



**GOVERNING  
DOCUMENTS**



**SUMMARY  
OF  
BASIC OPERATIONAL MATTERS**

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OF  
COVENANTS, CONDITIONS  
AND RESTRICTIONS**

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**COFER, BEAUCHAMP, STRADLEY & HICKS, LLP**  
ATTORNEYS AND COUNSELORS AT LAW

SUITE 200

99 WEST FACES FERRY ROAD, N.W.

ATLANTA, GEORGIA 30305-1350

TELEPHONE 404 233-6200

TELECOPIER 404 364-0044

**BASIC OPERATIONAL MATTERS REGARDING**

**THE LEDGES**

The Ledges is a master planned community, located in Huntsville, Alabama. The developer plans to build the community in phases, with the first phase consisting of approximately 141 single family dwellings.

The Declaration of Covenants, Conditions, and Restrictions for The Ledges ("Declaration"), the Articles of Incorporation and the By-Laws of The Ledges Community Association, Inc. set forth the organization and operation of the community. The following question and answer summary is intended to assist you in reviewing the documents and understanding the operation of the community governance structure under the documents establishing The Ledges. This summary is not intended to provide all the information contained in the Declaration, the Articles and By-Laws and should not be a substitute for your complete review of these documents. Capitalized terms used in this summary are defined in Article 1 of the Declaration.

The documents are designed to achieve three primary goals: flexibility, simplicity, and a systematic transition from developer to property owner control. While these goals often compete, we have drafted certain provisions of the Declaration and By-Laws, highlighted below, to provide a great deal of flexibility for the evolution of The Ledges. We also have included provisions to ensure The Ledges of Huntsville, Ltd. (the "Declarant") can complete the project in a manner which will best serve the needs of the residential community.

**1. WHAT IS THE RELATIONSHIP BETWEEN THE GOLF COURSE, THE COMMERCIAL AREAS AND THE RESIDENTIAL DEVELOPMENT?**

The golf course and the commercial areas are referred to as "Private Amenities" in the Declaration. In addition, other amenities and properties may be developed in the future and designated as Private Amenities by the Declarant. By virtue of their relative locations within the development, the Private Amenities and the residential area may share several common features in the development, such as the main entry road. However, they are separate and distinct operations. Purchasing a residential unit in the development does not give any Owner the right to use any of the Private Amenities, including the golf course facility, unless the membership documents state otherwise. Easements and disclaimers regarding the Private Amenities are contained in Articles 2, 11 and 14 of the Declaration.

**2. WHAT IS THE LEDGES COMMUNITY ASSOCIATION, INC.?**

The residential development is governed by The Ledges Community Association, Inc. Each and every Unit Owner at The Ledges, including Builders, will be a member of the Association. A Unit is defined as any improved or unimproved portion of the Properties which may be independently owned and conveyed and which is intended for development, use and occupancy as a residence.

The Association is an Alabama nonprofit corporation, responsible for the administration of all residential property and Common Areas within the community. The Association will be governed by a Board of Directors which is given the power to take action and make decisions on behalf of the Association on most Association matters, including the annual budget for the Association and the enforcement of rules adopted, as well as the covenants, conditions and restrictions established by the Declaration.

**3. HOW IS MEMBERSHIP IN THE ASSOCIATION STRUCTURED?**

Membership consists of two classes: Class "A" is comprised of all Owners other than the Declarant; Class "B" consists solely of the Declarant. The Class "B" Member is entitled to appoint the majority of the members of the Board of Directors of the Association until the earlier of: (a) when 75% of the Units permitted by the Master Plan have certificates of occupancy issued thereon and have been conveyed to Persons other than a Builder; (b) December 31, 2012; or (c) the date on which the Declarant voluntarily relinquishes such control. This period of time is referred to as the Class "B" Control Period. Two years after expiration of the Class "B" Control Period, the Class "B" membership will terminate and be converted to Class "A" membership.

**4. HOW ARE VOTES ALLOCATED TO MEMBERS OF THE ASSOCIATION?**

In general, each Class "A" Member is entitled to cast one vote for each Unit owned by the Member. However, the Declaration allocates only one vote to a Class "A" Member who owns two adjoining lots if the dwelling straddles both lots. The Class "B" Member does not vote on a per Unit basis. Instead, the Declarant is given the right to approve, or withhold approval of, specified actions proposed under the Declaration, the By-Laws, and the Articles. The Declarant, as Class "B" Member, also appoints a majority of the members of the Board of Directors during the Class "B" Control Period as noted above. After termination of the Class "B" membership, the Declarant will become a Class "A" Member entitled to vote on the same basis as every other Class "A" Member.

**5. WHAT IS A VILLAGE?**

All residential property within The Ledges will be part of a "Village." Each separately developed residential area within the community in which Owners have common interests other than those common to all Association Members, such as a common theme, entry feature, development name, and/or Common Areas and facilities, may be designated as a separate Village by the Declarant. For example, each parcel shown on the Master Plan could be a separate Village.

**6. WILL EACH VILLAGE HAVE A SEPARATE SUBASSOCIATION?**

Villages will not be required to have separate associations except in the case of a condominium. Since most Villages will not be condominiums and will not have Village Associations, each Village may elect a Village Committee to represent the interests of Owners in matters concerning the Village which are addressed at the Association level.

**7. WHAT ARE THE BENEFITS OF HAVING VILLAGES WITHIN THE LEDGES?**

The Village concept will allow the Association to provide a higher level of service or special services for the benefit of property Owners in a particular Village upon request of the Owners within the Village without the need to create a separate association. Benefitted Owners will pay for such additional services through a "Village Assessment." In many residential projects, an umbrella or master association is created with several incorporated subassociations for various parcels in the project. By using the Village concept, the need for separate incorporated subassociations can be eliminated, thus eliminating the costs, time and complexity associated with operating multiple entities.

**8. WHAT IS A VOTING DELEGATE?**

The Owners in each Village will elect a "Voting Delegate" who will be the voting representative of the Village and will cast all votes of Village Owners on Association matters requiring a membership vote. The Voting Delegate will cast one vote for each Unit within the Village on all Association matters as directed by each Owner utilizing a proxy distributed by the Association.

The first election of Voting Delegates shall be held not later than when 50% of the Units permitted by the Master Plan have been conveyed to persons other than Builders. However, no Village shall be required to elect a Voting Delegate until 75% of the Units planned for such Village have been conveyed to Persons other than Builders.

The use of the Voting Delegate as a representative of the Village allows the Association to conduct its business without the necessity for meetings attended by a quorum of all of the Owners. If Voting Delegates have not been elected for any Village, each Owner within the Village shall be the "Voting Delegate" for each Unit.

**9. WHAT IS A VOTING GROUP?**

The Declarant has the option to establish Voting Groups for election of directors to the Board. A Voting Group can be comprised of one Village or several Villages grouped together to vote for the election of directors to the Board as described in Article 3 of the Declaration. The number of Voting Groups shall be limited to the number of directors to be elected to the Board. If established, each Voting Group shall elect one or more Directors to serve on the Board from a slate of nominees residing or owning Units within the Voting Group. In a development with diverse product types, Voting Groups promote representation on the Board of Directors for various groups having dissimilar interests and avoid a situation in which the Voting Delegates representing similar Villages are able, due to the number of Units in such Villages, to elect the entire Board of Directors, excluding representation of others. Until Voting Groups are established, all of the Units in the Properties shall constitute a single Voting Group.

**10. HOW ARE THE BOARD OF DIRECTORS AND THE OFFICERS OF THE ASSOCIATION ELECTED?**

During the Class "B" Control Period, the Class "B" Member (the Declarant) will appoint the majority of the members of the Board. The initial Board will consist of three (3) members, all of whom are appointed by the Class "B" Member. To transition control of the Board from the Declarant to the Owners, Owner participation in the election of the Board members is phased in over time as follows:

(a) Upon the earlier of three (3) years from the date of the recording of the Declaration or thirty (30) days after the time that fifty percent (50%) of the Units permitted by the Master Plan have certificates of occupancy issued and have been conveyed to Class "A" Members other than Builders, the Association shall hold an election at which the Class "A" Members shall elect one (1) of the three (3) directors. The remaining two (2) directors shall be appointees of the Class "B" Member.

(b) Within ninety (90) days after termination of the Class "B" Control Period, the Board shall be increased to five (5) directors. The Association shall hold an election at which the Voting Delegates shall elect four (4) of the five (5) directors, who shall serve as at-large directors and shall serve a term of two years. The remaining director shall be an appointee of the Class "B" Member.

(c) Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one (1) director. Upon termination of the Class "B" membership, the director appointed by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Voting Delegates shall be entitled to elect a director to fill such position.

The officers of the Association shall be a president, a vice-president, a secretary, and a treasurer, all of whom shall be elected by the Board. The president and secretary must be members of the Board.

The process of transition of control of the Board from the Declarant to the Owners is an important element of the community governance plan for The Ledges. Early involvement of the Owners on the Board will allow the Owners to be familiar with the Board's duties and responsibilities prior to their control of the Board. More importantly, it fosters communication and trust in the Declarant appointed Board members.

**11. WHAT ARE THE POWERS AND DUTIES OF THE BOARD OF DIRECTORS?**

The Board of Directors governs the Association. They are responsible for the administration of the affairs of the Association. The Board has the power to, without limitation, establish the budget, levy and collect assessments, make and amend rules governing the community, enforce its rules and regulations and provisions of the Declaration through legal means, suits at law or equity, fines, or by utilizing self-help remedies.

**12. ARE THERE ANY RESTRICTIONS GOVERNING THE USE OF UNITS?**

Article 10 of the Declaration contains several restrictions regarding the use of Units within The Ledges. For example, use of Units is restricted to residential use, only incidental business use may be conducted within the Properties. Owners are required to maintain reasonable control over pets and may not conduct activities disturbing the use of any golf course. The Declaration contains restrictions on the

posting of signs and mailboxes within the development. In addition, rights with respect to lakes, wetlands, and streams are restricted within the Declaration. The Association also has the right to adopt rules and regulations applicable to the Properties. Article 10 should be carefully reviewed by all Owners.

**13. WHO DETERMINES ARCHITECTURAL STANDARDS WITHIN THE LEDGES?**

Architectural control for all residential property within The Ledges will be handled by the Architectural Review Board ("ARB"). The ARB will have exclusive jurisdiction over all construction on any Unit. The Declarant will prepare the initial design guidelines and review procedures which the ARB will adopt and administer. The Design Guidelines will be made available to all Owners, Builders, and developers within The Ledges. All members of the ARB will be appointed by the Declarant until 100% of the Properties have been developed and conveyed to Owners other than Builders. This feature assures continuity of the standards and ambience of the community.

The Board may appoint a Modifications Committee. If established, the Modifications Committee will assume exclusive jurisdiction over modifications, additions, and alterations made to existing structures on Units or containing Units and the adjacent open space. The Modifications Committee will also have authority to promulgate standards and procedures, consistent with those of the ARB. Members of the Modifications Committee will be appointed by the Board of Directors.

Any property Owner wishing to construct improvements or modify existing improvements on his or her Unit will be required to submit an application to the appropriate committee and receive approval of such committee prior to commencing construction. Each committee has sole and full authority to reject or accept an application, and there is no appeal right except to the courts.

**14. HOW ARE MAINTENANCE RESPONSIBILITIES WITHIN THE LEDGES DIVIDED?**

All maintenance of the Properties must be in accordance with the Community-Wide Standard. The Association is responsible for maintaining the "Area of Common Responsibility" which includes all Common Areas and such portions of any additional property for which the Association assumes responsibility. These areas will include landscaping and other flora, parks, lakes, ponds, sidewalks, fencing, community entry features and bike or pedestrian pathways and trails. Expenses for such maintenance which is the responsibility of the Association shall be assessed against all Owners as a General Assessment.

The Association shall have the obligation to provide landscape maintenance to the front and side yards of improved Units in designated Villages. Prior to the completion of construction of improvements on any Unit, the Association shall be obligated to maintain only a five (5) yard strip of grass fronting on the roadway. The cost of this maintenance shall be a Village Assessment.

All Owners are responsible for maintaining their Units, including all improvements comprising the Units, unless the Association has been specifically designated to do so. In the event that any Owner fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs to the Owner. The Association is authorized to maintain property which it does not own, either by contract or agreement or because it feels such maintenance is necessary to maintain the established Community-Wide Standard.

**15. WHAT IS EXCLUSIVE COMMON AREA?**

Certain portions of the Common Areas may be designated as "Exclusive Common Area" and reserved for the exclusive use or primary benefit of Owners and occupants of specified Units within a particular Village or Villages. For example, entry features for a particular Village, landscaped cul-de-sacs, and other portions of the Common Areas within a particular Village or Villages may be designated as Exclusive Common Area. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Area are assessed either as a Village Assessment or as a Specific Assessment, as applicable, against the Units in those Villages to which the Exclusive Common Area is assigned.

**16. WHAT ARE OWNERS' OBLIGATIONS FOR ASSESSMENTS?**

Each Owner is obligated to pay assessments to the Association to cover Common Expenses. There are four types of assessments authorized by the Declaration: (a) General Assessments; (b) Village Assessments; (c) Special Assessments; and (d) Specific Assessments. In addition, the Declaration provides for initial capitalization of the Association by requiring a contribution by the first Owner (other than the Declarant or a Builder) in an amount equal to one-half (1/2) of the annual General Assessment per Unit for the year in which the Unit is acquired. This amount shall be in addition to the annual General Assessment and shall be collected and disbursed to the Association at closing of the purchase of the Unit.

The obligation to pay assessments shall commence as to each Unit on the first day of the month following the conveyance of the Unit to a Person other than the Declarant or a Builder. With respect to any Unit owned by a Builder, assessments shall commence upon (a) actual occupancy of such Unit, excluding any period that a Unit is being used exclusively as a model home; or (b) the first day of the sixth (6th) month following the date on which the Unit was conveyed by Declarant to such Builder. The first annual General Assessment and Village Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

The first annual General Assessment and Village Assessment assessed against a Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

All assessments are the personal obligation of the Owner of the Unit and also constitute a lien against the Unit prior and superior to all other liens except the lien of a first mortgage and certain tax liens.

**17. WHAT ARE GENERAL ASSESSMENTS AND HOW ARE THEY COMPUTED?**

General Assessments are those which each Owner is required to pay to fund expenses benefitting all Members of the Association, such as maintenance of Common Areas or areas for which the Association is responsible for maintenance, insurance and administrative expenses. General Assessments are levied equally on all Units which are subject to assessment, except that:

(a) the Owner of two contiguous Units, as shown on the final subdivision plat recorded in the Public Records, on which one residential dwelling is constructed which crosses the boundary line separating such Units, shall pay one General Assessment rate equal to one and one-half times the assessment for an individual Unit; and



(b) each Unit shall be assessed at 50% of the General Assessment rate until the first day of the first month following (i) the issuance of a certificate of occupancy for the residential dwelling thereon or (ii) actual occupancy of the Unit, whichever is earlier.

General Assessments are determined on the basis of a budget prepared annually by the Board of Directors covering the estimated costs of operating the Association during the coming year. The budget is adopted by the Board of Directors and becomes effective unless disapproved at a meeting by a vote of Voting Delegates representing at least 67% of the total Class "A" votes and by the Declarant. There is no obligation to call a meeting for this purpose. Unless otherwise provided by the Board, General Assessments are due and payable at the beginning of the fiscal year.

**18. HOW ARE VILLAGE ASSESSMENTS LEVIED?**

The annual budget of the Association must also include a line item for expenses to be incurred by the Association on behalf of each Village. If any Village requests that additional services or a higher level of services be provided by the Association, the costs of the requested services shall be added to the budget for the Village. Village Assessments are levied equally against all Units in the Village benefitting from the services. Village Assessments are for expenses which benefit only Units within a particular Village such as costs for higher levels of landscaping requested or established for the Village during development. Village budgets and assessments become effective unless disapproved by a vote of a majority of the Owners of Units in the Village to which the Village Assessments apply.

**19. HOW AND UNDER WHAT CIRCUMSTANCES MAY SPECIAL ASSESSMENTS BE LEVIED?**

The Association may levy Special Assessments from time to time to cover unbudgeted or unexpected expenses. Special Assessments are adopted by the Board of Directors and become effective unless disapproved at a meeting by a vote of Voting Delegates representing at least 67% of the total Class "A" votes allocated to Units which will be subject to the Special Assessment and by the Declarant. There is no obligation to call a meeting for this purpose.

**20. HOW AND UNDER WHAT CIRCUMSTANCES MAY SPECIFIC ASSESSMENTS BE LEVIED?**

The Board of Directors has the power to assess specific Units receiving benefits, items, or services not provided to all Units within the Properties for expenses of the Association that are incurred: (a) upon the request of the Owner of a Unit for specific items or services relating to the Unit, or (b) as a consequence of the conduct of an Owners or their licensees, invitees or guests.

The Association may also levy a Specific Assessment against specific Units or all of the Units within a Village to reimburse the Association for costs incurred in bringing such Units or Village into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and the Association rules and regulations. This type of Specific Assessment may be levied upon the vote of the Board of Directors after notice to the Unit Owner or the Voting Delegate for the Village and an opportunity for a hearing.

**21. IS THE ASSOCIATION REQUIRED TO OBTAIN INSURANCE?**

The Association is obligated to provide property insurance for all of the Common Areas (as well as other portions of the Area of Common Responsibility to the extent that the Association is obligated to maintain, repair and replace improvements thereon). The Association is also required to maintain general liability insurance, workers compensation insurance (if required by law), directors and officers liability coverage and a fidelity bond on persons handling or responsible for Association funds. The specific insurance to be acquired by the Association is subject to the reasonable availability of the insurance. Owners are responsible for insuring their individual Units.

**22. WHAT ARE THE SPECIAL DECLARANT RIGHTS IN THE DECLARATION?**

In addition to those already discussed, other specific control rights will be reserved to the Declarant. Examples of such control rights are as follows:

- (1) the right to annex specified additional property for 25 years after the Declaration is recorded. This allows The Ledges to be developed in phases. The Declarant also retains the right to prevent the Association from annexing property so long as the Declarant owns any property subject to the Declaration;
- (2) the right unilaterally to amend the Declaration for the purpose of withdrawing property previously submitted in error or as necessitated by changes in the development plan;
- (3) the right to convey property to the Association as Common Area, and to require the Association to accept such conveyance (the Association thereafter owns and maintains the property);
- (4) the right to subsidize and contribute services and materials to the Association;
- (5) exemptions from restrictions on such activities as posting signs within the community, altering drainage patterns, and business activities (to allow normal sales activities);
- (6) various easement rights over all portions of The Ledges in favor of the Declarant and its assigns for such things as altering drainage and water flow, installing utilities, maintaining irrigation and drainage systems, and other amenities, and for the development of additional property to be made subject to the Declaration;
- (7) the Declarant also has the right to unilaterally amend the Declaration to satisfy the requirements of lenders, title insurers, or similar entities, and for any purpose which does not have a material adverse effect on the rights of any Owner. In addition, for so long as it owns any property in the community, Declarant consent is required for any other amendment to the Declaration and no amendment may remove, revoke, or modify any right or privilege of the Declarant without the Declarant's written consent; and
- (8) the right to use Units owned or leased by it or a Builder and any clubhouse or community center which may be owned by the Declarant or the Association as sales offices or model homes and to conduct business, sales, promotional and other activities incidental to the construction and sale of the Properties.



**23. HOW MAY THE DECLARATION BE AMENDED?**

The Declarant may unilaterally amend the Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase mortgage loans on the Units; (d) to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Units; or (e) to satisfy the requirements of any governmental agency. In addition, until termination of the Class "B" membership, the Declarant may unilaterally amend the Declaration for any purpose.

Otherwise, the Declaration may be amended only upon the affirmative vote or written consent of Voting Delegates representing at least 67% of the total Association vote (other than the Declarant), and the consent of the Declarant, so long as the Declarant owns any property which is subject to the Declaration or which may be subjected to the Declaration. To be effective, any amendment must be recorded in the Madison County, Alabama Public Records.

**24. HOW MAY THE BY-LAWS BE AMENDED?**

The requirements for amending the By-Laws are the same as for amending the Declaration, except that no filing in the Public Records is required for amendment to be effective.



949-806

Upon recording, please return to:

M. Maxine Hicks  
COFER, BEAUCHAMP, STRADLEY & HICKS, L.L.P.  
Suite 200  
99 West Paces Ferry Road, N.W.  
Atlanta, Georgia 30305

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

**FOR**

**THE LEDGES**

STATE OF ALA. DEPARTMENT  
OF REVENUE  
JUL 17 1999  
99 JUL -9 PM 4:17  
RECORDED & INDEXED  
& FILED IN INSTRUMENT  
BOOK 1185 PAGE 17  
Shawle M. Rios  
JUDGE OF PROBATE



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# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

## FOR

## THE LEDGES

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made as of the date on the signature page hereof by The Ledges of Huntsville, Ltd., an Alabama limited partnership (the "Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article 1 below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of The Ledges Community Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (as these terms are defined below).

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article 1 below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

### ARTICLE 1: DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Additional Property": All of that certain real property which is more particularly described on Exhibit "B" subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2. "ARB": The Architectural Review Board, as described in Section 9.2.

1.3. "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenant, contract, or agreement. The Area of Common Responsibility shall include those areas described in Section 5.1(a) that are within the planned development-housing district (PD-H) as established by the City of Huntsville pursuant to Ordinance No. 97-889A as such may be amended from time to time, including but not limited to the Properties. The Association may be relieved of all or any portion of these responsibilities to the extent that such responsibility is assigned to an Owner, the owner or operator of any Private Amenity, any Village Association, any commercial or other community association or any other Person.

- 1.4. "Articles of Incorporation" or "Articles": The Articles of Incorporation of The Ledges Community Association, Inc., as filed with the Probate Judge for Madison County, Alabama and the Secretary of State of the State of Alabama.
- 1.5. "Association": The Ledges Community Association, Inc., an Alabama nonprofit corporation, its successors or assigns.
- 1.6. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Alabama corporate law.
- 1.7. "Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers or purchases one or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person's business. Any Person occupying or leasing a Unit for residential purposes shall cease to be considered a Builder with respect to such Unit immediately upon occupation of the Unit for residential purposes, notwithstanding that such Person originally purchased the Unit for the purpose of constructing improvements for later sale to consumers.
- 1.8. "By-Laws": The By-Laws of The Ledges Community Association, Inc., as they may be amended.
- 1.9. "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a Majority of the members of the Board of Directors as provided in Section 3.2.
- 1.10. "Common Area": All real and personal property, including easements, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners. The term also shall include the Exclusive Common Area, as defined below.
- 1.11. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including the maintenance of an adequate reserve fund as necessary to maintain the Common Areas and Areas of Common Responsibility pursuant to this Declaration, the By-Laws, and the Articles of Incorporation. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Voting Delegates representing a Majority of the total Class "A" votes of the Association.
- 1.12. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board, but in no event shall such standard be less than the standards practiced by the City of Huntsville, Alabama.
- 1.13. "Covenant to Share Costs": Any agreement or contract between the Association and an owner or operator of property adjacent to the Properties, including any Private Amenity, for the allocation of expenses that benefit both the Association and the owner or operator of such property.

- 1.14. "Declarant": The Ledges of Huntsville, Ltd., an Alabama limited partnership, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one Person entitled to exercise the rights and powers of the "Declarant" hereunder at any one time.
- 1.15. "Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to Article 9 and which may be entitled as a "patternbook" or by some other designation.
- 1.16. "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Villages or Units, as more particularly described in Article 2.
- 1.17. "General Assessment": Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1 and 8.2.
- 1.18. "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, the Design Guidelines and rules of the Association, or any of the above, as each may be amended from time to time.
- 1.19. "Majority": Those votes, Owners, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.
- 1.20. "Master Plan": The land use plan or development plan for "The Ledges," as such plan may be amended from time to time, which includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article 7.
- 1.21. "Member": A Person subject to membership in the Association pursuant to Section 3.
- 1.22. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.
- 1.23. "Mortgagee": A beneficiary or holder of a Mortgage.
- 1.24. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded land sales contract, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.
- 1.25. "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.26. "Private Amenity": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, designated by the Declarant and which are owned and operated by Persons other than the Association for recreational or other purposes on a club membership, daily fee, use fee, public, or private basis or otherwise, and may include, without limitation, any golf course(s) so located and all related and supporting facilities and improvements.

