.

ARTICLE 23

Amendments to Bylaws

Section 23.1 **Vote of Directors.** These Bylaws may be changed, amended, modified or repealed, and any new Bylaws of the Association may be adopted, only by resolution approved by at least two-thirds (2/3) of the members of the Board of Directors at a regular or special meeting of the Board of Directors duly called for such purpose.

Section 23.2 **Limitations on Amendment.** Notwithstanding anything to the contrary set forth in the Declaration, the Articles or these Bylaws of the Association, these Bylaws may not be changed, amended, modified or rescinded in any fashion or respect which would result in any change, amendment, modification, diminution or elimination of, or otherwise affect the rights, privileges or benefits accruing hereunder to the Founder without first receiving the prior written consent and approval of the Founder.

Section 23.3 **Instrument of Amendment.** Any resolution of the Board of Directors amending, modifying or repealing any provisions of, or adding any provisions to, these Bylaws will identify the particular Articles and Sections affected and set forth the exact language of such modification, amendment, or addition, or of the provisions repealed. A copy of each such resolution, certified by the Secretary of the Association, will be placed in the record books of the Association, and a copy thereof will be delivered to each Member of the Association in accordance with the provisions of Section 20.1 of these Bylaws.

ARTICLE 24

General Provisions

Section 24.1 **Seal.** The Association will adopt a seal capable of making a circular impression on bond paper, which impression contains within the circle the name of the Association and the year of its establishment. The seal will contain the words "corporation not for profit."

Section 24.2 **Vote by Presiding Officer.** The person acting as presiding officer at a meeting held pursuant to these Bylaws will, if a voting member thereof, be entitled to vote on the same basis as if not acting as presiding officer.

Section 24.3 **Gender and Number.** Whenever the context requires, the gender of all words used herein will include the masculine, feminine and neuter, and the number of all words will include the singular and plural thereof.

Section 24.4 **Articles and Other Headings.** The Article and Section headings contained in these Bylaws are for reference purposes only and will not affect the meaning or interpretation of these Bylaws.

Section 24.5 **Annual Report for Department of State.** The Association will file an annual report with the Department of State of the State of Florida as required by Florida Statutes, §617.1622 (1995).

Section 24.6 **Statutory Cites.** Any references to sections of the Florida Statutes in these Bylaws will include all revisions and amendments to such sections. Any references to statutes contained in Chapter 607 of the Florida Statutes will be deemed to apply to the Association only to the extent that such sections are applicable to not for profit corporations.

ARTICLE 25

Emergency Provisions

Section 25.1 **Emergency Powers of Acting Officers.** If, as a result of an emergency, the President and/or other officers are unable to perform their duties, (a) the powers and duties of the President will be held and performed by that officer of the Association highest on the list of successors (adopted by the Board of Directors for such purpose) who will be available and capable of holding and performing such powers and duties; and, absent any such prior designation, by that Vice President who will be available and capable of holding and performing such powers and duties whose surname commences with the earliest letter of the alphabet among all such Vice Presidents; or, if no Vice President is available and capable of holding and performing such powers and duties, then by the Secretary or if the Secretary is likewise unavailable, by the Treasurer; (b) the officer so selected to hold and perform such powers and duties will serve as Acting President until the President again becomes capable of holding and performing the powers of President, or until the Board of Directors will have elected a new President or designated another individual as Acting President; (c) such officer (or the President,

if such person is still serving) will have the power, in addition to all other powers granted to the President by law, the Articles of Incorporation, these Bylaws and the Board of Directors, to appoint acting officers to fill vacancies that may have occurred, wither permanently or temporarily, by reason of such disaster or emergency, each of such acting appointees to serve in such capacity until the officer for whom the acting appointee is acting is capable of performing the duties of such office, or until the Board of Directors will have designated another individual to perform such duties or will have elected or appointed another person to fill such office; (d) each acting officer so appointed will be entitled to exercise all powers vested by law, the Articles, these Bylaws and the Board of Directors in the office in which such person is serving; and (e) anyone transacting business with the Association may rely upon a certificate signed by any officer of the Association that a specified individual has succeeded to the powers and duties of the President or such other specified officer and any person, firm, corporation or other entity to which such certificate has been delivered by such officers may continue to rely upon it until notified of a change by means of a writing signed by an officer of this Association.