1.27. "Properties": The real property described on Exhibit "A," together with the Additional Property described on Exhibit "B" as is subjected to this Declaration in accordance with Article 7.

1.28. "Public Records": The public records of the Probate Judge of Madison County, Alabama.

1.29. "Special Assessment": Assessments levied in accordance with Section 8.5.

1.30. "Specific Assessment": Assessments levied in accordance with Section 8.6.

1.31. "Supplemental Declaration": An instrument filed in the Public Records which subjects Additional Property to this Declaration, designates Villages, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument filed by the Declarant pursuant to Section 3.3(c) which designates Voting Groups.

1.32. "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property owned by any Village Association, or property dedicated to the public. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.33. "Village": A separately developed area within the Properties, whether or not governed by a Village Association (as defined below), in which the Owners of Units may have common interests other than those common to all Members of the Association. For example, and by way of illustration and not limitation, each single-family attached or detached housing development may constitute a separate Village, or a Village may be comprised of more than one housing type with other features in common.

Where the context permits or requires, the term Village shall also refer to the Village Committee, if any, (established in accordance with the By-Laws) or Village Association if any, (as defined below) having concurrent jurisdiction over the property within the Village. Village boundaries may be established and modified as provided in Section 3.3.

1.34. "Village Assessments": Assessments levied against the Units in a particular Village or Villages to fund Village Expenses, as described in Sections 8.1 and 8.3.

1.35. "Village Association": Any condominium association or other owners association having concurrent jurisdiction with the Association over any Village.

1.36. "Village Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular Village or Villages, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such Village(s).

1.37. "Voting Delegate": The representative selected by the Class "A" Members within each Village to be responsible for casting all Class "A" votes attributable to Units in the Village on matters requiring a vote of the membership (except as otherwise specifically provided in this Declaration and in the By-Laws). The term "Voting Delegate" shall also refer to any alternate Voting Delegate acting in the absence of a Voting Delegate and any Owner authorized personally to cast the vote for his or her Unit pursuant to Section 3.3(b).

1.38. "Voting Group": One or more Voting Delegates who vote on a common slate for election of directors to the Board of Directors of the Association, as more particularly described in Section 3.3(c) of this Declaration or, if the context so indicates, the group of Members whose Units are represented thereby.

## ARTICLE 2: PROPERTY RIGHTS

2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to the title to each Unit, subject to:

- (a) This Declaration and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 4.3;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
- (f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;

(g) The right of the Board and the Declarant to permit use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;

(h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(i) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.2; and

(j) The right of the Declarant to conduct activities within the Common Area, such as tournaments, charitable events, and promotional events and to restrict Members from using the Common Area during such activities, provided such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area and shall not exceed seven (7) consecutive days.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

2.2. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of specified Units or Villages. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, ponds, lakes and other portions of the Common Area within a particular Village or Villages. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Units to which the Exclusive Common Areas are assigned either as a Village Assessment or as a Specific Assessment, as applicable.

Initially, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Area is conveyed to the Association or on the subdivision plat relating to such Common Area; provided however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Villages, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of particular Units or a particular Village or Villages and Exclusive Common Area may be reassigned upon approval of the Board and the vote of Voting Delegates representing a Majority of the total Class "A" votes in the Association, including, if applicable, a Majority of the Class "A" votes within the Village(s) to which the Exclusive Common Area is assigned, if previously assigned, and within the Village(s) to which the Exclusive Common Area is to be assigned or reassigned.

The Association may, upon approval of a Majority of the Class "A" votes within the Village(s) or the board of directors of the Village Association for the Village(s) to which any Exclusive Common Area is assigned, permit Owners of Units in other Villages to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Village Expenses or Specific Assessments attributable to such Exclusive Common Area.



2.3. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

2.4. Condemnation. If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Delegates representing at least 67% of the total Class "A" votes in the Association and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, and Voting Delegates representing at least 67% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

### **ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS**

3.1. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.2(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association.

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

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.1; provided however, there shall be only one vote per Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.10. Notwithstanding the above, the Owner of two contiguous Units, as shown on the final subdivision plat recorded in the Public Records, on which one residential dwelling is constructed which crosses the boundary line separating Units,

shall have only one vote for such Units. All Class "A" votes shall be cast as provided in Section 3.2(c) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint a Majority of the members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

(i) when 75% of the total number of Units permitted by the Master Plan for the property described on Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;

(ii) December 31, 2012; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

(i) two years after expiration of the Class "B" Control Period; or

(ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any Additional Property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(c) Exercise of Voting Rights by Class "A" Members. If there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it. No vote shall be exercised on behalf of any Unit if any assessment for such Unit is delinquent. If Voting Delegates have been elected pursuant to Section 3.3(b), the vote for each Unit owned by a Class "A" Member shall be exercised by the Voting Delegate representing the Village of which the Unit is a part, as provided in such Section.

### 3.3. Villages, Voting Delegates and Voting Groups.

(a) Villages. Every Unit shall be located within a Village; provided however, unless and until additional Villages are established, the Properties shall consist of one Village. The Declarant, in its sole discretion, may establish Villages within the Properties by designation on Exhibit "A" to this Declaration,

a Supplemental Declaration, or a plat. So long as it owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to assign property to a specific Village, to redesignate Village boundaries, or to remove property from a specific Village.

The Owner(s) of a Majority of the total number of Units within any Village may at any time petition the Board of Directors to divide the property comprising the Village into two or more Villages. Such petition shall be in writing and shall include a survey of the entire parcel which indicates the proposed boundaries of the new Villages or otherwise identifies the Units to be included within the proposed Villages. Such petition shall be deemed granted 30 days following the filing of all required documents with the Board unless the Board of Directors denies such application in writing within such 30 day period. The Board may deny an application only upon determination that there is no reasonable basis for distinguishing between the areas proposed to be divided into separate Villages. All applications and copies of any denials shall be filed with the books and records of the Association and shall be maintained as long as this Declaration is in effect.

The Units within a particular Village may be subject to additional covenants and/or the Unit Owners may all be members of a Village Association in addition to the Association. However, a Village Association shall not be required except in the case of a condominium or otherwise as required by law. Any Village which does not have a Village Association may, but shall not be obligated to, elect a Village Committee, as described in the By-Laws, to represent the interests of Owners of Units in such Village.

Any Village may request that the Association provide a higher level of service or special services for the benefit of Units in such Village and, upon the affirmative vote, written consent, or a combination thereof, of Owners of a Majority of the Units within the Village, the Association may, in its sole discretion, provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided any such administrative charge shall apply at a uniform rate per Unit to all Villages receiving the same service), shall be assessed against the Units within such Village as a Village Assessment pursuant to Article 8 hereof.

(b) Voting Delegates. The Owners within each Village may elect a Voting Delegate who shall be responsible for casting all votes attributable to Units owned by Class "A" Members in the Village on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws. If a Voting Delegate is elected for a Village, such Village shall elect an alternate Voting Delegate who shall be responsible for casting such votes in the absence of the Voting Delegate. The Voting Delegate and alternate Voting Delegate from each Village shall be elected on an annual basis, either by written ballot cast by mail or at a meeting of the Class "A" Members within such Village, as the Board determines; provided however, upon written petition signed by Class "A" Members holding at least 10% of the votes attributable to Units within any Village, the election for such Village shall be held at a meeting. The presence, in person or by proxy, of Class "A" Members representing at least 30% of the total Class "A" votes attributable to Units in the Village shall constitute a quorum at any Village meeting.

The Board in its sole discretion shall determine whether Voting Delegates shall be elected for each Village; provided however, all Villages which are similarly situated shall be treated the same. If Voting Delegates will be elected for any Village, the board shall send notice of the election to all Owners within the Village; provided, however, the first election of a Voting Delegate for any Village shall not be held until at least 75% of the Units planned for such Village have been conveyed to Persons other than Builders. Subsequent elections within each Village shall be held annually within 30 days of the anniversary date of

the first election. Each Class "A" Member who owns a Unit within the Village shall be entitled to cast one equal vote per Unit owned. The candidate who receives the greatest number of votes shall be elected as Voting Delegate and the candidate receiving the next greatest number of votes shall be elected as the alternate Voting Delegate. The Voting Delegate and the alternate Voting Delegate shall serve a term of one year and until their successors are elected.

Any Voting Delegate or alternate Voting Delegate may be removed, with or without cause, upon the vote or written petition of Owners of a Majority of the total number of Units owned by Class "A" Members in the Village which the Voting Delegate or alternate Voting Delegate represents. Upon removal of a Voting Delegate or an alternate, a successor shall be elected by the Owners of Units within the Village to fill the vacancy for the remainder of such delegate's term.

Until such time as the Board first calls for election of a Voting Delegate for any Village, the Owners within such Village shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a vote of the Voting Delegates under this Declaration, the By-Laws, or the Articles.

Prior to taking a vote on any issue requiring membership approval, the Association shall distribute proxies to all Members represented by Voting Delegates, allowing each Member to direct in writing how the Member's vote is to be cast with respect to such issue by the Voting Delegate who represents him or her. The Voting Delegates shall be required to cast all votes for which specific proxies are returned in the manner directed in such proxies. All other votes may be cast as the Voting Delegate deems appropriate in its sole discretion. The Board may adopt resolutions establishing additional procedures for polling Members.

(c) Voting Groups. The Declarant may designate Voting Groups consisting of one or more Villages for the purpose of electing directors to the Board. The designation of Voting Groups, if any, shall be to promote representation on the Board of Directors for various groups having dissimilar interests and to avoid a situation in which the Voting Delegates representing similar Villages are able, due to the number of Units in such Villages, to elect the entire Board of Directors, excluding representation of others. Following termination of the Class "B" Control Period, the number of Voting Groups within the Properties shall not exceed the total number of directors to be elected by the Class "A" Members pursuant to the By-Laws. The Voting Delegates representing the Villages within each Voting Group shall vote on a separate slate of candidates for election to the Board, with each Voting Group being entitled to elect the number of directors specified in the By-Laws.

The Declarant shall establish Voting Groups, if at all, not later than the date of expiration of the Class "B" Control Period by filing with the Association and in the Public Records a Supplemental Declaration identifying each Voting Group by legal description or other means such that the Units within each Voting Group can easily be determined. Such designation may be unilaterally amended from time to time by the Declarant for so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to the Declaration by the Declarant.

After expiration of the Declarant's right to amend any designation of Voting Groups as provided above, the Board shall have the right to file or amend any Supplemental Declaration for the purpose of designating Voting Groups. Neither recordation nor amendment of such Supplemental Declaration shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph. Until such time as Voting Groups are established, all of the Properties

shall constitute a single Voting Group. After a Supplemental Declaration establishing Voting Groups has been filed, any and all portions of the Properties which are not assigned to a specific Voting Group shall constitute a single Voting Group.

#### **ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

4.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Alabama.

4.2. Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the properties described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3. Enforcement. The Board, or the covenants committee if established, may impose sanctions for violation of this Declaration, the By-Laws, any Supplemental Declaration, or any rule or regulation, after compliance with the notice and hearing procedures set forth in Section 3.25 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall constitute a lien upon the Unit of the violator (In the event that any occupant, guest or invitee of a Unit violates the Declaration, the By-Laws, the Supplemental Declaration, or any rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);
- (b) filing liens in the Public Records for nonpayment of any assessments or fees;
- (c) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (d) suspending an Owner's right to vote;
- (e) suspending any Person's right to use any recreational facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(f) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association; and

(g) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with Section 8.6(b).

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of this Declaration, the By-Laws, any Supplemental Declaration, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and the removal of pets that are in violation of pet rules) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration, the By-Laws, any Supplemental Declaration, or any rule or regulation, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and permit local governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. For so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, the Declarant may designate sites within the Properties for fire, police, and utility facilities, public schools and parks, streets, and other public or quasi-public facilities. The sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents.

4.6. Indemnification. The Association shall indemnify every officer, director, and ARB and other committee member against all damages and expenses, including attorneys fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding,

if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or ARB or other committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and Alabama law.

The officers, directors, and ARB and other committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors and ARB and other committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors or ARB or other committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and ARB and other committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or ARB or other committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.6.1 To the extent permitted by law, Declarant and the Association, their respective successors and assigns, shall indemnify and hold harmless the City of Huntsville, Alabama, its agents and employees, from and against all claims, damages, losses and expenses, including attorneys fees, in any way pertaining to or related to the alteration of or damage to any portion of the Properties and/or any portion of a Private Amenity, including without limitation, any and all improvements and appurtenances thereto such as streets, access ways, alleys, street lights, traffic control devices, golf course greens and fairways, sidewalks, landscaping, and storm drainage and sanitary sewer facilities, arising out of the repair, maintenance or replacement of any street, access way, alley, and/or storm drainage and sanitary sewer facility, or other utility, performed by the City of Huntsville, its agents and employees, as a result of an emergency.

4.7. Dedication of Common Area. The Association may dedicate portions of the Common Area to Madison County, Alabama, or to any other local, state, or federal governmental or quasi-governmental entity.

4.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measures, including any mechanism or system for limiting access to the Properties, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.



4.9. Utility Lines. Each Owner, occupant, guest, and invitee acknowledges that neither the Association, the Board nor Declarant shall in any way be considered insurers or guarantors of health within the Properties and neither the Association, the Board, nor Declarant shall be held liable for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Properties. Each Owner, occupant, guest, and invitee assumes all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines or utility sub-stations and further acknowledges that neither Declarant nor the Association have made any representations or warranties, nor has any Owner, occupant, guest, or invitee relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

4.10. Relationship With Tax-Exempt Organizations. The Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, including but not limited to, Sections 501(c)(3) or 501(c)(4) thereof.

4.11. Provision of Services. The Association may provide or contract for services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or a Village Expense, depending on whether the services or facilities are provided to all Units or only the Units within a specified Village. In addition, the Association shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, internet, intranet and other computer related services, security, garbage collection, and similar services and facilities. The Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

## **ARTICLE 5: MAINTENANCE**

### **5.1. Association's Responsibility.**

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (i) Common Area;



(ii) all landscaping and other flora, parks, lakes, ponds, structures, and improvements, including any entry features, sidewalks, bike and pedestrian pathways/trails, situated upon the Common Area;

(iii) all furnishings, equipment and other personal property of the Association;

(iv) any landscaping and other flora, parks, bike and pedestrian pathways/trails, sidewalks, structures and improvements within public rights-of-way or public easements within or abutting the Properties or upon such other public or privately owned land adjacent to the Properties as deemed necessary in the discretion of the Board and in accordance with all applicable laws;

(v) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;

(vi) all ponds, lakes, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith unless such facilities are located within a Private Amenity and are maintained by the owner of the Private Amenity;

(vii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(viii) all private streets, private access ways and private alleys, together with facilities or improvements thereon, including, but not limited to sidewalks, traffic control devices and street signs. Greenway Trail shall not be included in the Area of Common Responsibility of the Association; and

(ix) all private storm drainage and sanitary sewer facilities.

The Association may, as a Common Expense, maintain other property which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant; provided, however, in no event shall the Area of Common Responsibility be reduced by amendment or otherwise to affect the maintenance obligations within the Area of Common Responsibility as required by law or ordinance.

(b) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, the Covenant to Share Costs, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Village Expense assessed as a Village Assessment solely against the Units within the Village(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Units to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

(c) The Association shall maintain the landscaping and other flora within the front and side yards of each Unit within any Village designated herein or in a Supplemental Declaration to receive such services. The "front and side yard" of each Unit shall be deemed to be that portion of the Unit located between the lot boundary adjacent to the street (but not any alley) and a line parallel with the rear of the dwelling located on such Unit, but exclusive of the dwelling itself and exclusive of any screened or fenced areas of such yard. All costs associated with such maintenance shall be a Village Expense assessed as a Village Assessment against the Units within the designated Village. The Association's obligations pursuant to this paragraph shall commence as to each Unit on the later of: (i) the date on which the Association is notified in writing that a certificate of occupancy has been issued for a dwelling on such Unit; or (ii) the date on which such Unit has been conveyed to a Person other than a Builder.

Prior to the commencement of the Association's obligations set forth in the above paragraph, the Association shall mow and maintain on each Unit only the grass within that portion of the Unit located between the lot boundary adjacent to the street (but not any alley) and a line parallel with such lot boundary located five (5) yards from such boundary.

(d) The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including the Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense and may be levied as a Specific Assessment against those Unit(s) to which the service or facility is provided. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include additional landscape maintenance, maintenance of irrigation systems, garbage collection services, pest control service, and similar services and facilities. The Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

5.2. Owner's Responsibility. Each Owner shall maintain, repair and replace his or her Unit and all structures, parking areas, sprinkler and irrigation systems, landscaping and other flora and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Village Association. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in

accordance with Section 8.6. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Village's Responsibility. Upon resolution of the Board of Directors, the Owners of Units within each Village shall be responsible for paying, through Village Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Village. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and greenspace between the Village and adjacent public roads, private streets within the Village, and lakes or ponds within the Village, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided however, all Villages which are similarly situated shall be treated the same.

Any Village Association having responsibility for maintenance within a particular Village pursuant to additional covenants applicable to such Village shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Units within such Village as provided in Section 8.6.

5.4. Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association, and/or an Owner and/or a Village Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5. Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

5.6. Covenant to Share Costs. Adjacent to or in the vicinity of the Properties, there may be certain residential or nonresidential areas, including without limitation, retail, commercial, or business areas and Private Amenities, which are not subject to this Declaration and which are neither Units nor Common Area as defined in this Declaration (hereinafter "adjacent properties"). The owners of such adjacent properties shall not be Members of the Association and shall not be entitled to vote, nor shall they be subject to assessment under Article 8 of this Declaration.

The Association may enter into agreements with the owners or operators of portions of the adjacent properties:

(a) to obligate the owners or operators of such adjacent properties to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties;

(b) to permit use of any recreational and other facilities located on such adjacent properties by the Owners of all Units or by the Owners of Units within specified Villages; and/or

(c) to obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such adjacent properties, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties.

The owners or operators of such adjacent properties shall be subject to assessment by the Association only in accordance with the provisions of such agreement(s). If the Association is obligated to share costs incurred by the owners of such adjacent properties, the Covenant to Share Costs shall provide whether such payments by the Association shall constitute Common Expenses or Village Expenses of the Association. The owners or operators of the adjacent properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.

## **ARTICLE 6: INSURANCE AND CASUALTY LOSSES**

### **6.1. Association Insurance.**

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

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association

or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

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

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth (1/6) of the annual General Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance and fidelity insurance covering Persons responsible for Association funds, and property insurance on insurable improvements.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Village in such amounts and with such coverages as the Owners in such Village may agree upon pursuant to Section 3.3(a). Any such policies shall provide for a certificate of insurance to be furnished to the Village Association or Village Committee, as applicable, and to the Owner of each Unit insured upon request.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment, except that (i) premiums for property insurance obtained on behalf of a Village shall be charged to the Owners of Units within the benefitted Village as a Village Assessment; and (ii) premiums for insurance on Exclusive Common Areas may be included in the Village Assessment of the Village(s) benefitted unless the Board reasonably determines that other treatment of the premiums is appropriate. In the event of an insured loss, the deductible shall be treated as part of a General Assessment or Specific Assessment in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.6.

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

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a).

All insurance coverage obtained by the Board shall:

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

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

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

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

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

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

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

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

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

(vi) a cross liability provision; and

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

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the

property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Voting Delegates representing at least 67% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Village, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may levy Special Assessments, without a vote of the Voting Delegates, to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2. Owners' Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

## **ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY**

7.1. Annexation Without Approval of Membership. Until 25 years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.



Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of Voting Delegates, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

7.2. Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Voting Delegates representing a Majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the written consent of the Declarant so long as Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex Additional Property pursuant to Section 7.1, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Properties. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

7.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Village Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

## **ARTICLE 8: ASSESSMENTS**

8.1. Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Units; (b) Village



Assessments for Village Expenses benefitting only Units within a particular Village or Villages; (c) Special Assessments as described in Section 8.5; and (d) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and fees, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.7. Each such assessment, together with interest, late charges, costs, and reasonable attorneys fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

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

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any Village Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the 15th day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2. Computation of General Assessment. At least 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.4.

General Assessments shall be levied equally against all Units subject to assessment; provided however, that:

(a) the Owner of two contiguous Units, as shown on the final subdivision plat recorded in the Public Records, on which one residential dwelling is constructed which crosses the boundary line separating such Units, shall pay one General Assessment rate equal to one and one-half times the assessment for an individual Unit; and

(b) each Unit shall be assessed at 50% of the General Assessment rate until the first day of the first month following (i) the issuance of a certificate of occupancy for the residential dwelling thereon or (ii) actual occupancy of the Unit, whichever is earlier.

The assessment rate shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

So long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of services and materials, which may be treated as either a contribution, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be conspicuously disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Voting Delegates representing at least 67% of the total Class "A" votes in the Association. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Voting Delegates as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 20 days after delivery of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board shall send a copy of the revised budget to each Owner at least 30 days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3. Computation of Village Assessments. At least 30 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Village Expenses for each Village on whose behalf Village Expenses are expected to be incurred during the coming year. The Board shall

be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a Village Assessment. Any Village may request that additional services or a higher level of services be provided by the Association and, upon approval of Owners in accordance with Section 3.3(a), any additional costs shall be added to such budget. Such budget shall include a contribution establishing a reserve fund for repair and replacement of capital items maintained as a Village Expense, if any, within the Village. Village Expenses shall be allocated equally among all Units within the Village benefitted thereby and levied as a Village Assessment; provided however, if so specified in the Supplemental Declaration applicable to such Village or if so directed by petition signed by a Majority of the Owners within the Village, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Units in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Village Assessment for the coming year to be delivered to each Owner of a Unit in the Village at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by Owners of a Majority of the Units in the Village to which the Village Assessment applies. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Village. This right to disapprove shall only apply to those line items in the Village budget which are attributable to services requested by the Village. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the Owners within any Village disapprove any line item of a Village budget, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget. If the Board fails for any reason to determine a Village budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

8.4. Reserve Budgets. The Board shall annually prepare reserve budgets for capital assets, including without limitation, private improvements such as private streets, private access ways, private alleys, private storm drainage and sanitary sewer facilities within the Area of Common Responsibility (collectively referred to hereafter in this Section 8.4 as "private improvements"). Such reserve budget shall take into account the number and nature of such assets, the expected life of each asset, the expected repair or replacement cost, and expenses associated with maintaining such assets to applicable City of Huntsville standards. The Board shall set the required annual contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budgets, with respect both to amount and timing by annual General Assessments or Village Assessments, as appropriate, over the budget period. In the event any or all of the private improvements are, by an act of the City of Huntsville, Alabama, converted to public status, such funds shall be expended to the extent necessary to cause such improvements to be placed in a condition acceptable to the City of Huntsville.

8.5. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Village if such Special Assessment is for Village Expenses. Special Assessments shall be allocated equally among all Units subject to such Special Assessment. Any Special Assessment shall become effective unless disapproved at a meeting by Voting Delegates representing at least 67% of the total Class "A" votes allocated to Units which will be

subject to such Special Assessment and by the Declarant, so long as the Declarant owns any property which is subject to this Declaration. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Voting Delegates as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 20 days after delivery of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.6. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit or Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit(s) or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, maintenance of irrigation systems, garbage collection services, janitorial service, pest control, internet, intranet and other computer related services, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

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

The Association may also levy a Specific Assessment against the Units within any Village to reimburse the Association for costs incurred in bringing the Village into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules; provided however, the Board shall give prior written notice to the Owners of Units in, or the Voting Delegate representing, the Village and an opportunity for such Owners or Voting Delegate to be heard before levying any such assessment.

8.7. Lien for Assessments. The Association shall have a lien against each Unit to secure payment of delinquent assessments and fees, as well as interest at a rate to be set by the Board (subject to the maximum interest rate limitations of Alabama law), late charges in such amount as the Board may establish (subject to the limitations of Alabama law), costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

The Association may bid for the Unit, at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association. The Association may sue for unpaid

assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.8, including such acquirer, its successors and assigns.

8.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month following the conveyance of the Unit to a Person other than the Declarant or a Builder. The first annual General Assessment and Village Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

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

8.10. Exempt Property. The following property shall be exempt from payment of General Assessments, Village Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;

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

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

8.11. Capitalization of Association. Upon acquisition of record title to a Unit by the first Owner thereof other than the Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-half of the annual General Assessment plus the Village Assessment, if any, per Unit for that year. This amount shall be in addition to, not in lieu of, the annual General Assessment and Village Assessment, and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Unit for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

## ARTICLE 9: ARCHITECTURAL STANDARDS

9.1. General. No structure shall be placed, erected, or installed upon any Unit or adjacent to any Unit where the purpose of the structure is to service such Unit, and no improvements (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) shall take place except in compliance with this Article, and approval of the appropriate committee under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

Any Owner may remodel, paint or redecorate the interior of structures on his Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structures on the Unit shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect or other qualified building designer.

This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association or to improvements to any Private Amenity.

This Article may not be amended without the Declarant's written consent, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

9.2. Architectural Review. Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications under this Article shall be handled by the ARB, the members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the committees in having any application reviewed by architects, engineers or other professionals.

(a) Architectural Review Board. The ARB shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to Owners other than Builders, the Declarant retains the right to appoint all members of the ARB who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion.

(b) Modifications Committee. The Board of Directors may establish a Modifications Committee ("MC") to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Board. If established, the MC shall have jurisdiction over modifications, additions, or alterations made on or to existing structures on Units or containing Units and the adjacent open space. The MC may delegate its authority as to a particular Village to the Village Association, if any, so long as the MC has determined that such Village Association has in force review



and enforcement practices, procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The ARB shall have the right to veto any action taken by the MC or a Village Association which the ARB determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the ARB. Upon expiration of the Declarant's right to appoint the members of the ARB, the MC may be eliminated and its duties assumed by the ARB.

9.3. Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. In addition, the Design Guidelines may contain requirements with respect to wiring and cabling of residential dwellings for internet, intranet and other computer related services. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the committees in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the committees and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ARB. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

Portions of the Properties may be located within "slope zones" as defined and described in the City of Huntsville, Alabama Slope Development District Regulations, and all construction and modifications of Units within any slope zone shall also be subject to such regulations.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the appropriate committee for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the committees may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions of the committees may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as committee members change over time.

In the event that the ARB or MC fails to approve or to disapprove any application within 30 days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.5.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution. The ARB may adopt such policies and procedures as it considers to be necessary or appropriate in connection with guidelines established by or requirements of any governmental authority.

9.4. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.5. Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.6. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the ARB nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.6.

9.7. Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB or MC, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, any authorized agent of the ARB, MC or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Specific Assessment. In addition, the ARB, MC or the Board shall have the right to exercise any means of enforcement set forth in Section 4.3 of this Declaration.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been



obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

Neither the ARB, MC or any member of the foregoing nor the Association, the Declarant, or their officers or directors shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Design Guidelines may be excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB and MC.

#### **ARTICLE 10: USE RESTRICTIONS**

10.1. General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Unit. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for the Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

10.2. Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Members, and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

10.3. Residential Use. All Units shall be used exclusively for residential purposes of a single family. No business, trade, garage sale, moving sale, rummage sale, or similar activity shall be conducted upon a Unit without the prior written consent of the Board. An Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of

consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program.

10.4. Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB or MC, as applicable, except:

- (a) such signs as may be required by legal proceedings; and
- (b) not more than one professional security sign of such size deemed reasonable by the ARB in its sole discretion.

Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Properties, including the Common Area, any Unit, any structure or dwelling located on the Common Area or any Unit (if such sign would be visible from the exterior of such structure or dwelling as determined in the ARB's sole discretion) or within any Private Amenity.

The ARB reserves the right to restrict the size, color, design, lettering and placement of all signs. This provision shall not apply to entry, directional, or other signs installed by the Declarant.

10.5. Vehicles.

(a) Automobiles and non-commercial trucks and vans shall be parked only in the garages or in the driveways, if any, serving the Units unless otherwise approved by the ARB; provided however, the Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. No automobile or non-commercial truck or van may be left upon any portion of the Properties, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on pathways or unpaved Common Area except for public safety vehicles authorized by the Board.

(b) Recreational vehicles shall be parked only in the garages, if any, serving the Units or other hard-surfaced areas which are not visible from the street or Private Amenities. "Visibility" shall be determined by the ARB in its sole discretion. The term "recreational vehicles," as used herein, shall include, without limitation, motor homes, mobile homes, boats, trailers, other towed vehicles, motorcycles, minibikes, scooters, go-carts, golf carts, campers, buses, commercial trucks and vans. Any recreational vehicle parked or stored in violation of this provision in excess of two days shall be considered a nuisance and may be removed from the Properties.

(c) Motorized vehicles shall not be permitted on any bike or pedestrian pathway/trail located within the Properties.

(d) All vehicles shall be subject to such reasonable rules and regulations as the Board of Directors may adopt.

10.6. Leasing. Units may be leased for residential purposes only. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing. The Board may require notice of any lease together with such additional information deemed necessary by the Board.

10.7. Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Design Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned. Fines may be levied against Owners or occupants. If a fine is first levied against an occupant and is not paid timely, the fine may then be levied against the Owner.

10.8. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Unit, with the exception of dogs, cats, or other usual and common household pets in reasonable number, as determined by the Board. All pets shall be reasonably controlled by the owner whenever outside a Unit and shall be kept in such a manner as to not become a nuisance by barking or other acts. The owners of the pet shall be responsible for all of the pet's actions. Pets shall not be permitted on any golf course, in any lake, or within any Private Amenity except in compliance with conditions established by the owner of such Private Amenity. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, they shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3.

10.9. Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Properties, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the ARB, shall be located, installed or maintained upon the exterior of any Unit unless required by law.

10.10. Exterior Structures. No exterior structure of any kind nor any artificial vegetation or sculpture shall be constructed, erected or placed on the outside portion of the Unit, whether such portion is improved or unimproved, except in strict compliance with Article 9. This shall include without limitation, mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage cans; wood piles; swimming pools; wells; window air-conditioning units; hot tubs; antennas; satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; and hedges, walls, dog runs, animal pens, or fences of any kind.

10.11. Streams. No streams which run across any Unit may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in Article 11.

10.12. Prohibited Conditions. The following conditions, structures, or activities are prohibited within the Properties unless prior approval in writing is obtained from the ARB by the Owner or occupant:

(a) Tree Removal. No trees that are more than 6 inches in diameter at a point 2 feet above the ground shall be removed without the prior written consent of the ARB; provided however, any trees, regardless of their diameter, that are located within 10 feet of a drainage area, a septic field, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons;

(b) Lighting. Exterior lighting visible from the street shall not be permitted except for: (i) approved lighting as originally installed on a Unit; (ii) one (1) approved decorative post light; (iii) pathway lighting; (iv) street lights in conformity with an established street lighting program for the Properties; (v) seasonal decorative lights during the usual and common season; or (vi) front house illumination of model homes; and

(c) Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

10.13. Drainage and Grading. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

No Person shall alter the grading of any Unit without prior approval pursuant to Article 9 of this Declaration. The Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

10.14. Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped so as to permit safe sight across such areas.

10.15. Storage of Materials, Garbage, Dumping, Etc. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. The Association may designate central garbage collection areas within the Properties. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff. Owners and occupants may bury biodegradable trash, leaves, debris or other materials in accordance with rules established by the Board.

No lumber, metals, bulk materials, refuse, trash or other similar materials shall be kept, stored, or allowed to accumulate outside the buildings on any Unit, except during the initial construction period of the improvements to the Unit. In addition, during construction the building materials on any Unit shall be placed and kept in an orderly fashion. Any Unit on which construction is in progress shall be policed prior to each weekend and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed.

10.16. Subdivision of Unit. No Unit shall be subdivided or its boundary lines changed after a subdivision plat including such Unit has been approved and filed in the Public Records. Declarant, however, hereby expressly reserves the right to replat any Unit or Units which it or any Builder owns, with the written prior consent of the owner of the Unit or Units affected. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.17. Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board shall have no obligation to take action to prevent or stop such discharge.

10.18. Combustible Liquid. There shall be no storage of gasoline, heating or other fuels, except for a reasonable amount of fuel that may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.19. Occupancy of Unfinished Units. No dwelling erected upon any Unit shall be occupied in any manner before commencement of construction or while in the course of construction, nor at any time prior to the dwelling being fully completed. For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Unit by the appropriate jurisdiction; and (c) construction of a residential dwelling on the Unit has physically commenced beyond site preparation. Completion of a dwelling shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Unit.

10.20. Temporary Structures. Except as may be permitted by the Declarant during initial construction, or the ARB thereafter, no temporary house, dwelling, garage or out building shall be placed or erected on any Unit. No mobile home, trailer home, travel trailer, camper or vehicle commonly known as a "recreational vehicle" shall be stored, parked or otherwise allowed to be placed on a Unit as a temporary or permanent dwelling.

10.21. Lakes and Other Water Bodies. All lakes, ponds, and streams within the Properties, if any, shall be used only in accordance with such rules and regulations as may be adopted and published by the Board. Swimming, boating, fishing, and other active uses of lakes or other bodies of water within the Properties shall be prohibited. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties.

10.22. Wetlands. All areas designated on a recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. If approved, the Association may maintain boardwalks, fishing docks, and crab docks over, around, and in

such wetlands. Notwithstanding anything contained in this paragraph, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

10.23. Golf Course. Owners of Units adjacent to any golf course, as well as their families, tenants, guests, invitees, and pets, shall be obligated to refrain from any actions which would distract from the playing qualities of any golf course adjacent to the Properties. Such prohibited activities shall include, but shall not be limited to, burning materials where the smoke will cross the golf course property, maintenance of dogs or other pets under conditions which interfere with golf course play due to their loud barking or other actions, playing of loud radios, televisions, stereos or musical instruments, running, bicycling, skateboarding, walking or trespassing in any way on the golf course property, picking up balls or similar interference with play. This covenant is for the benefit of any golf course adjacent to the Properties and the owner thereof and persons playing golf on said golf courses and shall be enforceable by the owner of such golf course.

10.24. Standard Mailboxes. All dwellings within the Properties shall have standard mailboxes conforming to postal regulations and the guidelines for such mailboxes adopted by the ARB. The ARB may adopt different standard mailboxes for each Village.

#### **ARTICLE 11: EASEMENTS**

11.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Units, between each Unit and any adjacent Common Area, and between each Unit and any adjacent Private Amenity due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

#### 11.2. Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.



Declarant specifically grants to the local water supplier, electric company, telephone company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable; and hereby grants to the City of Huntsville the right of ingress and egress across the Properties for police and fire protection and other public health and safety purposes as may be necessary.

(b) There is hereby reserved to the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit, and except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3. Easement for Slope Control, Drainage and Waterway Maintenance. The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon each Unit for the purposes of:

- (a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;
- (b) drainage of natural or man-made water flow and water areas from any portion of the Properties;
- (c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit;
- (d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and
- (e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties.

11.4. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for

construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefitting from such easement is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5. Easement for Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents, employees and managers of the Association, any member of its Board or committees, and its officers, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Unit shall be only during reasonable hours and after notice to and permission from the Owner. This easement includes the right to enter any Unit to cure any condition which may increase the risk of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Any entry by the Association or its authorized agents, employees or managers of the Association, any member of its Board or committees, or its officers onto a Unit for the purposes specified herein shall not constitute a trespass.

11.6. Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Unit to (a) perform its maintenance responsibilities under Article 5, and (b) make inspections to ensure compliance with this Declaration, any Supplemental Declaration, By-Laws, Design Guidelines and rules. Except in emergencies, entry onto a Unit shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Association also may enter a Unit to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the By-Laws, the Design Guidelines, or the rules. All costs incurred, including reasonable attorneys fees, may be assessed against the violator as a Specific Assessment.

11.7. Easements for Lake and Pond Maintenance and Flood Water. The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps in order to provide water for the irrigation of any of the Area of Common Responsibility or any Private Amenity; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of any lake, pond, stream, or wetland to the extent reasonably necessary to exercise their rights under this Section.



There is further reserved herein for the benefit of Declarant, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 50 feet of lake beds, ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (a) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (b) to define the limits of any such easements.

11.8. Lateral Support. Every portion of the Common Area, every Unit, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Unit shall be burdened with an easement for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.9. Easements for Private Amenities.

(a) Every Unit and the Common Area and the common property of any Village Association adjacent to any Private Amenity are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Units or common property of a Village and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Village, or the exterior portions of a Unit to retrieve errant golf balls; provided however, if any Unit is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: The Ledges of Huntsville, Ltd., the Declarant, or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of the Private Amenities or their successors, successors-in-title, or assigns; any Builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

(b) The owner(s) of the Private Amenities, their respective successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from bodies of water within the Common Areas, if any, lying reasonably within range of golf balls hit from any golf course within such Private Amenity.

(c) The owner of any Private Amenity within or adjacent to any portion of the Properties, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary to the operation, maintenance, repair and replacement of its Private Amenity.

(d) There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Private Amenities and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities to the extent that the Private Amenities have insufficient parking to accommodate such vehicles.

(e) Any portion of the Properties immediately adjacent to the Private Amenities are hereby burdened with a non-exclusive easement in favor of the adjacent Private Amenities for overspray of water from the irrigation system serving the Private Amenities. Under no circumstances shall the Association or the owner(s) of the Private Amenities be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(f) The Declarant hereby reserves for itself, its successors and assigns, and may assign to the owner(s) of the Private Amenities, an easement to draw water from the lakes and ponds within the Properties for purposes of irrigation of the Private Amenities and for access to and the right to enter upon the lakes and ponds within or adjacent to the Properties, if any, for installation and maintenance of any irrigation systems.

(g) Each Owner of a Unit adjacent to the Private Amenities hereby acknowledges the nature of the easements contained in this Section and any nuisances incidental to the maintenance, operation, and use of, in particular, any golf course.

11.10. Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, its successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

11.11. Easement for Special Events. Declarant hereby reserves for itself, its successors, assigns and designees a perpetual, non-exclusive easement over the Common Area for the purpose of conducting educational, cultural, entertainment, or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.12. Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees, including but not limited to the owner of any Private Amenity, all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Unit, that Declarant shall retain all such rights. Such

right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent.

11.13. Easement for Greenbelt Maintenance.

(a) The Declarant reserves for itself and its successors, assigns, and designees the nonexclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and nondisturbance areas located within the Area of Common Responsibility to remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association, and their designees shall have an access easement over and across any of the Properties abutting or containing any portion of greenbelt, buffer zone or nondisturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and nondisturbance areas shown on any recorded subdivision plat of the Properties is strictly prohibited. Landscaping in these areas is subject to removal in the reasonable discretion of Declarant in the ordinary course of maintenance of these areas. Any landscaping permitted shall be installed in conformance with Article 9 herein. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

(c) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

**ARTICLE 12: MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Unit or the Owner or Occupant which is not cured within 60 days;

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

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

12.2. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least sixty-seven (67%) of the first Mortgagees or Members representing at least sixty-seven (67%) of the total Association vote consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Association owns, directly or indirectly (neither the conveyance of property in accordance with Section 4.2 nor the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall be deemed a transfer within the meaning of this paragraph);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision by the Board, entry into a covenant to share costs, or provisions of a declaration subsequently recorded regarding Specific Assessments for Exclusive Common Area shall not be subject to this provision);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Units and the Common Area (the issuance and amendment of Design Guidelines, architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

12.3. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.4. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

12.5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the

Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.6. Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Alabama law for any of the acts set out in this Article.

### **ARTICLE 13: DECLARANT'S RIGHTS**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

The Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Properties such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 25 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

### **ARTICLE 14: PRIVATE AMENITIES**

14.1. General. Neither membership in the Association nor ownership or occupancy of a Unit shall confer any ownership interest in or right to use any Private Amenity. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the respective owners of the Private Amenities. The owners of the Private Amenities

shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with their respective members.

14.2. Conveyance of Private Amenities. All Persons, including all Owners, are hereby advised that no representations or warranties have been or are made by the Declarant, the Association, any Builder, or by any Person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of any Private Amenity, and no purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Private Amenity. Further, the ownership or operation of the Private Amenities may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of any Private Amenity by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby the members of the Private Amenity or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Private Amenity; or (c) the conveyance of any Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Village Association, any Voting Delegate, or any Owner shall be required to effectuate any change in ownership or operation of any Private Amenity, for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

14.3. View Impairment. Neither the Declarant, the Association, nor the owner of any Private Amenity, guarantees or represents that any view over and across any Private Amenity, the Common Area or any public facilities from Units will be preserved without impairment. The owners of such property, shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in their sole and absolute discretion, to add trees and other landscaping to the Private Amenities, the Common Area or the public facilities from time to time. In addition, the owner of any Private Amenity which includes a golf course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

14.4. Golf Course. By acceptance of a deed to any Unit, each Owner acknowledges and agrees that owning property adjacent to a golf course has benefits as well as detriments and that the detriments include: (a) the risk of damage to property or injury to persons and animals from golf balls which are hit onto an Owner's Unit or other portion of the Properties or arising from the design, construction, operation, maintenance and/or use of the golf course; (b) the entry by golfers onto an Owner's Unit or other portion of the Properties utilized by the Owner to retrieve golf balls and/or other acts or omissions of persons using the golf course; (c) overspray in connection with the watering of the roughs, fairways and greens on the golf course; (d) noise from golf course maintenance and operation equipment (including, without limitation, compressors, blowers, mulches, tractors, utility vehicles and pumps, all of which may be operated at all times of the day and night and/or continuously); (e) odors arising from irrigation and fertilization of the turf situated on the golf course; (f) disturbance and loss of privacy resulting from golf cart traffic and golfers; and (g) the existence of water hazards, ponds, and/or lakes on the golf course. Additionally each Owner acknowledges that pesticides and chemicals may be applied to the golf course throughout the year and that reclaimed water, treated waste water or other sources of non-potable water may be used for irrigation of the golf course.

Each Owner hereby assumes such risks of owning property adjacent to a golf course and forever waives and relinquishes, and agrees not to institute any action or suit at law or in equity nor to institute or prosecute, any claim, demand or compensation against The Ledges of Huntsville, Ltd., Huntsville Mountain Partners, L.L.C., the Declarant, or any successor Declarant; the Association or its Members (in their capacity as such); the owner(s) of any golf course or their successors, successors-in-title, or assigns; any officer, director or partner of any of the foregoing; nor any officer or director of any partner of any of the foregoing for or on account of any damages, loss, or injury either to person or property, or both, resulting directly or indirectly from the design, construction, operation, maintenance and/or use of the golf course. Each Owner hereby agrees to take any necessary steps to maintain adequate hazard and other insurance policies to protect such Owner and such Owner's family, guests, invitees, agents and employees against all such risks associated with the golf course.

14.5. Rights of Access and Parking. There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Private Amenities and over those portions of the Properties (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and guests and invitees of the Private Amenities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities to the extent that the Private Amenity has insufficient parking to accommodate such vehicles.

14.6. Covenant to Share Costs. The Association may enter into a contractual arrangement or Covenant to Share Costs with any Private Amenity obligating the Private Amenity or the Association to contribute funds for, among other things, shared property or services and/or a higher level of Common Area maintenance.

14.7. Architectural Control. Neither the Association, nor any committee thereof, shall approve or permit any construction, addition, alteration, change, or installation on or to any portion of the Properties which is adjacent to, or otherwise in the direct line of sight of, any Private Amenity without giving the Private Amenity at least 15 days' prior written notice of its intent to approve or permit the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have 15 days to approve or disapprove the proposal in writing delivered to the appropriate committee or Association, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area.

14.8. Use Restrictions. Upon request of the owner of any Private Amenity, the Association shall enforce its use restrictions and rules against any Owner or occupant violating such regulations within such Private Amenity, including but not limited to the exercise of the Association's self-help rights for violation of sign and pet restrictions.

14.9. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenity, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the



written approval of the owner(s) of the Private Amenity. The foregoing shall not apply, however, to amendments made by the Declarant.

14.10. Jurisdiction and Cooperation. It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. The Association shall have no power to promulgate use restrictions or rules affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

## ARTICLE 15: GENERAL PROVISIONS

15.1. Duration. Unless otherwise limited by Alabama law, this Declaration shall have perpetual duration. If Alabama law hereafter limits the period during which covenants may run with the land, then, unless terminated as provided herein or, if such termination method is not consistent with Alabama law, in such other manner as required by Alabama law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

### 15.2. Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent in writing. In addition, so long as the Declarant owns property which is subject to this Declaration or which may be unilaterally subjected to the Declaration by the Declarant, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 67% of the total Class "A" votes in the Association, including 67% of the Class "A" votes held by Members other than the Declarant, and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.



(c) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

15.4. Dispute Resolution. It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

15.5. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 75% of the Voting Delegates. A Voting Delegate representing Units owned by Persons other than himself or herself shall not vote in favor of bringing or prosecuting any such proceeding unless authorized to do so by a vote of Owners holding 75% of the total votes attributable to Units in the Village represented by the Voting Delegate. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

15.6. Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the

terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

15.7. Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted in this Declaration.

15.8. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any Village, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any Village; provided however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and use restrictions and rules of the Association shall prevail over those of any Village. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

15.9. Use of Logo and the Words "The Ledges". No Person shall use any logo associated with the Properties or the words "The Ledges" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the term "The Ledges" in printed or promotional matter where such term is used solely to specify that particular property is located within The Ledges and the Association and any other community association located in The Ledges shall be entitled to use the words "The Ledges" in its name.

15.10. Compliance. Every Owner and occupant of any Unit shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

The Declarant and the Association shall, at all times, observe the planned development-housing district (PD-H) regulations established by the City of Huntsville pursuant to Ordinance No. 97-889A as such may be amended from time to time. In no event shall this Declaration be amended or any obligation imposed by the Declaration be withdrawn so as to affect the maintenance responsibilities imposed by law or ordinance. The Declarant and Association shall, at all times, observe the planned development-housing district (PD-H) regulations established by the City of Huntsville pursuant to Ordinance No. 97-889A, as such may be amended from time to time. In no event, language contained in this Declaration to the contrary notwithstanding, shall this Declaration be amended or any obligation imposed by the Declaration be withdrawn so as to affect the maintenance responsibilities imposed by law or ordinance, the easement rights granted to the City of Huntsville by Section 11.2(a), the indemnification provision found at Section 4.6.1, and the obligations established in Section 8.4 relative to reserve budgets and the expenditure of funds, without the consent of the City of Huntsville, Alabama.

15.11. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

15.12. Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 15.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 25 day of June, 1999.

THE LEDGES OF HUNTSVILLE, LTD., an Alabama limited partnership

By: Huntsville Mountain Partners, L.L.C., a Georgia limited liability company, its sole General Partner

By: 

John D. Blue  
Manager

By: 

Charles Grelier, Sr.  
Manager

By: 

Maximilian J. Grelier  
Manager

CONSTITUTING ALL OF ITS MEMBERS AND MANAGERS



STATE OF ALABAMA        )  
                                  )  
COUNTY OF MADISON     )        SS

I, a Notary Public in and for said County, in said State, hereby certify that John D. Blue, Charles Grelier, Sr. and Maximilian J. Grelier constituting all of the members and managers of Huntsville Mountain Partners, L.L.C., the sole General Partner of The Ledges of Huntsville, Ltd., an Alabama limited partnership, signed the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they as such officers and with full authority executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this 5 day of July, 1999  
Milly Roberts  
Notary Public  
My Commission Expires: 11-16-99



**EXHIBIT "A"**

**Land Initially Submitted**

All those certain tracts or parcels of land lying and being in Sections 21, 22 and 23 of Madison County, Alabama, shown on the following plats:

Final Plat of Cumberland Estates, a Resubdivision of a part of Lot 2 of The Ledges of Huntsville Mountain, a Resubdivision of a Part of Lots 1 & 2 of The Ledges of Huntsville Mountain, as prepared by Chynoweth, Somers & Kennedy, Inc. dated March 18, 1999, recorded on July 9, 1999, in Plat Book 38, Page 53 in the Office of the Probate Judge for Madison County, Alabama.