Section 25.2 **Emergency Powers of Board of Directors.** In anticipation of or during an emergency, the available Directors may relocate the Association's principal office or designate alternative offices or regional offices or authorize the officers to do so, for the duration of the emergency.

In accordance with Florida Statutes, §617.0303, during an emergency:

- (a) Notice of a meeting of the Board of Directors need be given only to those Directors whom it is practicable to reach and may be given in any practicable manner, including by publication or radio;
- (b) One or more officers of the Association present at a meeting of the Board of Directors may be deemed to be Directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum; and
- (c) The Director or Directors in attendance at a meeting will constitute a quorum.

Section 25.3 **Validity of Emergency Corporate Action.** Corporate action taken in good faith during an emergency to further the ordinary affairs of the Association under this Bylaw:

- (a) Binds the Association; and
- (b) May not be used to impose liability on a corporate Director, Officer, employee, or agent.

Section 25.4 **Liability.** An Officer, Director, or employee acting in accordance with this or any other emergency bylaw is only liable for willful misconduct.

Section 25.5 **Termination of Effectiveness of Emergency Bylaws.** To the extent not inconsistent with any emergency bylaw, the Bylaws of the Association will remain in effect

during any emergency, and upon termination of the emergency, the emergency bylaws will cease to be operative.

Section 25.6 **Additional Emergency Bylaws.** The Board of Directors or Members may adopt additional bylaws to be effective during an emergency.

EXHIBIT "D"**RULES AND REGULATIONS**

1. **Fires.** No fires for burning of trash, leaves, clippings or other debris or refuse will be permitted on any Lot or within the Common Areas, except with the specific prior written consent of the Association and after receipt of all applicable governmental permits.

2. **Renting.** Dwellings may be rented, subject to such rules, regulations and restrictions as may be established by the Association from time to time, including, without limitation, that any rental of a Dwelling or outbuilding shall only be of the entire Dwelling or outbuilding; no rental of rooms in or other portions of any Dwelling shall be permitted.

3. **Vehicles, Trailers and Boat Storage.**

(a) Inoperative vehicles, travel trailers, recreational vehicles, buses, trucks with more than six (6) wheels, boats, and trailers shall not be stored overnight within the Common Areas or upon any Lot unless kept in a closed garage so as not to be observable from other Lots or the Common Areas.

(b) No automobiles shall be used to access the roadways within Gulfview Heights Subdivision from Draper Lake. Golf cart, bicycle and pedestrian traffic is permitted on these roadways.

(c) The use of electric or hybrid vehicles, scooters, or similar vehicles shall be limited to the private roadways within Draper Lake. Such vehicles may not be operated on the walkways or docks within Draper Lake.

4. **Golf Carts.** The Founder and/or the Association may own a maximum of 30 electric golf carts to benefit the Owners. No one under 18 years of age shall be permitted to operate a golf cart within the Project. No person may operate a golf cart within Draper Lake without a valid driver's license.

5. **Animals.** No animals shall be kept on any Lot for any commercial or breeding purposes. The Association shall have the right to prohibit animals on any portion of the Recreational Common Areas. All animal waste shall be appropriately scooped, bagged and disposed of in a waste receptacle. The Association, by majority vote of the Board, may require the removal of any animal which creates noise or other disturbance.