TOGETHER WITH:

Final Plat of Crest Park, First Addition, a Resubdivision of a Part of Lot 2 of The Ledges of Huntsville Mountain, a Resubdivision of a Part of Lots 1 & 2 of The Ledges of Huntsville Mountain, as prepared by Chynoweth, Somers & Kennedy, Inc., dated March 3, 1999, recorded on July 9, 1999, in Plat Book 38, Page 49+50 in the Office of the Probate Judge for Madison County, Alabama.

TOGETHER WITH:

Final Plat of Crest Park, Second Addition, a Resubdivision of a Part of Lot 2 of The Ledges of Huntsville Mountain, a Resubdivision of a Part of Lots 1 & 2 of The Ledges of Huntsville Mountain, as prepared by Chynoweth, Somers & Kennedy, Inc., dated May 10, 1999, recorded on July 9, 1999, in Plat Book 38, Page 51+52 in the Office of the Probate Judge for Madison County, Alabama.

TOGETHER WITH:

Final Plat of The Highlands, a Resubdivision of a Part of Lot 2 of The Ledges of Huntsville Mountain, a Resubdivision of a Part of Lots 1 & 2 of The Ledges of Huntsville Mountain, as prepared by Chynoweth, Somers & Kennedy, Inc., dated February 19, 1999, recorded on July 9, 1999, in Plat Book 38, Page 54, in the Office of the Probate Judge for Madison County, Alabama.





**EXHIBIT "B"**

**Land Subject to Annexation**

Any real property located in Sections 15, 16, 21, 22, 27 or 28 of Madison County, Alabama.



**BY-LAWS**  
**OF**  
**THE LEDGES**  
**COMMUNITY ASSOCIATION, INC.**



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## BY-LAWS

### OF

## THE LEDGES COMMUNITY ASSOCIATION, INC.

### ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is The Ledges Community Association, Inc. (the "Association"), an Alabama nonprofit corporation.

1.2. Principal Office. The principal office of the Association shall be located in Madison County, Alabama. The Association may have such other offices, either within or outside the State of Alabama, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for The Ledges filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

### ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Voting Delegates and the Members as the Board may designate, either within the Properties or as convenient as possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3. Annual Meetings. The annual meeting of the Association shall be held as set by the Board.

2.4. Special Meetings. The president or the Board may call special meetings. In addition, it shall be the duty of the president to call a special meeting if so directed by resolution of the Board or upon a petition signed by Voting Delegates representing at least 10% of the total Class "A" votes in the Association.

2.5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Voting Delegates shall be delivered, either personally or by mail, to each Voting Delegate entitled to vote at such meeting, not less than 10 nor more than 50 days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Delegate at such Voting Delegate's address as it appears on the records of the Association, with postage prepaid.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Voting Delegates shall be deemed the equivalent of proper notice. Any Voting Delegate may, in writing, waive notice of any meeting of the Voting Delegates, either before or after such meeting. Attendance at a meeting by a Voting Delegate shall be deemed a waiver by such Voting Delegate of any objection as to notice of the time, date, and place thereof, unless such Voting Delegate specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Voting Delegates representing a Majority of the votes present at such meeting may adjourn the meeting to a time not less than 5 nor more than 20 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Delegates in the manner prescribed for regular meetings.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference.

2.9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Voting Delegates entitled to notice of such meeting. The list shall show the address of the Voting Delegate and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Alabama law.

2.10. Proxies. A Voting Delegate entitled to cast the votes for all Units within such delegates' Village may not assign the right to cast such votes by proxy, but may cast such votes only in person or through such Voting Delegate's designated alternate. Any Member who is entitled to cast only the vote(s) for such Member's Unit(s) pursuant to Section 3.2 of the Declaration may cast such vote in person or by proxy. On any matter as to which a Member is entitled to personally cast the vote for such Member's Unit, such vote may be cast in person (if a corporation, partnership or trust, through any officer, director, partner or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Alabama law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or 11 months from the date of the proxy, unless a shorter period is specified in the proxy.



2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Voting Delegates representing a Majority of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association.

The Voting Delegates present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Delegates to leave less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

2.12. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Voting Delegates may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Voting Delegates entitled to vote on such matter. Such consents shall be signed within 60 days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Alabama. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Voting Delegates at a meeting. Within 10 days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

### **ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS**

#### **A. Composition and Selection**

3.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Unit may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Unit is delinquent. A "resident" shall be any natural person 18 years of age or older whose principal residence is a Unit within the Properties. In the case of a Member which is not a natural person, any officer, director, partner, member, employee, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by or serving as a representative of the Class "B" Member or the Declarant.

3.2. Number of Directors. The Board shall consist of three to five directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors appointed by the Class "B" Member as provided in Section 3.3.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period. Directors appointed by or serving

as a representative of the Class "B" Member or the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

**3.4. Nomination and Election Procedures.**

(a) **Nomination of Directors.** The Board may establish a nominating committee consisting of a chairperson, who shall be a member of the Board, and three or more Members or representatives of Members. If established, the nominating committee shall be appointed by the Board not less than 30 days prior to each election to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such election. A nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.5 below. The nominating committee shall nominate separate slates for the directors, if any, to be elected at large by all Class "A" votes, and for the director(s) to be elected by the votes within each Voting Group. In making its nominations, a nominating committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Nominations shall also be permitted from the floor at a meeting of the Voting Delegates. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed by or serving as a representative of the Class "B" Member or the Declarant shall not be subject to these nomination requirements.

(b) **Election Procedures.** Each Voting Delegate may cast all votes assigned to the Units which such Voting Delegate represents for each position to be filled from the slate of candidates on which such Voting Delegate is entitled to vote. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

**3.5. Election and Term of Office.** Notwithstanding any other provision of these By-Laws:

(a) Upon the earlier of three (3) years from the date of recording of the Declaration or thirty (30) days after the time that fifty percent (50%) of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders, the Association shall hold an election at which the Class "A" Members shall elect one (1) of the three (3) directors, who shall be an at-large director and shall serve a term of two (2) years or until the occurrence of the event described in subsection (b), whichever is shorter. If such director's term expires prior to the occurrence of the event described in subsection (b), a successor shall be elected for a like term. The remaining two (2) directors shall be appointees of the Class "B" Member.

(b) Within ninety (90) days after termination of the Class "B" Control Period, the Board shall be increased to five (5) directors. The Association shall hold an election at which the Voting Delegates shall elect four (4) of the five (5) directors, who shall serve as at-large directors and shall serve a term of two years. The remaining director shall be an appointee of the Class "B" Member.

(c) Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint one (1) director. Upon termination of the Class "B" membership, the director appointed by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve

until the next annual meeting, at which time the Voting Delegates shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two (2) years.

Upon the expiration of the term of office of each director elected by the Voting Delegates, the Voting Delegates entitled to elect such director shall be entitled to elect a successor to serve a term of two (2) years. The directors elected by the Voting Delegates shall hold office until their respective successors have been elected.

3.6. Removal of Directors and Vacancies. Any director elected by the Voting Delegates may be removed, with or without cause, by Voting Delegates representing a Majority of the votes entitled to be cast for the election of such director, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Voting Delegates entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by the Voting Delegates who has three or more consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates entitled to fill such directorship may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Voting Delegates entitled to fill such directorship may elect a successor for the remainder of the term.

Any director that the Board appoints shall be selected from among Members and residents within the Voting Group represented by the director who vacated the position.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

#### B. Meetings.

3.7. Organizational Meetings. The Board shall hold its first meeting within 10 days following each annual meeting of the membership at such time and place as the Board shall set.

3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one such meeting shall be held during each quarter.

3.9. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two directors.

3.10. Notice. Notice of the time and place of a regular meeting shall be communicated to directors not less than four calendar days prior to the meeting. Notice of the time and place of a special

meeting shall be communicated to directors not less than 72 hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid or (g) electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal delivery, telephone, telecopier, telegraph, electronic mail, or e-mail, or overnight or courier service shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed, or given to the telegraph company.

3.11. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.13. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than 5 nor more than 20 days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.14. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Voting Delegates representing a Majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director

pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board of Directors, excluding the interested director.

3.15. Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.16. Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Voting Delegates and, if required by law, all Owners, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a director. In such case, the president may limit the time any individual may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

3.17. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

#### C. Powers and Duties.

3.18. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or Alabama law do not direct to be done and exercised exclusively by the Voting Delegates or the membership generally.

3.19. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses and any Village Expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

- (f) making and amending rules in accordance with the Declaration;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;
- (i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying the cost of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;
- (o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required by Alabama law, the Articles of Incorporation or the Declaration; and
- (p) assisting in the resolution of disputes between Owners and others without litigation as set forth in the Declaration.

3.20. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, or interfere with development of or construction on any portion of the Properties, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the secretary of the Association, which notice complies with Section 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Class "B" Member may waive its right to receive notice in the same manner as provided in Section 3.11; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.21. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority or those duties set forth in Sections 3.19(a), 3.19(b), 3.19(f), 3.19(g) and 3.19(i). The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.22. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board;



(f) commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly (such financial statements shall include an income statement reflecting all income and expense activity for the preceding period on a cash or accrual basis and may include such other reports as deemed necessary by the Board); and

(g) an annual financial report shall be made available to all Members within 120 days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines; provided however, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

3.23. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, the Board shall obtain Voting Delegate approval in the same manner provided in Section 8.5 of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year.

3.24. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or Village and other owners or residents associations, within and outside the Properties; provided, any common management agreement shall require the consent of a Majority of the total number of directors of the Association.

3.25. Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within 15 days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within 15 days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the 15-day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

(b) Hearing. If a hearing is requested within the allotted 15-day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The



notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within 15 days after the hearing date.

#### **ARTICLE 4: OFFICERS**

4.1. Officers. The officers of the Association shall be a president, vice president, secretary, and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more assistant secretaries and one or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of president and secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Voting Delegates, to serve until their successors are elected.

4.3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Voting Delegates, Members and the Board and for authenticating records of the Association.

4.5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

## ARTICLE 5: COMMITTEES

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. No committee appointed by the Board shall be empowered to take any affirmative action without the consent of the Board.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee consisting of at least three and no more than five Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.25 of these By-Laws.

5.3. Village Committees. In addition to any other committees appointed as provided above, each Village which has no formal organizational structure or association may elect a Village Committee to determine the nature and extent of services, if any, to be provided to the Village by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Village Committee may advise the Board on any other issue, but shall not have the authority to bind the Board. Such Village Committees, if elected, shall consist of three to five Members, as determined by the vote of at least a Majority of the Owners of Units within the Village.

Village Committee members shall be elected for a term of one year or until their successors are elected. Any director elected to the Board of Directors from a Village shall be an ex officio member of the Village Committee. The Village Committee shall elect a chairperson who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Village Committee shall abide by the meeting, notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11. Meetings of a Village Committee shall be open to all Owners of Units in the Village and their representatives; provided however, a Village Committee may act by unanimous written consent in lieu of a meeting.

5.4. Advisory Board. During the Class "B" Control Period, the Board may establish an advisory board to advise the Board and to act as liaison between the Board and the Members. The advisory board, if established, shall be composed of three to five members. The initial members of the advisory board shall be appointed by the Board. The terms of such initial members shall be staggered with two of the members appointed for a term of three years, two of the members elected for a term of two years, and one of the members elected for a term of one year. Thereafter, the members of the advisory board shall be elected by the Voting Delegates at each annual meeting of the Association and shall be elected to serve for three year terms.

## ARTICLE 6: MISCELLANEOUS

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with Alabama law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3. Conflicts. If there are conflicts between the provisions of Alabama law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Alabama law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, including any amendments, the rules of the Association and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate.

(b) Rules for Inspection. The Board shall establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5. Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, or other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member or Voting Delegate, at the address which the Member or Voting Delegate has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Unit of such Member or Voting Delegate; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

6.6. Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. In addition, so long as the Declarant owns any property which is subject to the Declaration or which may be unilaterally subjected to the Declaration by Declarant, it may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Delegates representing 67% of the total Class "A" votes in the Association, and the written consent of the Declarant, so long as Declarant owns any property which is subject to the Declaration or which may be unilaterally subjected to the Declaration by Declarant. In addition, the approval requirements set forth in Article 12 of the Declaration shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of The Ledges Community Association, Inc., an Alabama nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_[SEAL]  
Secretary



4. THE LEDGES COMMUNITY  
ASSOCIATION, INC.

ESTIMATED BUDGET

Addendum:

Separate Document  
See Homeowner's Association





*Architectural Review Board*

*Guidelines & Procedures*

*June 26, 1997*



## **ARCHITECTURAL REVIEW**

### **The Ledges of Huntsville Mountain**

A panoramic mountain view with natural rolling terrain, oaks, hickory, abundant mountain laurel, huckleberry and native dogwoods create the natural setting for The Ledges of Huntsville Mountain. These features combined with a Dr. Michael Hurdzan designed golf course, a magnificent club and sports center, make the Ledges one of the finest residential and recreational communities in the Region.

Great care has been taken in the planning, design and construction phases to insure aesthetic harmony within the Ledges. Accordingly, it is of the utmost importance that this special character not be compromised by housing designs which are improperly conceived, unresolved or poorly executed. By encouraging quality and attention to detail throughout the community, the aesthetic harmony, natural tranquility and overall property values at the Ledges will be enhanced and preserved to promote these goals.

Architectural Design and Landscape Guidelines have been established to provide property owners, architects, designers and their contractors with parameters for the preparation of drawings and specifications for materials and methods. The architectural review process has been established to review individual building and landscape plans. The Architectural Review Board reviews all submittals and critiques all construction projects within the community for:

Site Development  
Architectural Design  
Landscape/Streetscape Design

**The Board's goal is to maintain within the overall community pleasing aesthetic relationships of building to site and building to building, and not to restrict individual creativity or preferences.**

**\* Architectural Guidelines are subject to change from time-to-time. Guidelines in effect at the time plans are submitted will be applied.**



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**Appendix F: Building Construction Application and Agreement**



## **Architectural Review Board Information**

The Architectural Review Board will be composed of two registered architects, the Ledges Association property owner director, and two Ledges property owner's representatives. The Board has developed the Architectural Design Guidelines in Appendix A. **The Guidelines must be followed by owners, designers and builders of projects at Ledges.** The authority to approve or disapprove site, architectural design, and landscape plans is provided by the recorded Declaration of Restrictions and Covenants.

## **Preapplication Procedures**

Compliance with all governmental and community regulations is the obligation of the property owner.

- The property owner should familiarize himself and his building team with the Architectural Pattern Book (Design Guidelines).

## **Design Review Procedures**

The Architectural Review Board will meet once a month to review submitted plans. Plans for review may be submitted to the Architectural Review Board Coordinator at the Ledges Office **no later than 5:00 pm on the Monday prior to the next scheduled meeting.** Please call the Board Coordinator at (256) 883-0860 for the date of the next meeting.

All submittals are to be delivered to the Ledges Main Office at:

The Ledges Architectural Review Board  
32 Castle Down Drive  
Huntsville, Alabama 35803  
Attn: Architectural Review Board Coordinator





## **ARCHITECTURAL DESIGN GUIDELINES APPENDIX A**

### **Architectural Styles**

The goal of these guidelines is to encourage a community of individual well designed residences that when viewed together produce an outstanding community environment. The architectural designs should be customized for each lot to reinforce the natural features that exist. To date the Ledges community includes planned residences in traditional styles such as Georgian, Southern Colonial, Southern Vernacular, Victorian, Greek Revival or French Country. Quality design and construction are the focus of these guidelines within the context of the owner's selection of architectural style.

### **Good Design**

It is desirable for homes of the Ledges community to exhibit the individuality of their owners as well as to adhere to the Guidelines within the context of the selected architectural style. However, it is also important to observe basic principles inherent in good design. Following are some of the questions that the property owner and design team should consider when developing the design for the homesite:

- Is the residence located on the site in a sensitive manner with minimum disruption to the natural topography, vegetation, and unique site features?
- Is there consistency in the site planning, architecture, and landscaping?
- Is there a sensitive interpretation of the architectural style within the context of the site?
- Are the specific features of the architectural style well developed and carefully detailed?
- Is there a consistent scale used throughout the design of the residence?
- Will the various building materials allow for a pleasing and harmonious exterior appearance?
- Are the building materials selected appropriate to this area and detailed to insure lasting construction?
- Are the colors appropriate and used with restraint?
- Does the floor plan accommodate every aspect of the owner's lifestyle?
- Does the plan provide privacy and screening from neighbors? Privacy and screening from neighbors is especially mandated for villa sites.
- Does the design of the residence take into account the regional climate including sun, prevailing breezes as well as occasional heavy winds and rain?

### **Site Development Planning**

The siting of the house is a critical and important design decision. The site plan concept developed for each homeowner should reflect functional needs but also be sensitive to the individual site's unique characteristics as well as the surrounding community. The larger lots and open vistas of our community and golf course mean the residences will be seen from many different angles and viewpoints. It is therefore important that the siting and three dimensional character of each home be carefully studied.

In order to accurately assess the design opportunities of each homesite, an individual site survey must be conducted. The site survey should determine the site's topography, locate significant trees, and pinpoint unique site characteristics. While the site survey is being conducted, a study of the design opportunities of the site should also be taken. This site analysis involves walking the site, locating the best views to and from the site; relationships to adjacent homesites and structures; dominant solar orientation, prevailing breezes, soil conditions, vegetation type and quality, and any other special site features worth noting. During the site analysis, an understanding of the existing terrain should be developed so that the proposed site structures and their elevations can be designed in relation to the existing terrain. With the information provided by the detailed site analysis, the design team can effectively optimize the design opportunities of the site.

### **Building Setbacks & Easements**

Minimum standards for building setbacks for various types of residential structures have been established by Urban Design Associates, Inc., the Developer and the City of Huntsville Planning Department.

Landscaping and the building of driveways or screen walls within utility easements are permissible but it is the responsibility of the property owner to remove these elements for access to utilities if needed in the future. The required building set back distances are defined in Pattern Book/Design Guidelines.

**Approval by the Board must be received in writing prior to the start of any clearing, grading or construction.** The review procedure has been structured to achieve a smooth and timely review from preliminary plan submittal to final site inspection and approval.

The review procedure is as follows:

Conceptual Design Review (optional)  
Preliminary Design Review  
Final Plan Review  
Site Inspections  
Landscape/Irrigation Design Review  
Final Inspection

### **Conceptual Design Review Submittal**

**This is an optional review available for property owners who are not sure if the design of the house will be acceptable at Ledges.** It is suggested that property owners develop a preliminary sketch of the elevations, site plan and any other information that may assist the Board in evaluating the concept and appearance. If the Board decides that the scale, size and overall tenor will be harmonious within the community, one should then begin the design review process. Two (2) copies of the sketches and information suggested above would be most useful when submitted for review.

### **Preliminary Design Review Submittal**

The preliminary design review is helpful in providing information and correcting problems before unnecessary time and effort are spent on final design plans. **The preliminary review submittal is mandatory and shall contain the following:**

- An architectural checklist/Outline Specification (Appendix C) completed with as much information as is available at the time.
- A site plan which shows the building outline and edges of adjacent buildings, existing trees, driveways, walks, topographic information, easements, screening and setbacks on the lot.
- Floor plans which are coordinated with the site plan and show the arrangement of spaces, all door and window openings, and all porches, terraces and courtyards.
- A preliminary exterior wall section which shows the basic method of construction including floor to floor height, exterior details such as the construction of the wall at ground level, window sills, window heads, soffits and fascias. If a gutter is to be used it also should be shown.
- Elevations of all sides noting all exterior materials generically (e.g. wood roof shingles, stucco, brick, etc.).

- **The Board will require that the proposed building is staked in accordance with the Site Inspection section of the guidelines.** The Review Board will inspect the staking to review the proposed building's proximity to adjacent homes and properties.

**Three copies of the drawings and checklist outlined above must be submitted for this review. More specific descriptions of the information needed on the drawings are listed in Appendix B, Architectural Drawing Requirements.**

### **Final Design Review Submittal**

After receiving the Board's approval of the preliminary submittal, the drawings shall be refined to address the Architectural Review Board's comments. Refer to the Architectural Drawing Requirements (Appendix B) for additional information required in this submittal. Also, one set of color samples and building material samples representing the exterior parts of the project, and more specifically, the elements listed in the architectural checklist (Appendix C), are to be submitted with the final plans and specifications.

### **Landscape/Irrigation Design Review Submittal**

Landscape and irrigation plans should be submitted for review and approval within sixty (60) days after starting construction. Three (3) sets of plans are required to be submitted.

### **Architectural Review Fee**

The Architectural Review Board charges a fee of \$1,000 for the review process. The fee is due with the final submittal. Please make checks payable to "The Ledges Association, Inc." with a notation of owner and lot location.

### **Building Construction Application and Agreement**

- The Building Construction Application and Agreement must be executed by all parties prior to final approval and beginning construction. See Appendix F.

### **Resubmittals**

Design that does not recognize the goals in the Design Guidelines may require extensive modification and will necessitate resubmittals. The Architectural Review Board will describe the problems found in these submittals. The property owner and designer will be responsible for the new design solutions.

## **Building Design**

### **Building Size**

The square footage requirements for the Villas, Cottages and Estate owners will be determined on lot by lot basis pursuant to provisions outlined in the Pattern Book and subject to Architectural Review Board approval.

### **Exterior Elevations**

Front, sides and rear elevations shall be detailed consistently including elements such as water tables, quoins, trimwork and beltcourses.

### **Exterior Detailing:**

Refer to Pattern Book (Design Guidelines) for information on Architectural styles and detailing. In addition to those guidelines the following requirements must be met:

All windows will be energy efficient thermal glass, warranted factory units. Exterior storm windows will not be permitted.

Muntin grids, the grids must be permanent and constructed of full profile (minimum 7/8" width, minimum 3/8" projection) muntin bars (true divided light or simulated true divided light). Muntin grid patterns must remain uniform from window to window. Shifts in grid alignment of similar type will not be permitted.

Assorted window styles will be discouraged on an individual home (i.e., cathedral fan arches mixed with flat spring arches). Only custom, feature, view windows will be allowed to remain muntinless.

Skylights must not be located on street elevations. Skylights must be of the flat glass type. All skylight glass shall be laminated safety glass/tempered glass panels. Dormers are preferred to skylights.

Fireplaces and chimneys shall be masonry rather than metal type.

### **Entry**

The main entrance should have a sense of prominence that is reflected in the design. The entry shall be sheltered on the exterior and include a pair of doors or a single door of substantial scale with sidelights if compatible with the overall design of the residence. The main entry should contain more detail than other openings but remain consistent in styling. Acceptable front walkway materials include: natural stone, brick or concrete pavers, concrete if it is bordered and subdivided by other materials, exposed aggregate concrete, and colored concrete, as approved by Board.

### Windows and Doors

Windows and doors should reflect restraint in the number of types, styles and sizes. All openings should be articulated with the use of flat or arched lintels, projecting sills or surrounds. If shutters are used, only real operable shutters are acceptable with the appropriately designed hardware. Bay windows are to be carried down to grade or express visual support of a cantilevered condition.

### Roofs

Roof forms should be well organized and demonstrate the same character on all sides of the residence. The main roof shall be pitched and shall be consistent with the architectural style of the residence. Main roofs shall be gabled, hipped or a combination. Ancillary roofs may be hipped, gabled, shed or flat, if appropriate. Eaves and rakes should be articulated by multiple fascia boards, friezes, cove and crown molds, appropriately proportioned to the residence. All roof edge trim shall be wood or EIFS for cornice to simulate limestone.

Gutters, if used, shall match the fascia trim in color or shall be copper. Downspouts shall match exterior finish wall color or shall be copper. All soffit and trims shall be wood. Returns of gable end fascias and friezes shall receive copper flashing for protection. Shingles of any type shall not be used in these areas. All roof penetrations such as attic, and plumbing vents, etc. should be painted to match the roof color. Every attempt shall be made to locate all roof vents on least exposed sides of the roof to the street or golf course. Cedar shingles or shakes, color clay or cement tiles, natural or simulated slate, copper, asphalt shingles, standing seams and 5V metal roofing are acceptable. In rare design circumstances, other specialty materials may be approved. Flue pipes are required to be encased with a chimney enclosure of wall materials used on the exterior of the house and supported by a foundation at grade when located on an exterior wall.

### Terraces and Decks

First floor outdoor living spaces elevated above the natural grade must be terraces, not decks, constructed with terrace retaining walls if necessary. Terrace walls shall match or shall be compatible with exterior materials and detailing of the residence. Terrace floor finish materials shall be brick, stone masonry or a wood frame deck may be within and supported by the terrace walls. Upper level decks and porches shall incorporate materials which relate to the residence. All railings shall be designed to insure safety and shall be consistent with the architectural style of the residence. Submittal of handrail details is required.

### Garages

Only side loading or rear loading garages shall be allowed for single family homes at Ledges. Front loading garages ~~are not~~ allowed. A two bay garage with remote/automatic door closures for all entry doors is required. For side loading garages, the Architectural Review Board requires adequate screening using either landscaping, a wall, fencing or a combination of these. Please indicate on the building elevations and the architectural checklist the intended garage door material, color and finish.

*must be  
screened  
from street*

### Driveways

Driveway placement shall not run along the property line and must allow room for landscaping and irrigation (minimum two feet from property line). Guest or visitor parking area for at least two vehicles shall be provided and defined. The Board shall consider hardship cases.

Acceptable driveway materials include peagravel, brick or concrete pavers, cobblestones, and cast-in-place concrete, exposed aggregate or colored concrete which must be bordered and subdivided by other material to counter their plain monolithic appearance. Concrete with an exposed material such as pebblerock would also be acceptable. Concrete strips of sufficient tire width with grass cover in between will be allowed.

Careful consideration should be given to subdividing the driveway in sections (approximately 150 square feet) using treated landscape timbers, brick or concrete pavers, or cobblestones to add detail and definition to the driveway.

Asphalt driveways are not permitted. Ledges will require that a 6" PVC sleeve be installed under the driveway at the street for future utility use.

### Landscape Walls and Screens

Walls shall be considered as an extension of the architecture of the residence and a transition of the architectural mass to the natural forms of the site. All walls shall be designed to be compatible with the total surrounding environment and not block views of natural areas. Special consideration should be given to the design, placement, impact, maintenance, landscaping and views of both sides of the wall from neighboring homesites. Walls should be considered as design elements to enclose and define courtyards, pools and other private spaces, provide security and relate building forms to the landscape. Masonry walls within 10' of property lines shall be equally finished on both sides.

It is recommended that walls be constructed of solid masonry or wrought iron with columns, using the same materials as found in the architecture of the residence.

Mechanical equipment and trash must be concealed with walls, or landscape screening.

Retaining walls connecting to the house must be faced with the finish of the residence's exterior walls. Stacked stone is allowed

Screens shall be used in limited lengths and only where appropriate. Prefab wood, split rail, chain link, or welded wire fencing shall not be permitted.

Construction details and locations of all walls must have Architectural Review Board approval prior to construction.

### Pools, Therapy Pools and Spas

The size, shape and siting of pools must be carefully designed to achieve a feeling of compatibility with the surrounding natural and man-made environment.

Pool decks may encroach into the setback area if within two feet (2') of grade and no closer than five feet (5') to any property line. No encroachment is permitted into a golf course easement. Pool and equipment enclosures must be architecturally related to the residence and other structures in their placement, mass and detail. They must be screened or treated so as not to harm adjoining property owners because of noise or view.

### **Exterior Lighting**

The location, placement and direction of lighting should enhance the landscape and residence and not infringe upon adjacent property owners. All lighting should be 60 watts or less, accent type lighting set close to grade.

All landscape and exterior lighting must be approved by the Architectural Review Board prior to installation.

### **Exterior Antennae**

The Declaration of Restrictive Covenants for Ledges do not permit exterior radio and television antennae without the approval of the Architectural Review Board. The Review Board may permit satellite dishes up to 18" in diameter on a case-by-case basis. Any property owner proposing to install a satellite dish must submit a plan showing the location where the dish will be installed and how the dish will be screened from surrounding properties and neighbors. No dish will be allowed to be installed on the roof of a house.

### **Landscape**

Gardens and lawns should harmonize with the native vegetation, terrain and natural beauty of the community. All lawn areas must be sodded. This includes sodding to the street. Approval by the Architectural Review Board is required to remove any tree on any homesite with a trunk diameter of six (6) inches or greater at four (4) feet above natural grade. Landscape design using plant material indigenous to the area is encouraged. The landscape and irrigation plans should be submitted for approval within 60 days after starting construction.

Mulching, preferably with pine or hardwood bark or straw, is required for all planted areas. The mulched areas provide a smooth transition to the existing natural vegetation. Underground irrigation systems are required.

### **Landscaping**

Landscaping shall be designed to contain shade trees (new or existing) as well as ornamental planting.

Landscape plans shall include as a minimum 40% of Front Yard Zone, 25% of the Side Yard Zone and 25% of the Alley Zone shall be planted landscape materials other than lawn. No more than two of plant species of canopy trees, two different species of ornamental trees and four different species of ground cover are allowed.

All drawings shall bear the seal of a licensed architect.



## **Approval**

Upon final revision of the items required to be modified one set of documents will be returned to the property owner with a letter of approval.

The Architectural Review Board will retain the final drawings and approval for one year. If construction has not started within the one year period the approval will automatically expire. A one year extension subject to any new regulations may be granted.

## **Site Inspection**

The lot owner or agent shall request a site inspection and receive approval of the layout (**prior to lot clearing and construction**). The owner or agent should clearly stake the proposed house and property lines, sidewalks, fences, drive, patio and, if applicable, pool location. Staking shall be with a continuous ribbon encircling the area to be cleared and any additional trees to be cleared located outside the encircled area shall be ribboned individually or in groups.

The purpose of the site inspection is to insure compliance with the approved plans and to prevent any unnecessary damage to specimen trees and other unique site features. Inspections shall be made within two (2) working days of the request. To arrange for a site inspection contact the Architectural Review Board Coordinator.

**Lots are required to be staked according to this section for preliminary approval.**

## **During Construction**

Periodic inspections of the job sites and community by the Architectural Review Board Representative will keep the Board and Development Coordinator informed of the progress of the work and any discrepancies from the approved plans.

Deviation from the plans will require the owner to correct the errors as per the approved plans. (See Appendix F.)

The General Rules for all Contractors and Service Personnel on projects at Ledges (Appendix E) outline what is expected on the job site of personnel and site cleanliness.

## **Final Inspection**

The Architectural Review Board shall conduct a final inspection of all projects. The owner shall request this inspection when their building and landscaping have been completed. Upon a satisfactory final inspection the remaining cleanup deposits (if any) will be returned to the owner.



## **ARCHITECTURAL DRAWING REQUIREMENTS APPENDIX B**

The Architectural Review Board has developed a standard method of arranging drawings submitted for review. Plans should be submitted on 24" x 36" maximum sheet size, with the application form bound to the upper left hand side of Sheet One. Submittals for preliminary and final reviews consist of the Architectural Review Checklist (Appendix C) and the following drawings with the information requested. Examples of the minimum standard for drawings are attached.

- 1. SITE DEVELOPMENT PLAN (Scale 1" = 10' minimum)**
  - a. Property lines, setback lines, easements (golf, access and utility), with dimensions shown.
  - b. Access streets, secondary street(s) and alleys, edge of roadway and curb cut elevations (if applicable).
  - c. Existing topography, elevations of lot corners and contour lines in increments of one or two feet, unique or extreme site features, water edges, and directions of prominent views.
  - d. Lot owners are to provide a tree survey showing location and species of trees three (3) inches or larger in diameter with estimated canopy sizes. Indicate trees to be removed and trees to remain.
  - e. Drainage and grading plan with all existing and new one (1) foot contours indicated (See information below).
  - f. Driveway and curb cut (if applicable) locations, turnarounds, guest parking area, entry walks and other walkways with material and dimensions indicated.
  - g. Diagrammatic plan of all proposed structures including plan of residence on the site with terraces, foundations for decks, if any, steps and stoops shown. Note finish floor elevation at first floor and basement, if any.
  - h. Plan of retaining walls, garden walls, screens for trash, utilities and air conditioning equipment indicated. Note top of wall elevations. Dimension the above with materials and details shown (if not shown elsewhere on drawings).
  - i. Pools and/or spas.
  
- 2. FIRST FLOOR PLAN: (Scale 1/4" = 1' 0")**
  - a. Plan should correspond with the site plan orientation if possible.
  - b. All interior spaces drawn to scale with room-names and sizes labeled.
  - c. All window and door openings shown.

- d. Plan of garage, entry, terraces, porches, decks and stairs to grade or residence.
- e. Finish floor elevations and garage slab elevations.
- f. Final plans must be dimensioned.
- g. All interior level changes must be shown.

**3. SECOND FLOOR PLAN: (Scale 1/4" = 1'0")**

- a. The second floor plan should correspond with the first floor plan and site plan orientation.
- b. All interior spaces drawn to scale with room names and sizes labeled.
- c. All window and door openings shown.
- d. Plan of lower roof projections, decks or roof decks, chimneys, dot in roof overhangs.
- e. Final plans must be dimensioned.

**4. ROOF PLAN: (Scale 1/4" = 1'0") Required for all roofs.**

- a. Indicate all roof areas including corresponding slopes, crickets, directions of slope and drainage.
- b. Indicate and label roof material and gutters.
- c. Label and locate all roof structures and projections including vents, skylights, solar collectors, dormers, and chimneys.

**5 & 6. BUILDING ELEVATIONS: (Scale 1/4" = 1'0")**

- a. Elevations Front, Rear, Right and Left with compass orientation indicated.
- b. Hidden elevation not shown in other drawings.
- c. Indicate proposed finish grades against the elevations.
- d. All elevations shall indicate materials and finishes, fascia, trim and handrail details, windows, door types and trim, terraces, decks, walls, vents (roof and foundation), screens for trash, air conditioning equipment and utilities.

**7. WALL SECTIONS: (Scale 3/4" = 1'0" minimum)**

- a. Complete wall sections with construction details showing flooring and foundation, typical wall construction with exterior and interior finished, typical window head and sill detail, soffit, fascia, roof edge details, with gutter if any, typical roof and floor constructions. Note all materials on wall section and dimension floor to floor height and roof height.
- b. Wall section shall not be taken through typical window or window head. Sill details shall be drawn separately.
- c. Manufacturer of windows and doors, indicating sizes materials and finishes. Show all typical wall and porch conditions.
- d. Indicate finish floor elevations.
- e. Indicate roof pitch.

**8. FOUNDATION PLAN: (Scale 1/4" = 1'0" minimum)**

- a. Complete foundation plan indicating all walls, footings, piers, beams and floor joists. Include foundations for decks, retaining walls, exterior stairs.
- b. Locate all access openings and foundation vents.
- c. Plan of basements indicating retaining walls, window, doors and interior spaces drawn and labeled.

**9. LANDSCAPE PLAN: (Scale 1" = 10' minimum)**

The landscape plan must show all proposed site structures and features including drives and guest parking areas, turnarounds, walks, terraces, decks, walls, stairs to grade, fences, pools, spas and any other site features. Utility, trash, air conditioning and other visual screens should also be noted. Existing trees and vegetation to remain should be specifically located and labeled and accurately described. A complete plant list keyed to the plan is required indicating the size, spacing and quantity of the proposed plantings. Areas to be mulched or planted as a lawn should also be shown. Refer to (Appendix D) for approved plant list.

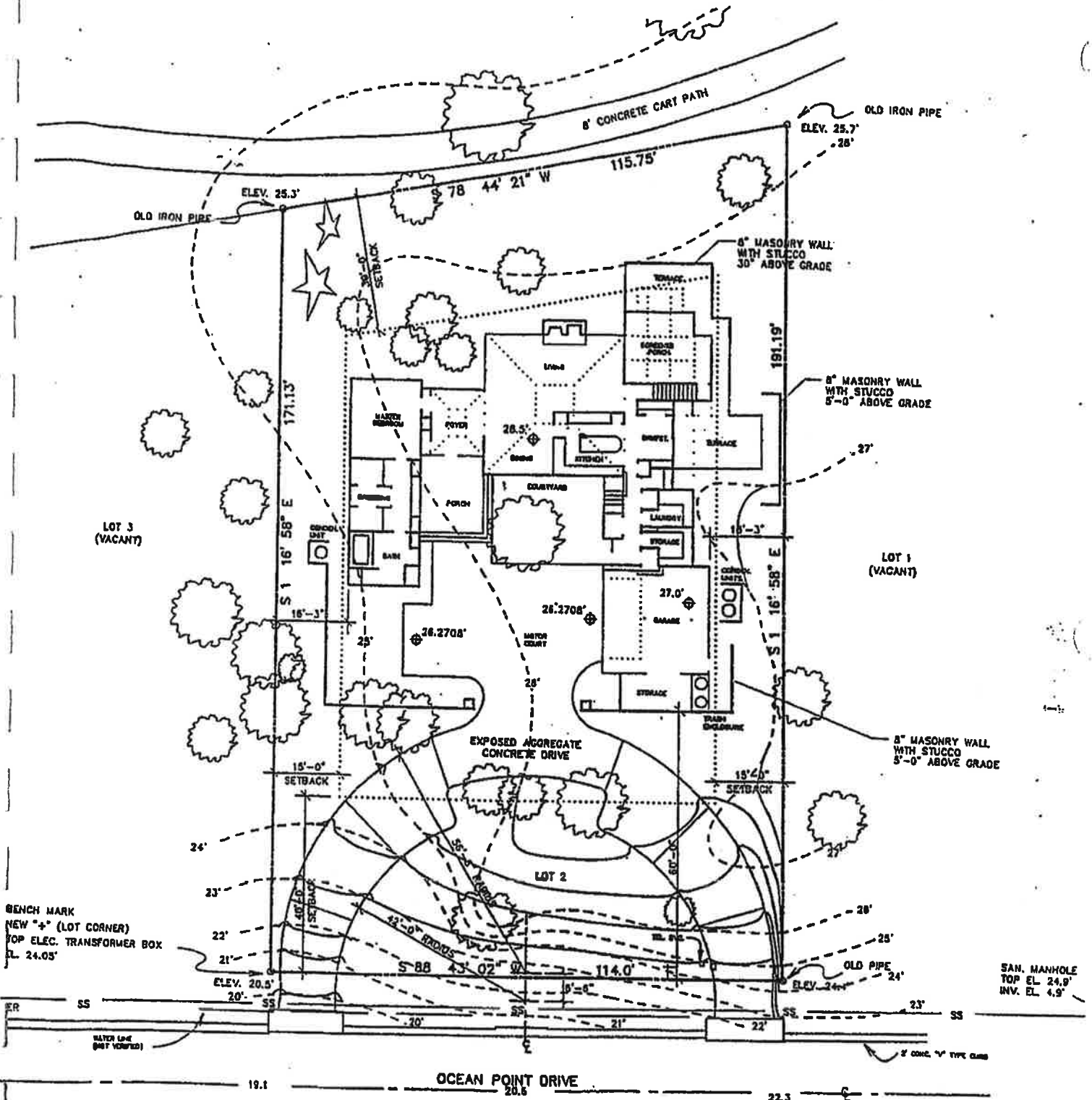
**10. IRRIGATION PLAN: (Scale 1" = 10' minimum)**

Irrigation plan with schematic head layout must be included and piping and valve box locations shown.

**11. DOOR AND WINDOW SCHEDULE**

A schedule which includes types and sizes of all windows and doors with the manufacturer identity, materials and finishes will be provided.