6. **Attractiveness of Lots.** It shall be the responsibility of each owner to prevent the development of any unclean, unsightly or unkempt condition of the Owner's Lot or with the improvements on the Owner's Lot. All Lots and Improvements shall be maintained in a neat, clean, attractive, and well-kept condition. Areas which retain the natural vegetation shall be maintained to preserve and enhance their natural character. No garbage, trash, ashes, refuse, or other waste shall be thrown, dumped, placed or kept on a Lot except in sanitary containers approved by the Committee.

7. **Water and Sewer Service.** All water and sewer service for Dwellings shall be from and all Owners shall contract with Florida Community Services Corp. of Walton County for the provision of water and sewer services. The Association shall not be restricted from using on-site wells for irrigation.

8. **Overnight Camping.** Sleeping overnight shall be prohibited on any portion of the Common Areas unless specifically approved by the Association.

9. **Automobiles.** Automobiles may be parked only in the driveway or garage of any Lot or in other areas specifically designated for parking within Draper Lake. Additional parking restrictions may appear in the Design Regulations. In the event of a conflict between these Rules and the Design Regulations, the more restrictive shall govern.

10. **Garage Doors.** Garage doors shall be kept closed except when automobiles are entering or leaving the garage.

11. **Noise.** No noise shall be produced by radios, televisions, musical instruments or otherwise that disturbs the Owners within Draper Lake or their guests or invitees.

12. **Speed Limits.** No vehicles shall exceed a speed of 15 miles per hour within Draper Lake.

13. **Gatherings in the Common Areas.** Organized gatherings of more than ten (10) persons within the Draper Lake Common Areas shall require a permit from the Association. The Association may condition the issuance of the permit on reasonable conditions as the Association deems necessary or desirable. These conditions may include, without limitation, providing security services, the payment of a reasonable administrative fee, providing insurance, providing for clean-up services, the execution of a license or use agreement in a form prepared by the Association, limitations on the number of persons and the hours of the event, and providing a deposit to insure the return of the Common Area to its condition prior to such event and to repair any damage caused by such event.

14. **Motorized Vehicles.** No all-terrain-vehicles (ATVs), go-carts, motor-scooters or similar electric, gas or motorized off-street vehicles shall be permitted within Draper Lake; except for those approved by Founder for use in connection with the development, sale or rental of property within Draper Lake or the management, maintenance or repair of the Common Areas by the Association or for such other purposes as may be approved by Founder in its sole discretion. However, motorized wheelchairs and similar electric, gas or motorized devices and Association owned golf carts are permitted.

15. **Access Keys.** The Association shall have the right to issue or charge a fee to replace any access keys issued by the Association to the Owners.

PRIVATE ROAD MAINTENANCE ESTIMATE

THE ROADS WITHIN DRAPER LAKE ARE PRIVATE. THE ROADS WILL BE CONVEYED TO THE DRAPER LAKE PROPERTY OWNERS ASSOCIATION, WHO IS OBLIGATED TO MAINTAIN THEM AS COMMON AREAS UNDER THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR DRAPER LAKE. BELOW IS AN ESTIMATE OF THE COST OF MAINTAINING THE PRIVATE ROADS OVER THE FIRST TEN (10) YEARS OF OWNERSHIP BY THE ASSOCIATION.

<u>Description</u>	<u>Material Type</u>	<u>Units/Yr.</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost/Yr.</u>
Repair Utility Repair Areas & Replace Damaged Pavement Areas	Pervious Concrete	441.9	SY	\$45.00	\$19,883
	Pervious Pavers	2,646.0	SF	\$6.50	\$17,199
Sweep/Vacuum Roads		1.0	LS	\$2,000	\$2,000
<u>Estimated annual project wide maintenance cost (Year 1):</u>					<u>\$44,082</u>
<u>Estimated annual cost per homeowner (assuming 95 units in Yr.1)</u>					<u>\$464.02</u>
<u>Estimated project wide 10 year maintenance cost</u> <i>(without assumption of inflationary adjustments)</i>					<u>\$440,823</u>

Date:_____

Name:_____

Date:_____

Name:_____