# MINIMUM INFORMATION REQUIRED FOR A SITE PLAN



## Site Plan

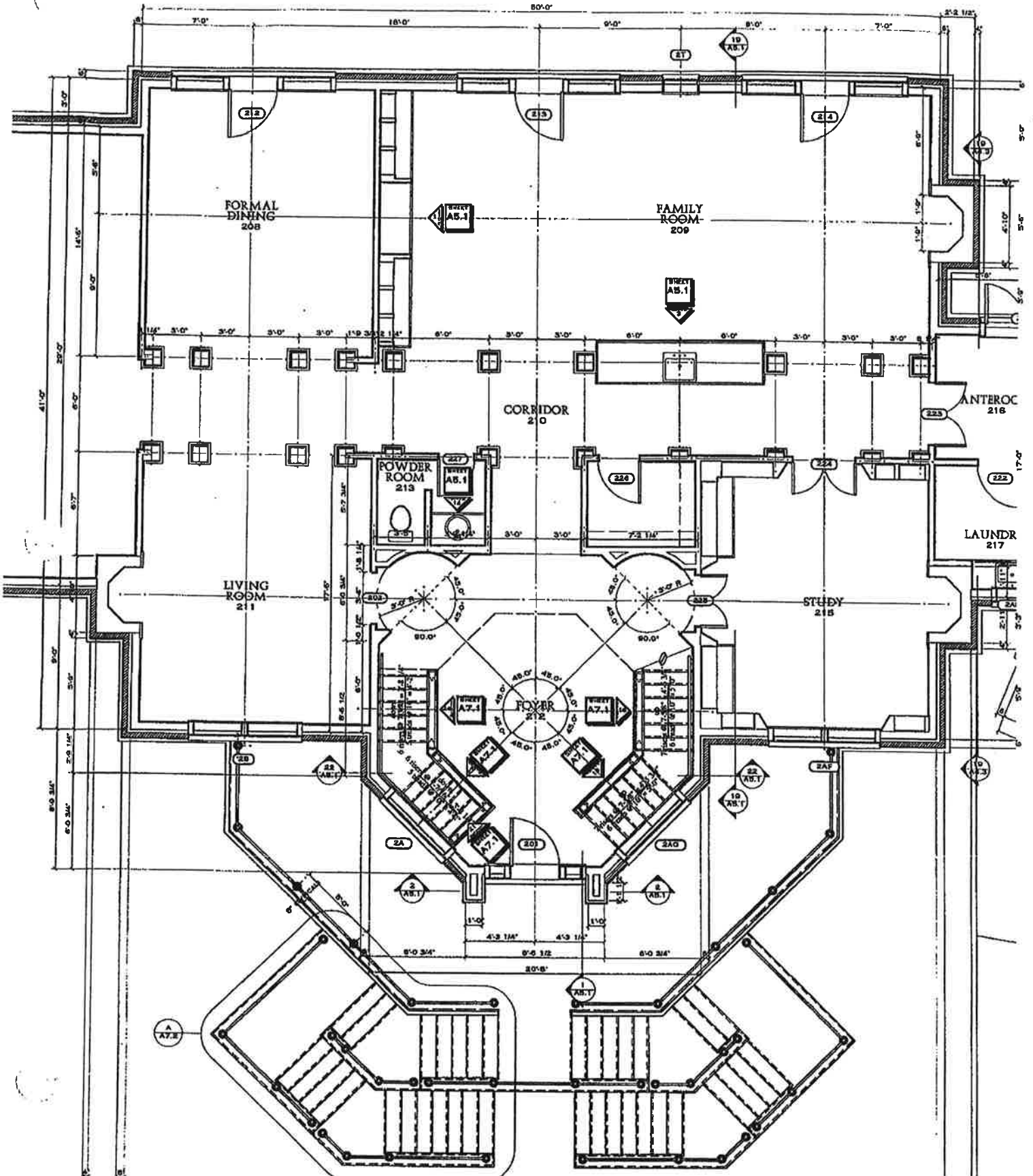


LOT 2, BLOCK 10  
 PEMBROOK JONES PARK AT LANDFALL  
 HARNETT TOWNSHIP, NEW HANGOVER COUNTY, NC

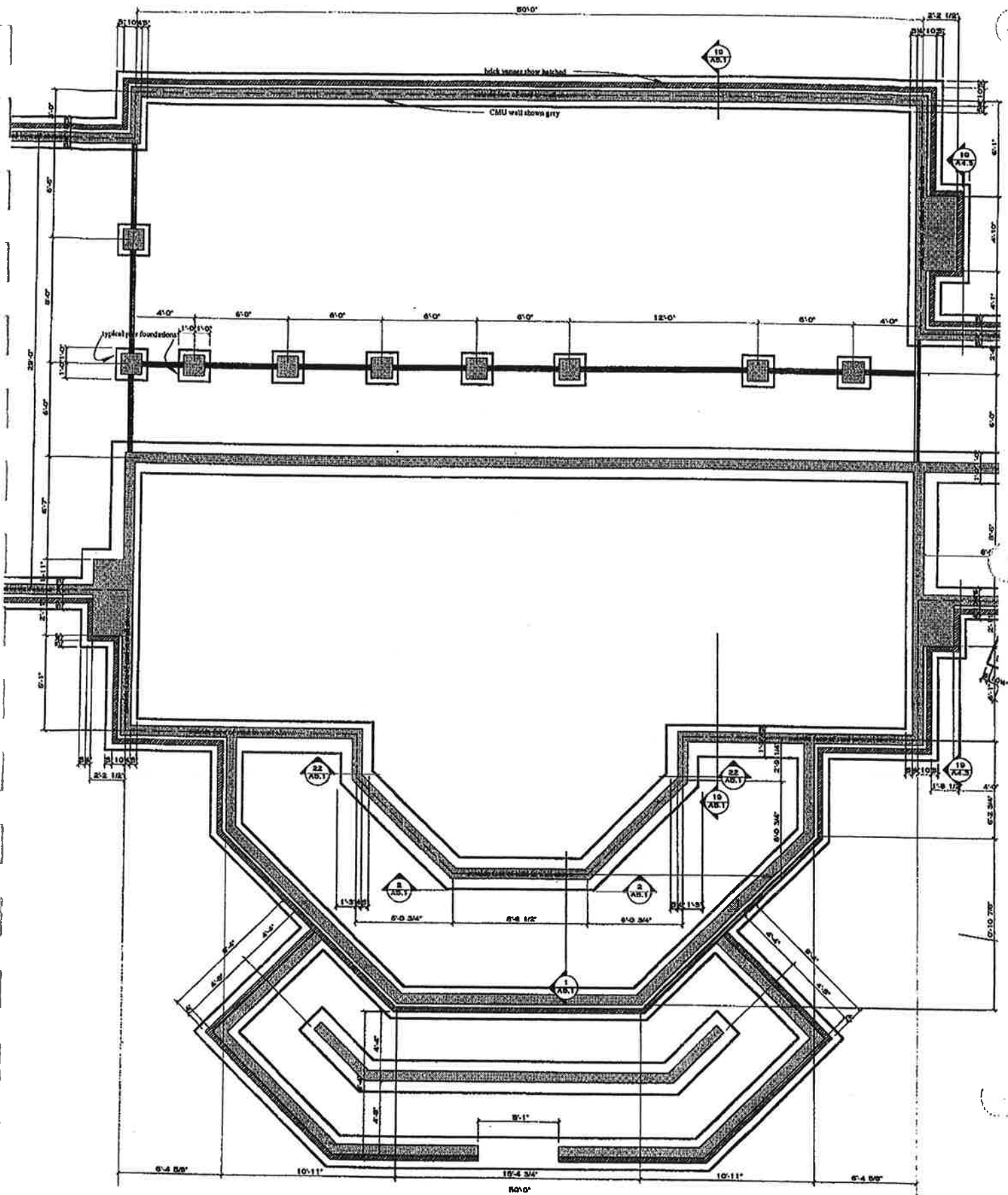
--- EXISTING TOPO

~ CHANGED TOPO

# Typical Floor Plan

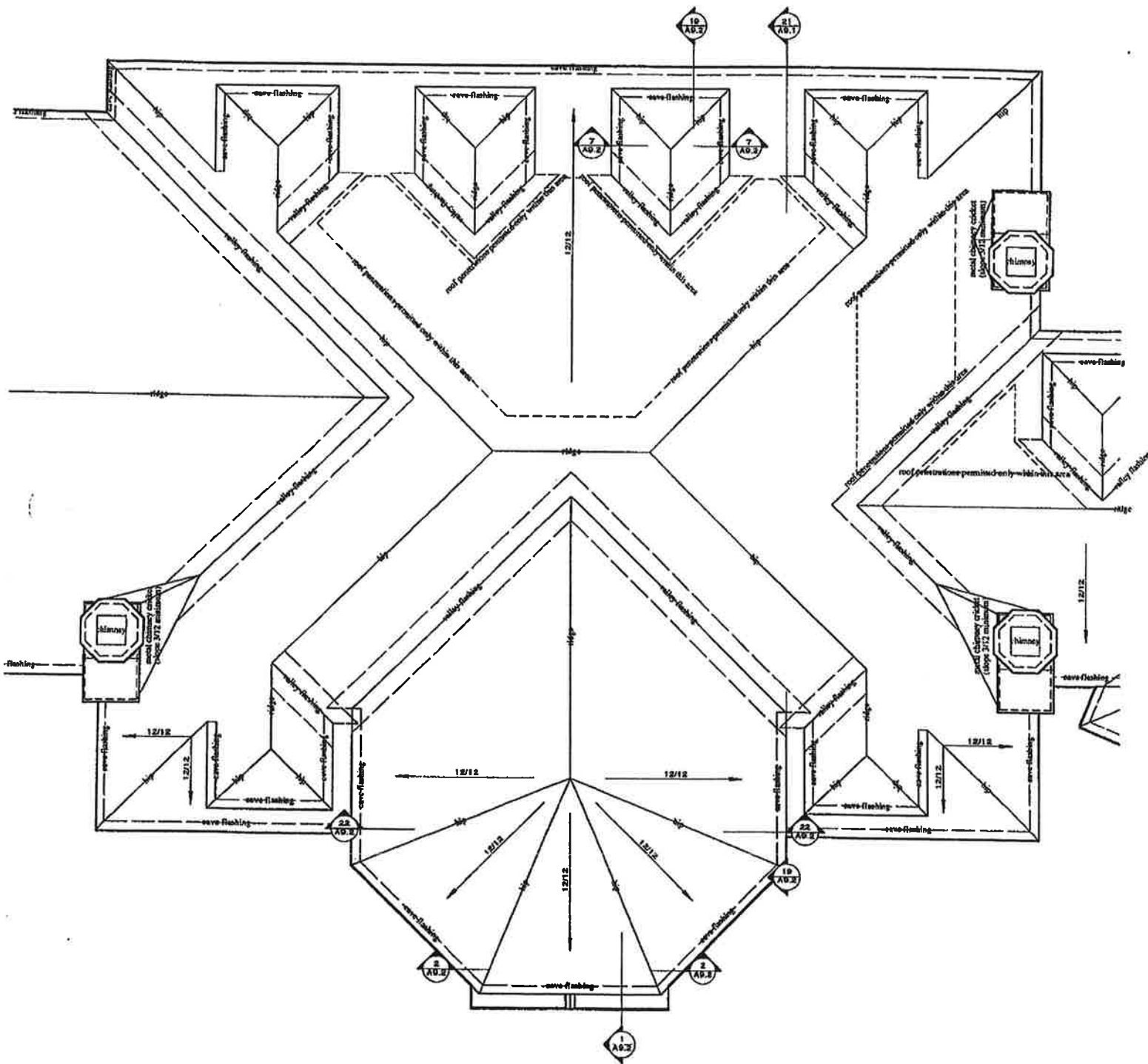


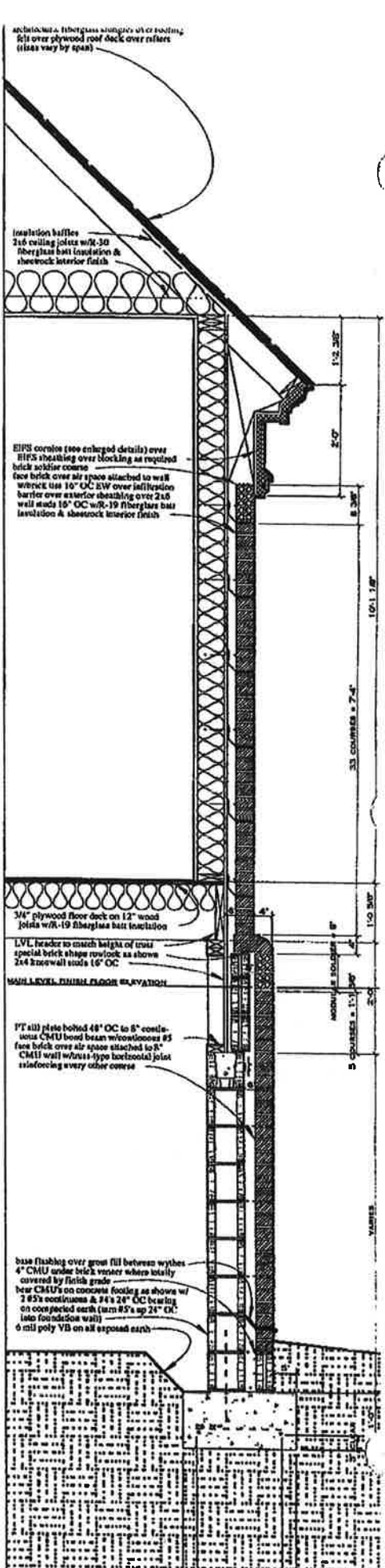
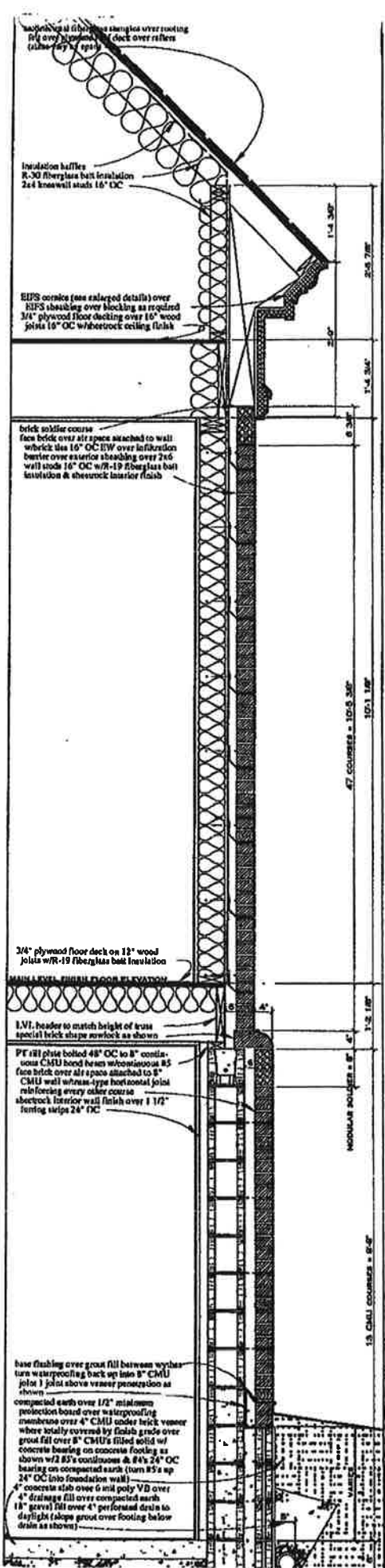
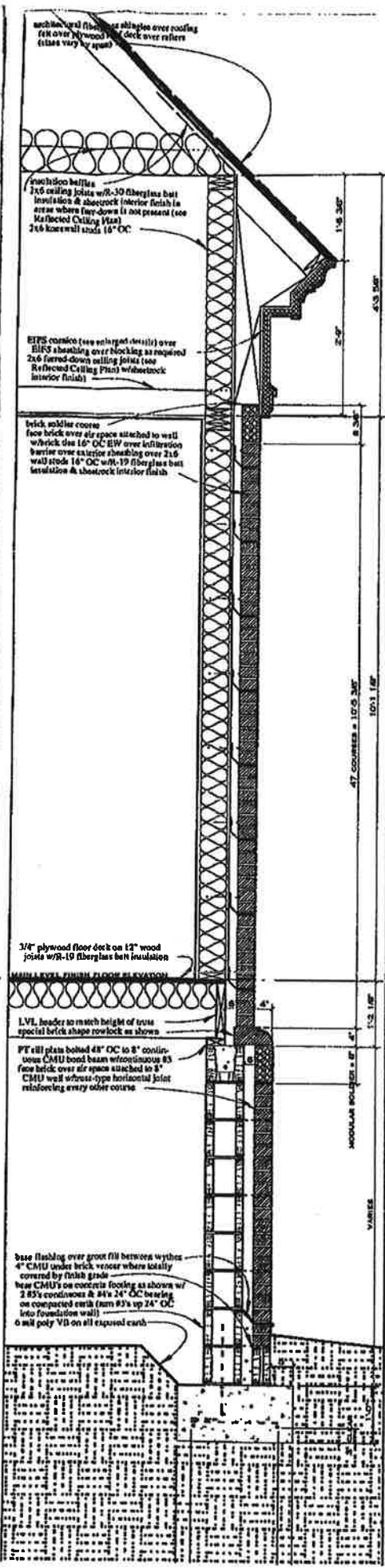
# Typical Foundation Plan



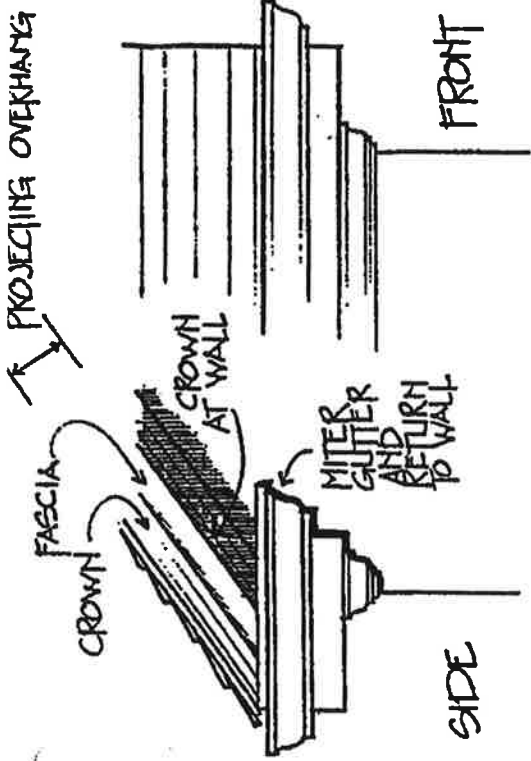


# Typical Roof Plan

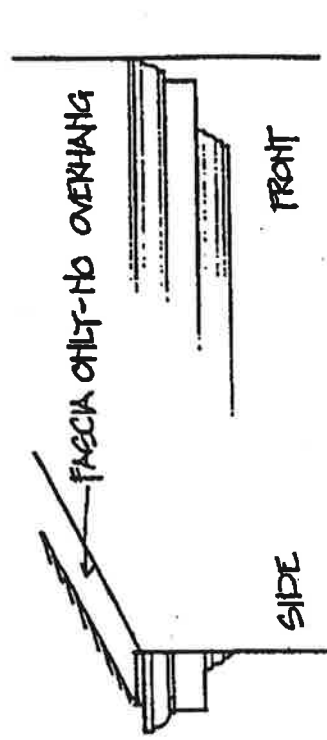




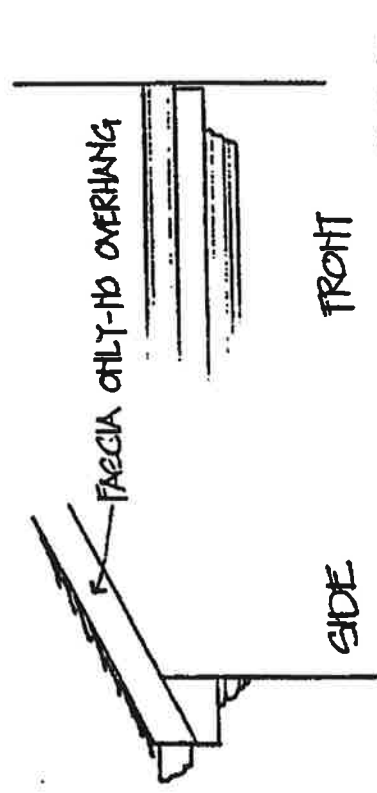
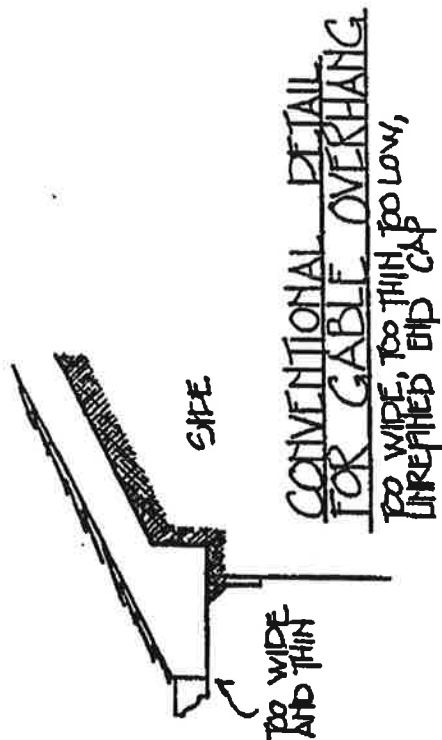
DRAWING A



BETTER DETAIL FOR GABLE OVERHANG



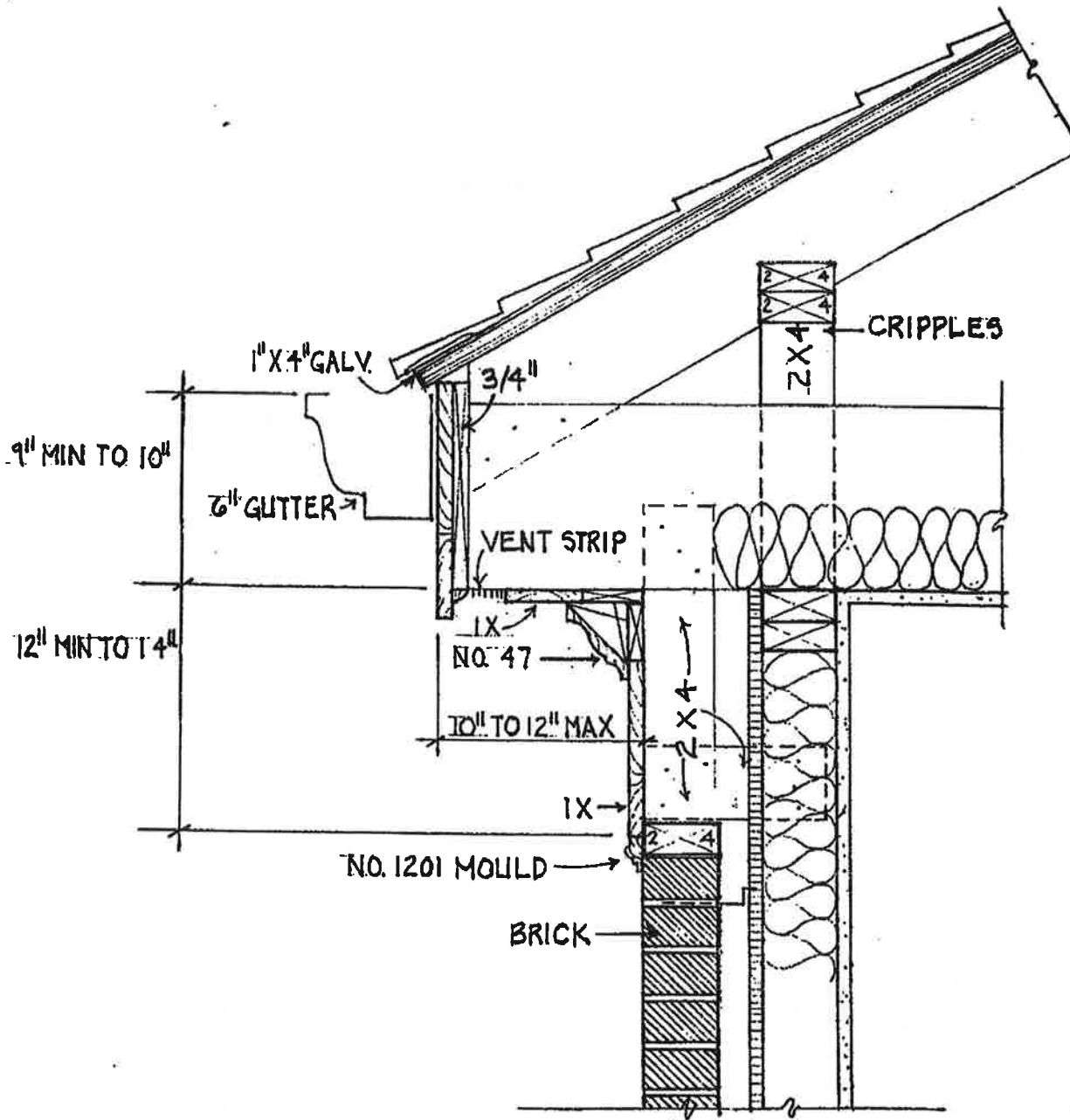
BETTER DETAIL IF NO GABLE OVERHANG



GOOD DETAIL IF NO GABLE OVERHANG

GABLE ENDS

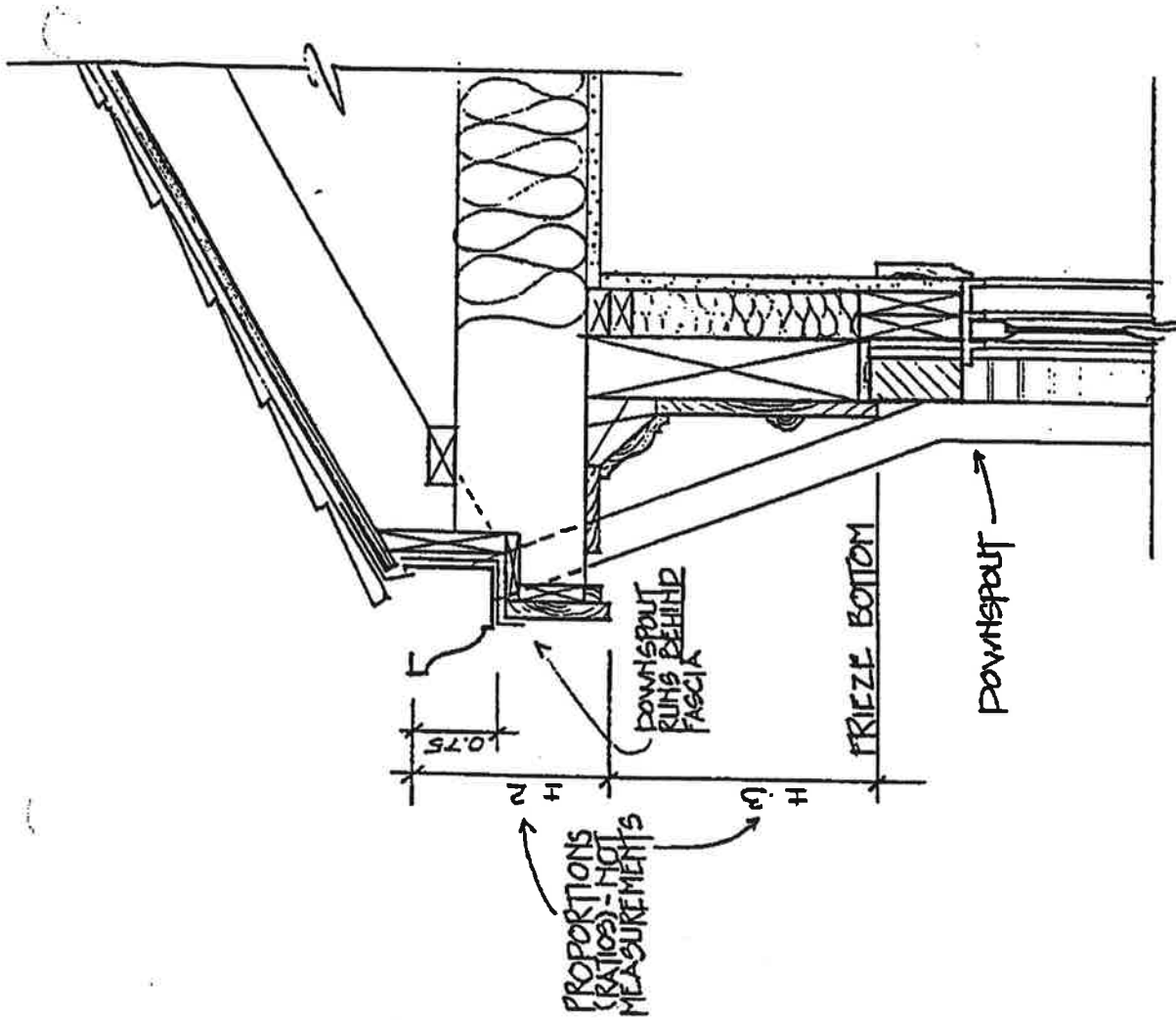
DRAWING B



ROOF CORNICE EXAMPLE

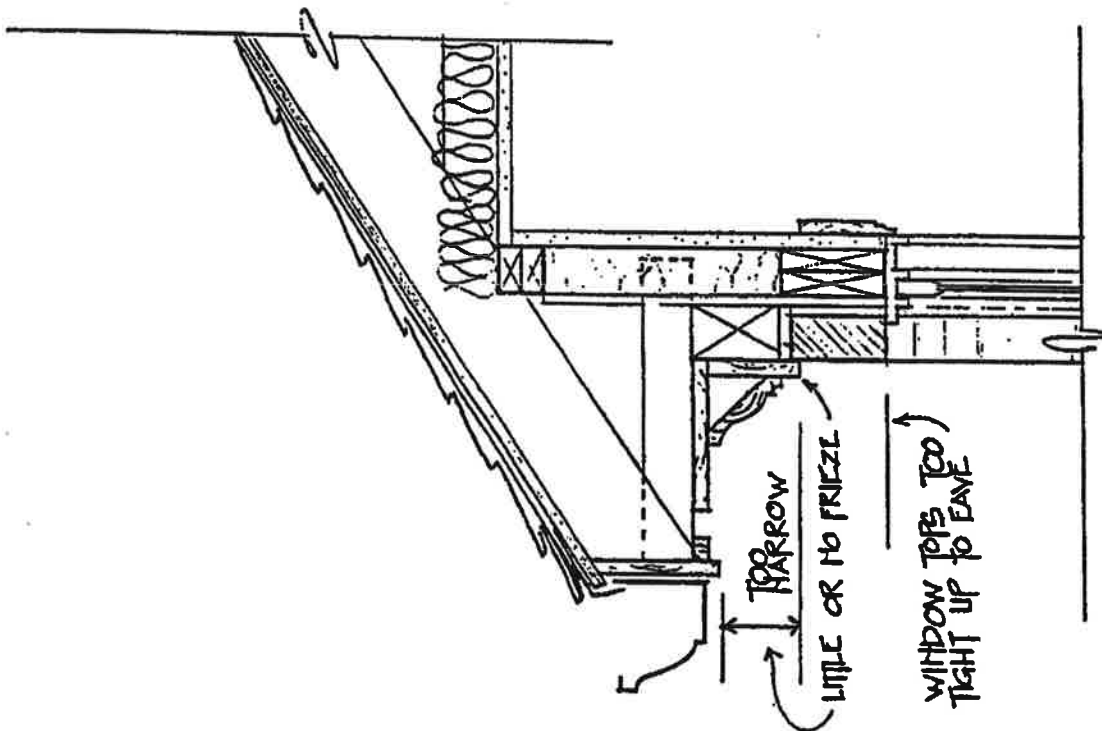
(EXACT DIMENSIONS TO BE PROPORTIONED  
TO THE SPECIFIC HOME)

DRAWING C



BETTER ROOF FRAMING

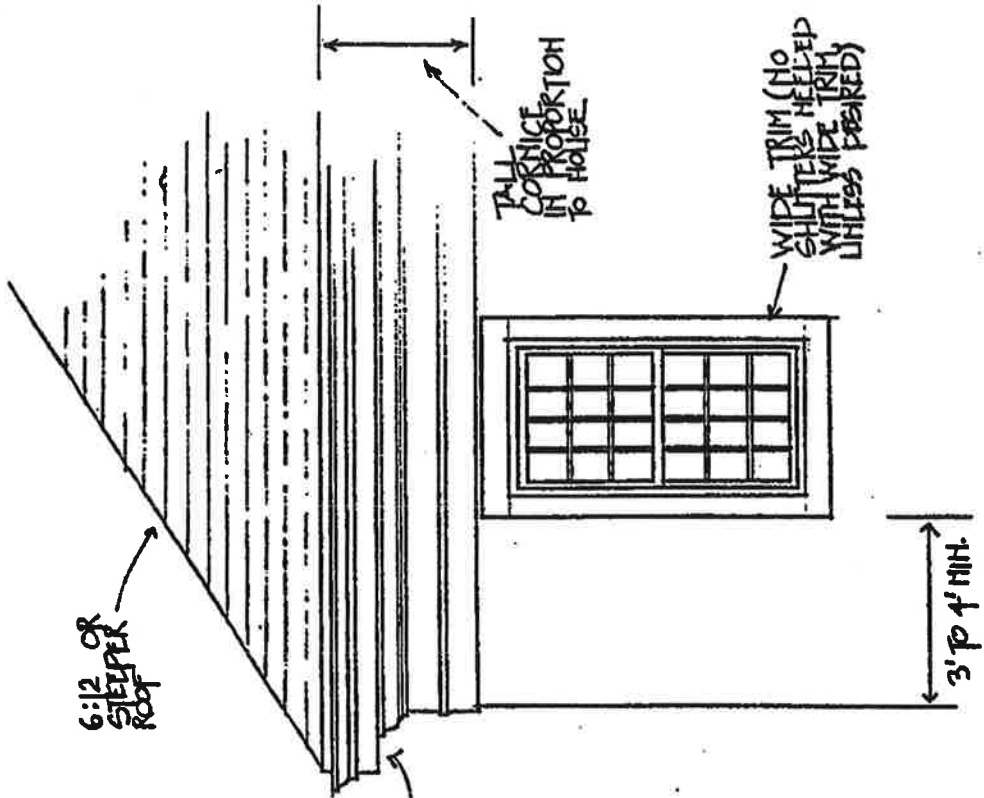
RAFTERS REST ON PLATE ON TOP OF JOISTS,



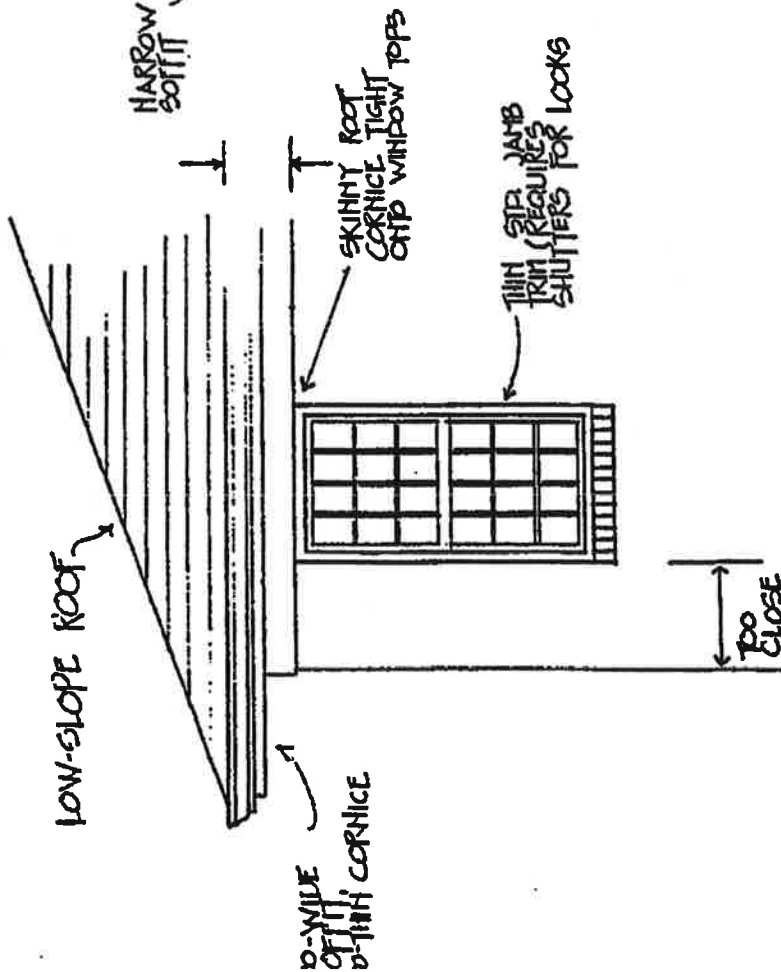
CONVENTIONAL ROOF FRAMING

RAFTERS REST ON E SLOPE BELOW THE STUD TOP

DRAWING D



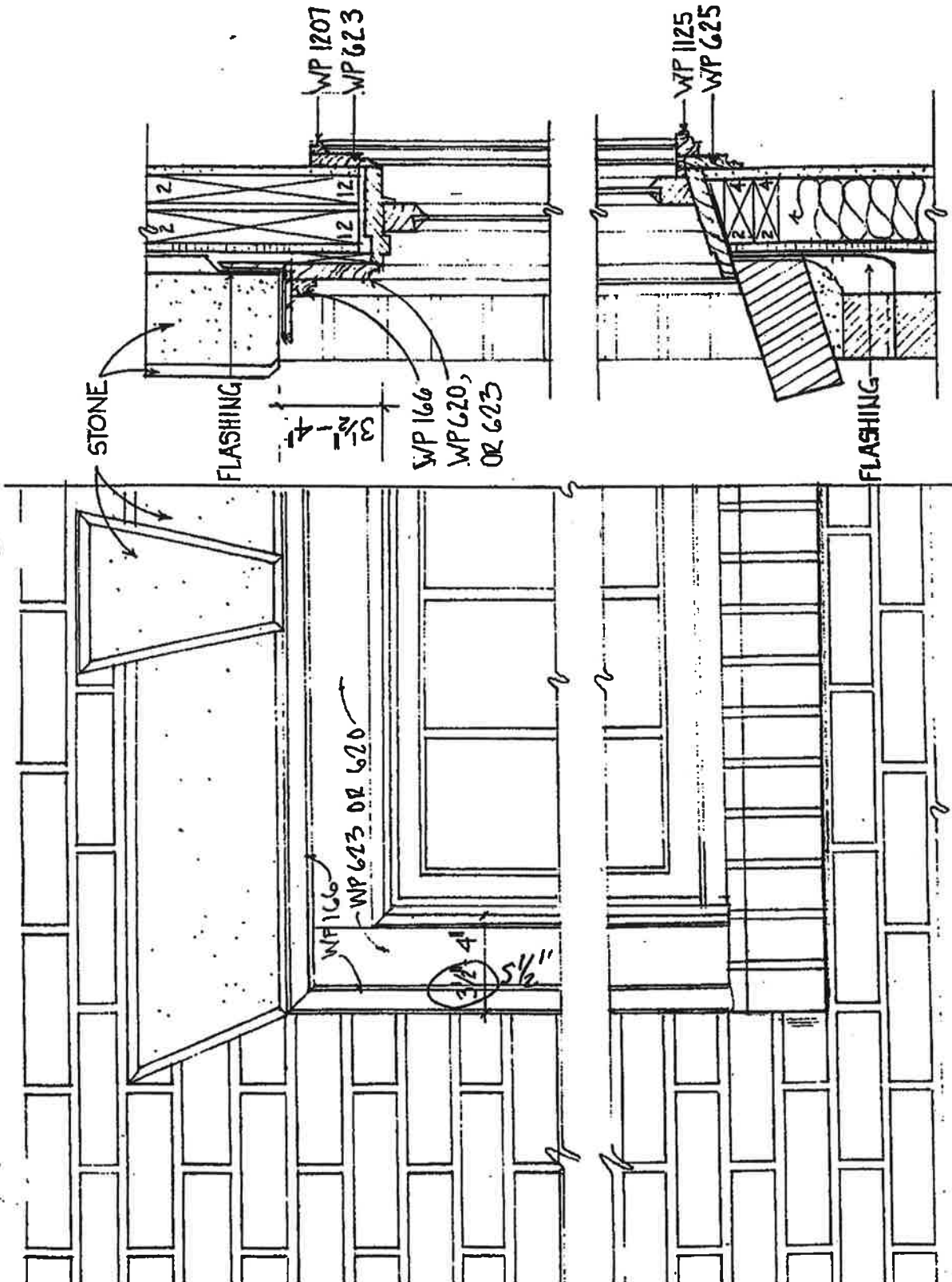
BETTER PROPORTIONS



CONVENTIONAL (POOR) PROPORTIONS

CORNICE & WINDOWS

DRAWING E

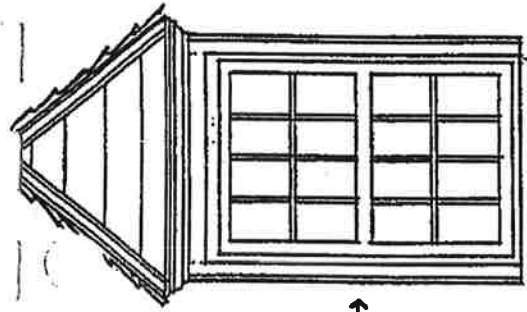


SUGGESTED WIDE EXTERIOR TRIM FOR WINDOWS

(LOOKS BETTER THAN THE USUAL NARROW TRIM)

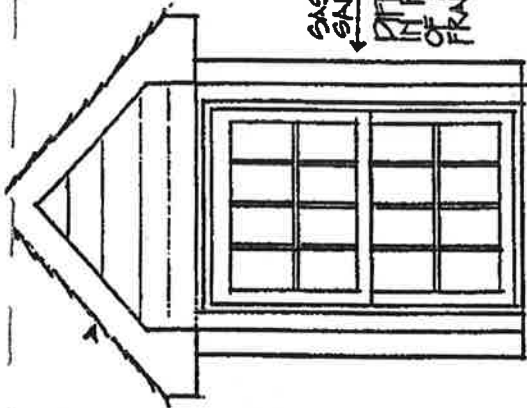


DRAWING F



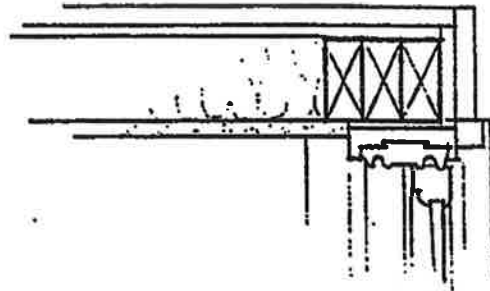
TOO FLAT

SASHES ARE SAME SIZE  
 ↓  
 ↑  
 DIFFERENCE IS IN PROPORTIONS OF DORMER FRAMING

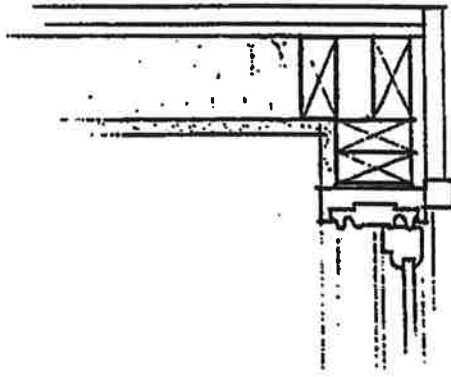


WRONG  
 TOO WIDE & SQUAT - CAUSED BY CONVENTIONAL FRAMING OF CORNER SHOWN BELOW

BETTER PROPORTIONS  
 (SLENDER PROPORTIONS ACHIEVED BY FRAMING DETAIL BELOW)



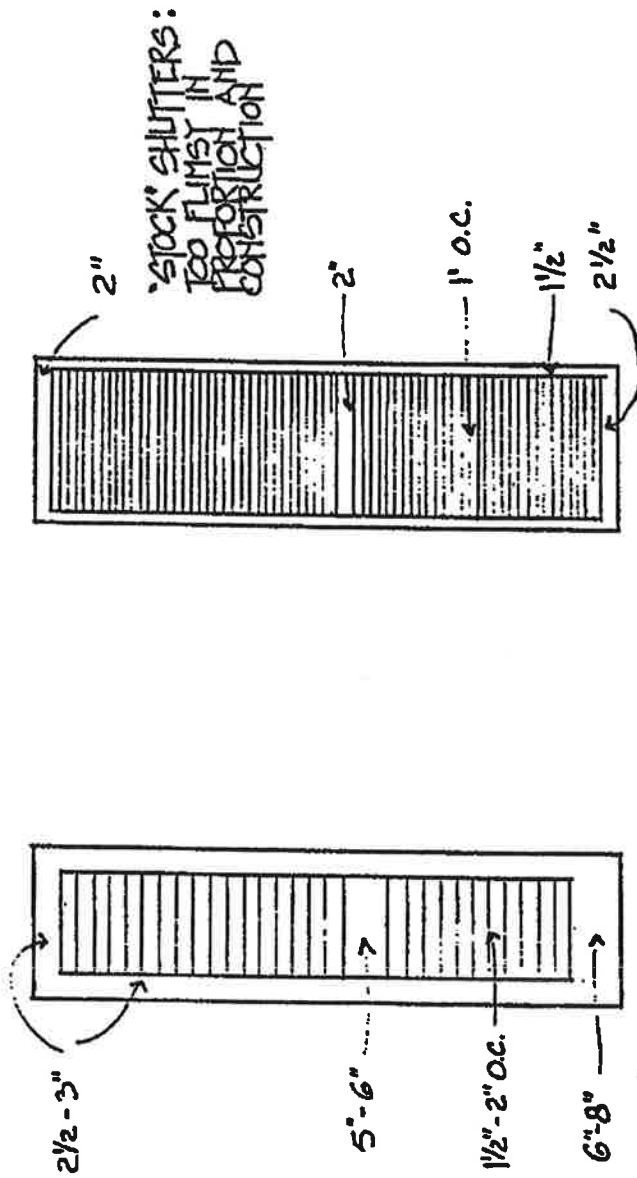
CORRECT DORMER JAMB  
 SASH ABUTS 2x4 SIDEWALL STUDS AS SHOWN, MAKING A SLENDER ATTRACTIVE PROPORTION.



INCORRECT DORMER JAMB  
 DOUBLE 2x4'S AT SASH CAUSES DORMER TO BE TOO WIDE, CAUSING SQUAT PROPORTIONS.



DRAWING G



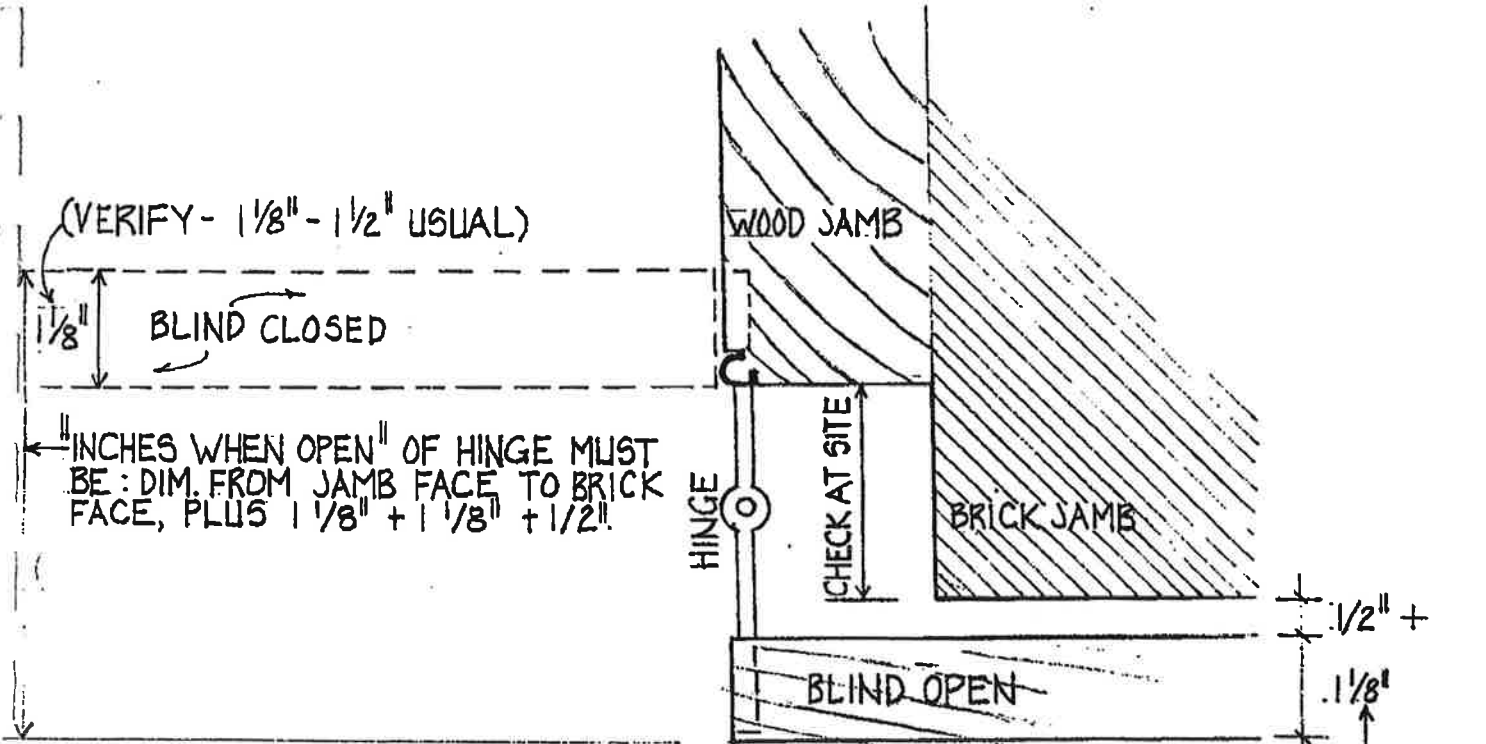
RIGHT

WRONG

SHUTTERS

NOTE: If shutters are used, they should be properly hung on hinges and built of heart-redwood or clear western cedar (painted) for durability.

# DRAWING H

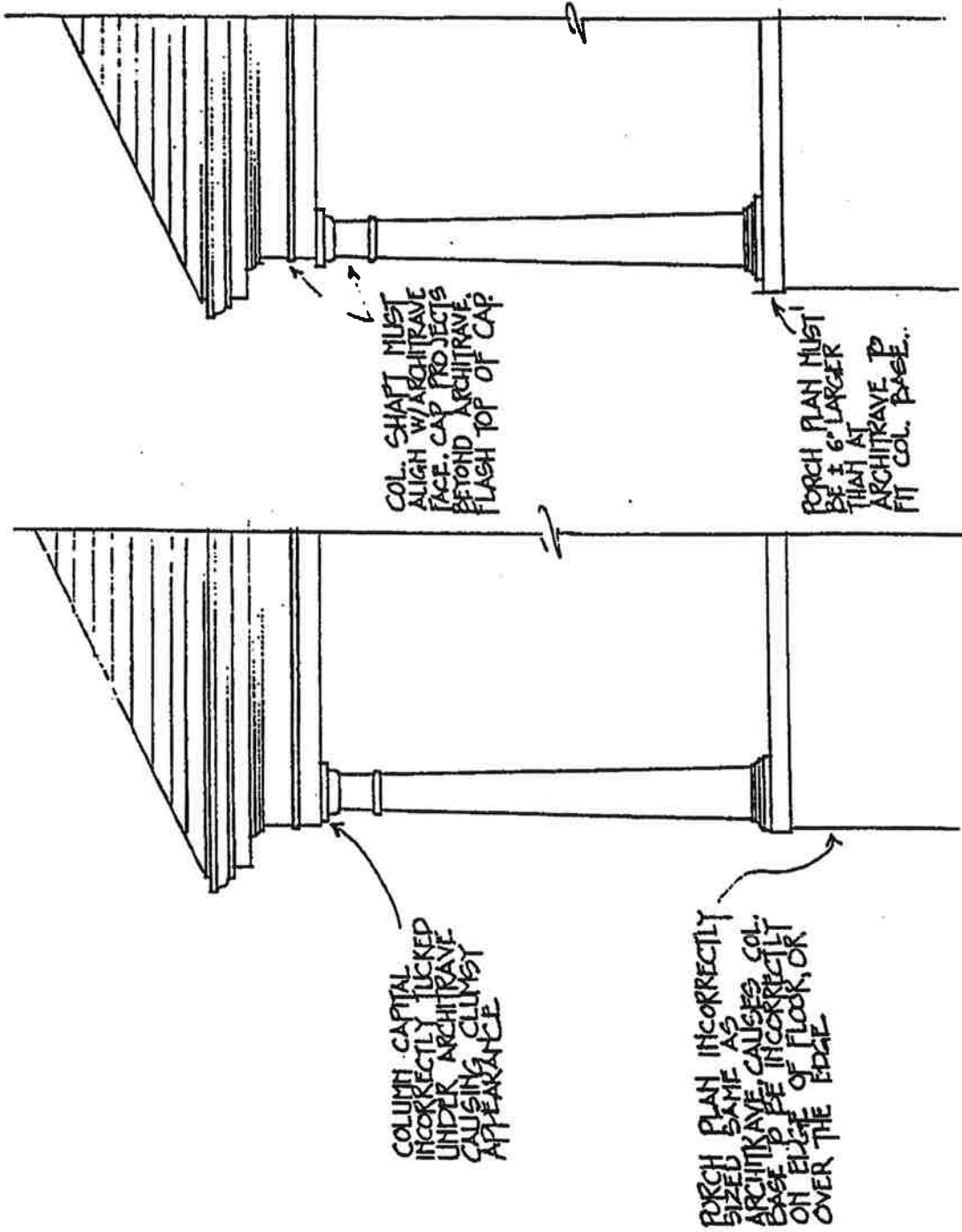


EXAMPLE: IF DIM. FROM WOOD JAMB FACE TO BRICK FACE IS 2", THEN HINGE MUST BE  $2" + 1\frac{1}{8}" + 1\frac{1}{8}" + \frac{1}{2}" = 4\frac{3}{4}"$  HINGE (OPEN) MIN. (MORE IS O.K.)

## BLIND-HINGE WIDTH DETERMINATION METHOD

HINGE SOURCE:  
 WRIGHTSVILLE HARDWARE CO.  
 WRIGHTSVILLE, PA. 17368.  
 "HARDWARE SERVICES" CO. CAN ORDER

DRAWING I

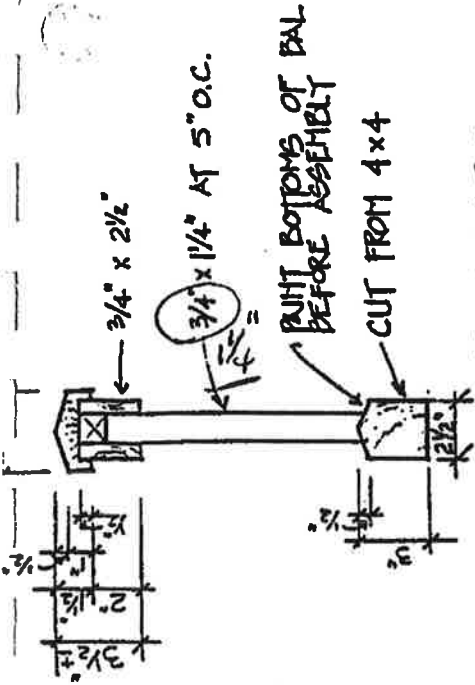


WRONG

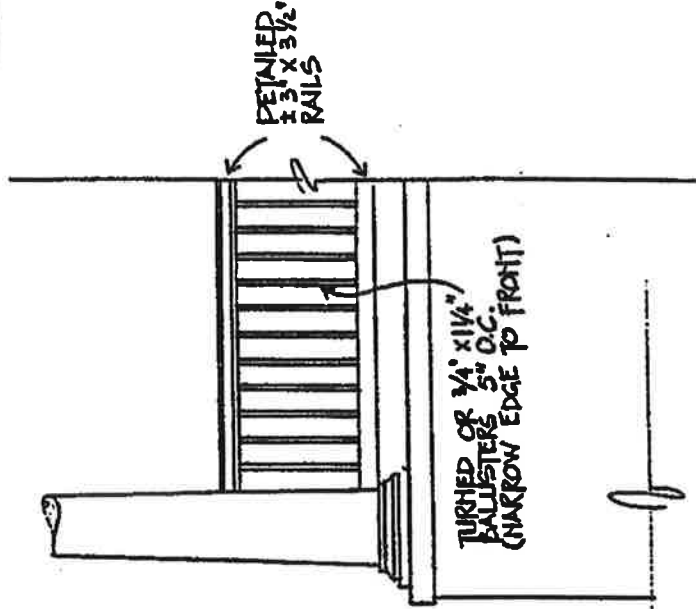
RIGHT  
PER GREEK AND ROMAN METHODS;  
STILL THE BEST APPEARANCE

PORCH COLUMN PLACEMENT

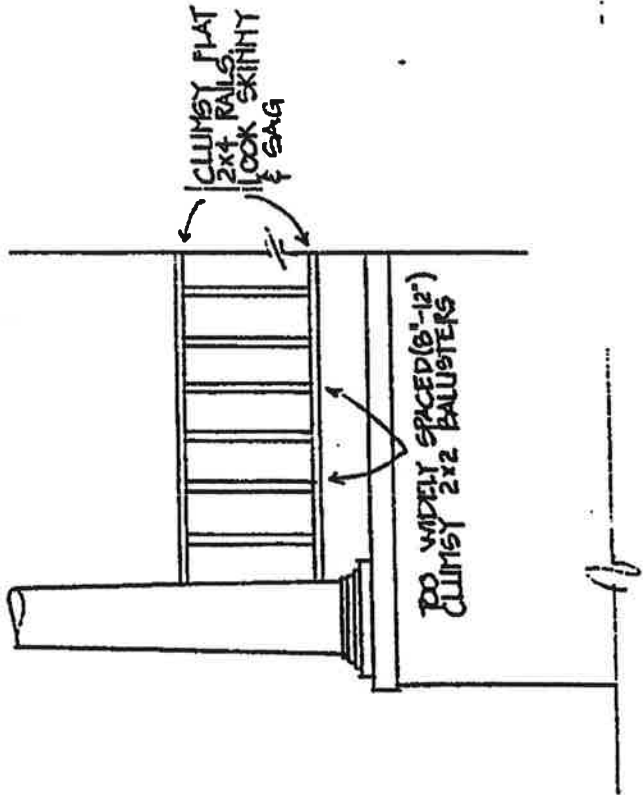
DRAWING J



POSSIBLE BALUSTRADE DETAIL  
(ALL HEART REDWOOD FOR BEST DURABILITY)



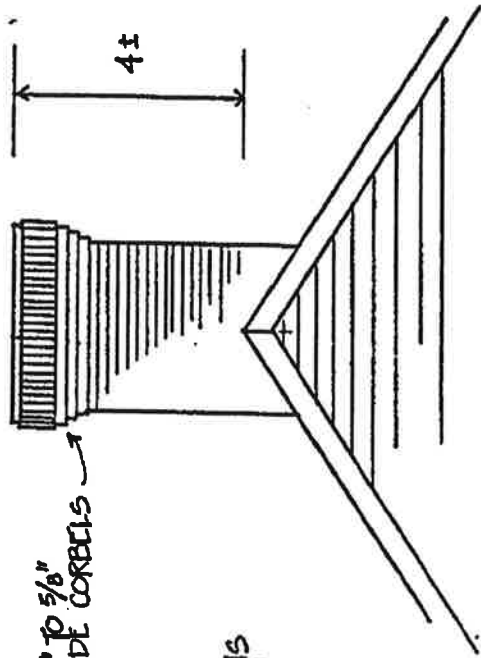
RIGHT



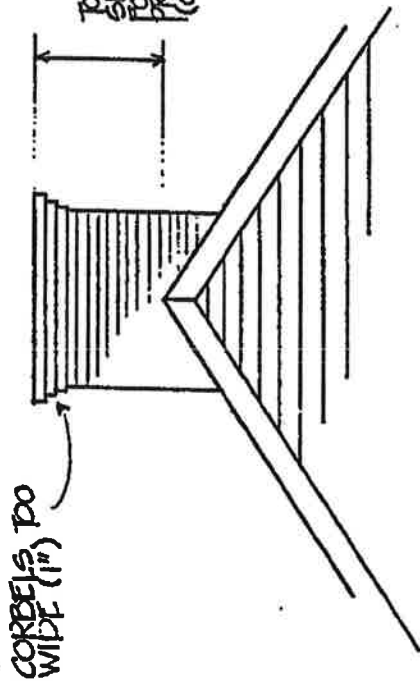
WRONG

PORCH RAILS

DRAWING K



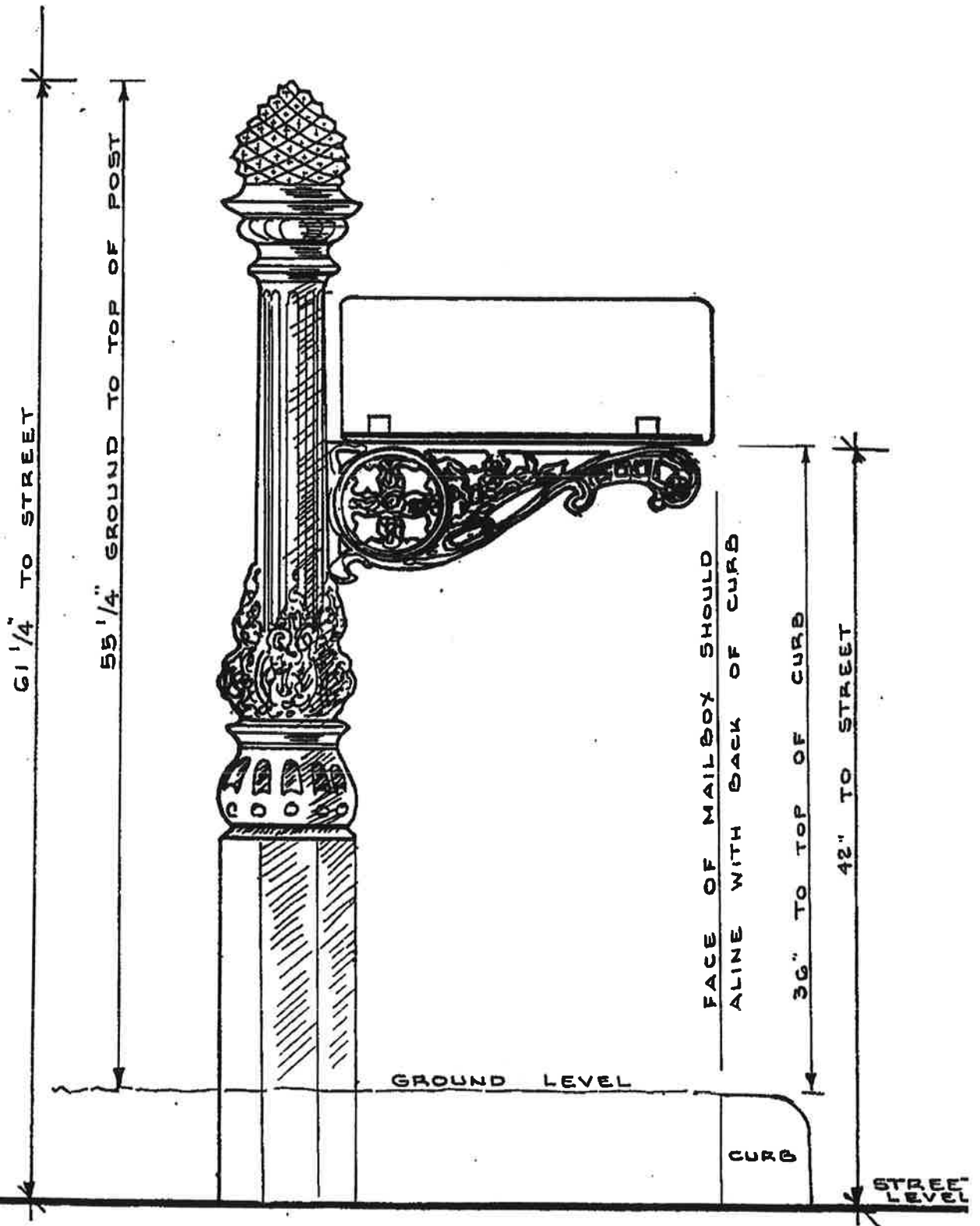
RIGHT



WRONG

CHIMNEYS

# DRAWING L



**Installation:** The mailbox post should be set a height of 55-1/4 inches above the ground. The frontal plane of the mailbox should align with the back of the curb and should measure 36 inches above the curb and 42 inches above the street.

**ARCHITECTURAL REVIEW CHECKLIST  
APPENDIX C**

SUBMITTING FOR: CONCEPTUAL PRELIMINARY FINAL REVISION  
(circle one)

Lot \_\_\_\_\_ Block \_\_\_\_\_ Phase \_\_\_\_\_

Owner(s) \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone \_\_\_\_\_ Work Phone \_\_\_\_\_

Architect/Designer's Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Builder's Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone \_\_\_\_\_

Dwelling Square Footage

Amount

Single Story \_\_\_\_\_ (heated)

Two Story First Level \_\_\_\_\_ (heated)

Second Level \_\_\_\_\_ (heated)

Garage \_\_\_\_\_

Terrace/Deck \_\_\_\_\_

Exterior Materials

	<u>Manufacturer</u>	<u>Style</u>	<u>Color</u>
* Brick	_____	_____	_____
* Stucco	_____	_____	_____
* Siding	_____	_____	_____
* Roof	_____	_____	_____
Windows	_____	_____	_____

	<u>Paint Manufacturer</u>		<u>Submit Color Chips</u>
Doors: front	_____	_____	_____
rear	_____	_____	_____
garage	_____	_____	_____
Trim	_____	_____	_____
Shutters (hinged)	_____	_____	_____
Gutters	_____	_____	_____

Materials-Description/Color

Terrace	_____
Front Entry Stairs	_____
Walks	_____
Driveway	_____
Walls & Screens	_____
Deck/Railing	_____



## **GENERAL RULES FOR ALL LEDGES CONTRACTORS AND SERVICE PERSONNEL.**

### **APPENDIX E**

The following rules apply to all employees of Ledges, building contractors, and service personnel. Questions or concerns may be directed towards the Property Owners Association office at (256) 539-1686.

1. All construction and maintenance personnel are required to enter and leave through the designated gate. This entrance is located off Carl T. Jones Blvd. on Ledges Drive. All contractor personnel will be required to identify the general contractor and job site they are going to (Lot) before gaining entrance to job site. In the event the contractor personnel does not know what job site they are going to, the general contractor will be called for authorization. Due to this, all general contractors are required to supply the guardhouse with their name and contact information.
2. The gate will be open Monday through Friday from 7:00 a.m. until 6:00 p.m. for work hours during the summer months (summer months begin with daylight savings time), and 7:00 a.m. until 5:00 p.m. during the winter months (beginning with return to regular time) with Saturday work hours being 8:00 a.m. until 4:00 p.m. Sunday work will be allowed from 8:00 a.m. until 4:00 p.m. , however only self contained, INDSIDE work (clean-up, painting, drywall finishing, tiling, floor sanding, carpet installation, cabinet installation, trim carpentry, electrical trim, HVAC trim, and plumbing trim) will be allowed with the doors and windows closed. Sunday work is to be considered a privilege and should be done with minimal disturbance to the residents. All contractor personnel MUST be escorted in and out of the gate on Sundays by the general contractor or his superintendent. Exceptions to work hours must be requested by both the homeowner and general contractor and approved by the ARB.
3. Contractors are required to keep the job sites neat and clean. Dumpsters are required on all job sites and should be emptied when level with the top to avoid refuse blowing out of the dumpster. It is the general contractor's responsibility to insure that lunch trash and paper products are disposed of properly to further avoid trash blowing across adjacent properties. The ARB will be making random inspections of construction sites to make sure they are in compliance. If trash and debris on the job site becomes a noticeable problem, notification to the responsible party will be given by the Architectural Review Board Coordinator to clean up site within 48-hours of request. In the event that this is not corrected, The Ledges will have the debris removed at the property owner's expense. With regard to dumpsters being filled to overflowing, the Architectural Review Board Coordinator will contact the general contractor with a request to have said dumpster emptied within two (2) working days. If the dumpster has not been emptied in that time, the ARB Coordinator will call to have the dumpster emptied. Due to this, all general contractors are required to sign the attached statement authorizing the Architectural Review Board Coordinator to request a dumpster be emptied. Use of adjacent lots is not

permitted unless written permission is granted by the lot owner. A copy of the written permission must be submitted to the ARB for their files.

4. Proper erosion control is the responsibility of the contractor. Adequate silt fencing, gravel at the entry drives and other erosion control measures must be properly installed and maintained. The street shall be kept free of mud, silt and debris from erosion and construction traffic.
5. Contractors will only use the utilities provided at the site on which they are working.
6. Portable toilets and dumpsters are the responsibility and expense of the contractors. Portable toilets are to be placed 15' back of the right-of-way. In the event that the house being built has alley access, the portable toilet is to be placed on the alley; again 15' back. The general contractor must submit a layout showing placement of both the dumpster and portable toilet for approval BEFORE placing on the property. The ARB, in return, will expedite approval of layout within 48 hours.
7. Vehicles are to be parked on the site on which a contractor is working. If it is not possible to park on a job site, the general contractor is responsible for contacting the ARB to discuss parking options. Under no circumstances is parking permitted on the Ledges green spaces or resident driveways. The general contractor will be responsible for repairing all damage resulting in vehicles being parked off the job site. No vehicles (cars, trucks, vans, etc.) may be left in the subdivision overnight. Construction equipment may be left on the site while needed but must be kept off of the street. Exceptions to this rule require approval from the ARB.
8. Washing of any truck or vehicle on the street is not permitted. Any washing of concrete delivery trucks must be on the construction site.
9. Spills of any damaging materials must be cleaned up by the contractor. Spills must be reported as soon as possible. Any clean up done by Ledges personnel will be charged to the responsible party.
10. The established speed limit within the community is 25 miles per hour for all vehicles, unless otherwise posted.
11. Damage to the streets, curbs, drainage inlets, street lights, street markers, walls, other Ledges property, or adjacent lot owner's property will be repaired by The Ledges at the responsible party's expense.
12. It is the responsible party's obligation to IMMEDIATELY report to the Developer and Architectural Review Board Coordinator any cutting of water, telephone, cable TV, electrical, or any other utility lines.

13. Access across the golf course is not permitted without approval from the golf course superintendent or the director of golf. Contractors doing work on or adjacent to the golf course must have a full-time golf employee show them the proper paths or ingress egress.
14. Loud radios or noise will not be allowed within the community. Normal radio levels are acceptable. Do not mount speakers on vehicles or outside of homes under construction.
15. Only bonafide workers are allowed on the property. Spouses and family members may drive workers to the site and pick them up, but must not remain on the property unless they are employees of the contractor. No worker's pets are allowed on the property.
16. Building permits and any signs required by law are the only sign of document to be posted at a home site during construction. Business signs or other forms of advertisement are not permitted. Trees are to be kept free of all permits and signs.
17. The Ledges Security Force will have jurisdiction for maintaining the safety and welfare of all owners and residence. Contractors and subcontractors are required to adhere to all rules and directions issued by the Security Force.
18. Burning of materials is not allowed on job sites. However, a warming fire in a barrel will be permitted during the winter months.
19. During the process of construction, the Architectural Review Board will conduct three (3) construction reviews of the home being built. The reviews will take place at the following stages of completion. The general contractor is responsible for advising the ARB Coordinator when they are at the different stages of completion so a review can be scheduled. Please note that the ARB can and will also conduct random reviews during the course of construction.
  - a. Following the installation of exterior windows and doors and substantial completion of cornice (exterior trim).
  - b. Following the completion of brick veneer and/or siding, front door and column placement and prior to the placement of any hardscapes, concrete drives or walks. Landscape plan should be submitted and approved at this time.
  - c. Upon completion of home and landscape, and clean-up of adjoining land.

Notifications of violations will be sent to the responsible party and property owner defining those items not in compliance with the rules and regulations. Upon receipt of the notification, the involved parties have three (3) working days to correct the violation or the Ledges will take the necessary actions to correct the violation. Those actions could include charging the property owner for the corrections done by the Ledges, withholding project approval for construction, or denying entry to the contractors and/or personnel. See item 9 Builders and App.

**LEDGES SECURITY PROCEDURES  
FOR GENERAL CONTRACTORS AND SUBCONTRACTORS**

- 1) All contractors should register the lot and block number of job site with Ledges Security.
- 2) Passes will be issued for a period of two months and will be issued to all contractors and their permanent employees. Subcontractors will receive a daily pass.
- 3) All contractors will provide Ledges Security with a list of their permanent employees.
- 4) All contractors will provide Ledges Security with a list of their subcontractors.
- 5) In the event additional subcontractors are needed, the contractor will notify Ledges Security. If the additional subcontractor arrives at the gate and they are not on the list, Security will try to contact the contractor with one phone call. It is the contractors' responsibility to contact Security to avoid delays. Supplies being delivered can be validated by the driver showing the Security Officer the delivery ticket with the lot and block number of the job site.
- 6) No one will let any other person use their pass as a means of entering Ledges. Spot checks will be conducted on a random basis (proof of identification will be required). Anyone caught allowing another person to use their pass will not be allowed on the Property.
- 7) It is the responsibility of the contractor to make sure all lists are kept up-to-date (new hires and terminations). New passes should be obtained from Security just prior to the month of expiration. Failure to get new passes will result in your employees not being allowed entrance to Ledges until the new passes have been obtained.

CONTRACTOR NAME/PHONE NUMBER: \_\_\_\_\_

JOB SITE LOCATION (LOT/BLOCK): \_\_\_\_\_

TODAY'S DATE: \_\_\_\_\_ EXPIRATION DATE: \_\_\_\_\_

	<u>PASS #</u>	<u>NAME</u>	<u>VH TAG#</u>	<u>TYPE/COLOR OF VEHICLE</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

PASSES ARE GOOD FOR A PERIOD OF SIX MONTHS ONLY. ALL EXPIRED PASSES SHOULD BE COLLECTED BY THE CONTRACTOR AND DESTROYED. NEW PASSES WILL BE ISSUED BY SECURITY AT THE BEGINNING OF MONTH.

**SUBCONTRACTORS**

	<u>PASS #</u>	<u>SUB NAME</u>	<u>VH TAG#</u>	<u>TYPE/COLOR OF VEHICLE</u>
1.	_____	_____	_____	_____
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____
7.	_____	_____	_____	_____
8.	_____	_____	_____	_____
9.	_____	_____	_____	_____
10.	_____	_____	_____	_____

SUBCONTRACTOR PASSES ARE GOOD FOR DATE ISSUED ONLY. (ATTACH ADDITIONAL SHEETS AS NEEDED)



APPENDIX F





THE LEDGES ASSOCIATIONS, INC.  
ARCHITECTURAL REVIEW BOARD

BUILDING CONSTRUCTION APPLICATION AND AGREEMENT

LOT\_\_ BLOCK \_\_ DEVELOPMENT

STREET ADDRESS

BUILDER

ADDRESS

CITY/ST/ZIP

OWNER

ADDRESS

CITY/ST/ZIP

Approval is hereby granted to the above named Builder and Owner, as authorized by the Architectural Review Board (the Board) of the Ledges Associations, Inc., (the Association), to install landscaping and construct a residence and other improvements on the above property (such installation and construction being referred to herein as the "Improvements"), subject to the following conditions:

- 1) The person(s) shown above as Owner is/are all of the owners, in fee simple, of the property described above. Builder is the licensed general contractor hired by the Owner to construct the Improvements, and hereby represents to Owner and to the Association that he is properly licensed to construct the Improvements.
- 2) Owner and Builder have received copies of and have read and understand the declaration of covenants, conditions and restrictions applicable to the above development (the "Declaration") and the Architectural Review Guidelines (the "Guidelines") promulgated and approved by the property owners association which has jurisdiction as to such development. Owner and Builder agree to comply with the requirements of the Declaration and Guidelines in connection with the construction of the Improvements.
- 3) All Improvements shall be constructed in accordance with the plans and specifications, which Owner and Builder have submitted to the Association, and which have been approved by the Association. Owner and Builder agree to complete the Improvements in accordance with the Lot Purchase Agreement executed with The Ledges of Huntsville, LTD.
- 4) Owner and Builder agree to comply with inspection procedures set out in the Guidelines. The Builder specifically acknowledges that he has read and understands Appendix E of the Guidelines, "Rules and Regulations for Contractors and Service Personnel," and agrees to be bound by such rules at the direction of the Association and Ledges Security.
- 5) All revision to the approval plans must be approved in writing by the Association.

- 6) All requests for revisions to exterior materials or configurations must be submitted prior to the use or installation of such revised materials. In addition, the unapproved use or installation of unauthorized exterior materials will result in the immediate suspension of the review and approval process of all plans and specifications which Builder may have submitted to the Association as to any property in Ledges, until such time as the unauthorized materials have been removed. **NO REQUESTS FOR REVISIONS TO EXTERIOR MATERIALS WILL BE CONSIDERED BY THE BOARD AFTER ANY SUCH MATERIALS HAS BEEN INSTALLED.**
- 7) Notification of any violations of any of this Agreement, the Declaration, or the Guidelines will be sent to the Builder and Owner, defining those violations. Upon notification, the Builder/Owner agree to cease construction of the specific items in violation until such violations have been removed. Neither the Board or any owners association or Ledges Associates nor any of their employees or agents shall be liable for any expense or damages incurred by Owner or Builder due to the cessation of construction because of such violations.
- 8) Owner agrees to install landscaping and underground irrigation according to approved landscaping plans. The Owner shall request a final inspection which the landscaping and irrigation has been installed and shall correct any discrepancies between the approved plans and the installed landscape.
- 9) The Builder agrees to protect all adjoining street right-of-way, adjacent properties, golf course, and common areas. If such properties are damaged, Builder will restore all damaged property to its original state, subject to the approval of the Board. In addition, Builder agrees to maintain the work site in a clean and orderly condition during construction and shall not cause or allow trash and/or debris to accumulate on the property or anywhere within Ledges. If notified by the Board that these conditions have not been maintained, Builder shall perform the required cleanup activities within three (3) days of such notification. In the event of Builder's failure to perform such cleanup within that time period, Owner and builder hereby agree that the Association may perform such cleanup, charging Owner for the cost thereof.
- 10) Owner and Builder agree to notify the Association of any changes of lot ownership or Builder of the Improvements. In the event of any such change, a new Agreement must be executed before work may continue on the Improvements.
- 11) This Agreement constitutes approval by the Ledges Association, Inc., only and does not constitute an approval or permit required by any governmental entity or agency having authority over the work proposed on the above referenced lot.
- 12) Builder agrees to notify his employees, agents and subcontractors of the provisions of this Agreement, and acknowledges that they shall be bound by the provisions of this Agreement. Builder and Owner shall be responsible for the conduct of their employees, agents and subcontractors during any onsite construction activities.

13) The Association and or Developer has the right to have its agents enter and inspect the property from time to time and without prior notice, in order to verify that construction of the Improvements is proceeding in accordance with this Agreement, the Declaration and the Guidelines, and to make such remedial maintenance and repairs authorized under this Agreement.

14) This approval expires one (1) year from the date hereof.

This Application Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_ .

\_\_\_\_\_(SEAL) \_\_\_\_\_(SEAL)  
Owner Contractor

\_\_\_\_\_(SEAL)  
Owner

Agreement accepted this \_\_\_\_\_ day of \_\_\_\_\_2\_\_\_\_ for  
D&S Development, Owner (s) of Lot \_\_\_\_, Block \_\_\_\_  
The Ledges of Huntsville Development.

By: \_\_\_\_\_  
ARCHITECTURAL REVIEW BOARD REPRESENTATIVE



**ARCHITECTURAL REVIEW BOARD  
SCHEDULE OF FINES**

Improper jobsite sign	\$ 50.00
Littered site	50.00
Parking on adjacent property without written permission from Owner	50.00
Unscreened dumpster/portable toilet	75.00
Building equipment on adjacent property without written permission from Owner	250.00
Damage to adjacent property	250.00
Damage to golf course	500.00*
Damage to common areas	500.00*
Unauthorized removal of trees (per tree)	750.00
Unauthorized plan change	1,250.00*
Unauthorized exterior material (paint, siding roof, drives, walks)	2,500.00*

\* Fine plus cost to repair

- Fines listed are per notified violation
- Fines will be assessed by the Architectural Review Board/Ledges Association, Inc.
- Uncollected fines are subject to legal action as necessary

