

**DECLARATION OF COVENANTS AND EASEMENTS**  
**LAKES AND STREAMS SUBDIVISION**

THIS DECLARATION, made and executed this 17<sup>th</sup> day of JANUARY, 1992, by LAKES AND STREAMS DEVELOPMENT COMPANY, INC., a South Carolina corporation, herein referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property situate in Alken County, South Carolina, more particularly described in Exhibit "A-1" attached hereto and made a part hereof; and

WHEREAS, Declarant desires to create thereon a residential neighborhood to be known as Swan Lake Village of Lakes and Streams Subdivision, with certain portions thereof designated as permanent open space, and with Common Areas and Facilities for the common benefit, use and enjoyment of the residents of Swan Lake Village of Lakes and Streams Subdivision; and

WHEREAS, Swan Lake Village is part of Lakes and Streams Subdivision which is being developed by Lakes and Streams Development Company, Inc.; and

WHEREAS, certain property as shown and designated upon Exhibit "A-2" attached hereto and made a part hereof and being identified as Swan Lake Village of Lakes and Streams Subdivision which includes Swan Lake Common Area and Swan Lake which has been or will be conveyed by the Declarant unto the Lakes and Streams Homeowners Association and which includes Landscape Easements, Maintenance Easements, Beauty Easements and Access/Egress Easements; and

WHEREAS, Declarant desires to insure the attractiveness of Swan Lake Village and to provide for the maintenance of the Common Areas and Facilities, Easements and other areas of Swan Lake Village and other properties within Lakes and Streams Subdivision.

NOW, THEREFORE, Declarant intending to be legally bound, hereby declares that the Property described in Exhibit "A-2" and such additions thereto as may be made hereafter pursuant to the provisions of Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

OFFICIAL

RETURNED TO: P&D

33.00

**ARTICLE II**  
**PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS**  
**THERETO**

**SECTION 1. EXISTING PROPERTY.** The Real property which is, and shall be, held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens of this Declaration is more particularly described in Exhibit "A-2".

**SECTION 2. OTHER EASEMENTS.** Declarant reserves the right without the consent of the Owners, Members or the Association, to grant and convey or to cause the grant and conveyance to the Association, for the benefit of its Members and Owner of each Lot, the right, privilege, easement and right of way to use and enjoy an easement on other parts of the Lakes and Streams Subdivision, together with access thereto, subject to the obligation of the Association to maintain the said easements and accessway in good order and repair and so that the easements are fully useable at all times for the purposes for which it was designed. Upon the granting of said easement, the Easements and right of way which are the subject thereof shall be deemed a part of the Common Areas and Facilities for all purposes of this Declaration of Covenants and Easements.

**SECTION 3. FUTURE ADDITIONS.** Declarant further reserves the right without the consent of the Owners, Members, or the Association to bring within the scheme of this Declaration any or all parts of Lakes and Streams Subdivision provided that all such additions shall be in accordance with the Development Plan for Lakes and Streams Subdivision, and with such modifications thereof as may hereafter be approved by the appropriate public authorities or by court order; and provided further that the improvements to such additional part shall be of style, quality, size and cost that is complimentary to the improvements constructed on the Lots and provided further that approval of the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association and/or Federal Home Loan Mortgage Corporation (herein called the "Federal Mortgage Agencies") shall be obtained, if necessary.

**SECTION 4. ADDITIONS; AFFECT.** The additions authorized in Section 3 above may be made by the execution and recording of a Supplemental Declaration describing the land area constituting the addition and containing an appropriate reference to this Declaration. Whereupon, except for the modifications, additions or changes included in the Supplemental Declaration, the provisions of this Declaration shall extend to and become applicable to such area and shall extend the jurisdiction of the Association, membership rights and obligations therein to the Owners in such area, in all respects as if this Declaration had included such area from the beginning.

of any document. Membership in the Association shall not be separated from ownership of any Lot.

**SECTION 2. Voting Rights; Classes.** The Association shall have two classes of voting membership:

**Class A.** Class A Members shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one Class A membership vote be cast with respect to any Lot. The Class A Members shall not include the Declarant unless and until its Class B membership has ceased and has been converted to Class A membership as hereinafter provided.

**Class B.** The Class B Member shall be the Declarant. The Declarant plans the Lakes and Streams Subdivision as a major development. To help assure a development that is beneficial to all persons, the Declarant shall retain a vote equal to a majority plus one in the appointment of the Architectural Control Committee and in the votes of the Association until 80% of the ~ 390 acre Lakes and Streams Tract is developed, or until such other time as it or its assigns shall elect. Except however,

b. if 80% of the tract shall not have been developed by January 1, 2006, the Class B Member shall be converted to a Class A Member on the basis of one undeveloped acre remaining shall equal three lots.

c. Declarant, his successors or assigns have elected to terminate any further development of Lakes and Streams Subdivision and has notified Association of said decision via Certified Mail.

## **ARTICLE V COVENANTS FOR MAINTENANCE ASSESSMENTS**

### **SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.**

Declarant, for each Lot owned by Declarant, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, including any purchaser at a judicial sale or heir or devisee of a deceased Owner, shall be deemed to covenant and agree to pay to the Association: (a) annual assessments or charges, and (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as herein after provided. The annual and special assessments, together with interest and costs of collection thereof (including reasonable attorney's fees), shall be a charge on, and shall be a continuing lien upon, each Lot against which each assessment is made. Each such assessment, together with interest and said costs of collection, shall also be the personal obligation of the Owner of each Lot who was the Owner at the time when the

**SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3 AND 4.** Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 of this Article V shall be sent to all Members not less than 30 days and not more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty-three and one third (33 1/3%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum shall not be present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting and so on until a quorum shall be obtained. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

**SECTION 6. UNIFORM RATE OF ASSESSMENT.** All Annual and special assessments must be fixed at a uniform rate for all Lots and annual assessments shall be collected on an annual basis. Special assessments shall be collected as required by the Board of Directors.

**SECTION 7. DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES; PAYMENTS.**

a. The annual assessments (or pro-rata annual assessment) provided for herein shall commence for a Lot on the day that the lot and house thereon shall receive its Certificate of Occupancy from the County of Aiken. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The annual assessment shall be due and collectable on January 1 of each year.

b. the Class B Member shall not be obligated to pay any annual assessment made with respect to any Lot owned by it except as required to make up a deficit in Association funding, said amount not to exceed the Base Annual Assessment on each Lot.

c. The Association, upon demand and for a reasonable charge, shall furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

**SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the annual rate of fifteen (15%) percent, payable monthly, and the Association may declare the entire balance of the assessment due and payable in full by giving notice thereof to the Owner. The Association may bring an action at law against the Owner personally obligated to pay the same, or it may foreclose the lien against the Lot, and in the latter case the Association may proceed to foreclosure in the same manner as provided for mortgages by an action of mortgage foreclosure. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas and Facilities or by abandonment of his Lot.

or any other site improvement planned and not mentioned herein. Neither the main residential building nor accessory buildings may be constructed on any lot without the full and active supervision of an architect or builder licensed in the State of South Carolina upon whom the responsibility of conformance to these covenants shall rest, this responsibility to be joint and several with the owner of the lot.

**1.1 DWELLING SIZE, CHARACTER AND QUALITY:** All residences constructed on any lot shall be single-family residences. The minimum dwelling floor area of finished and heated dwelling floor area, exclusive of porches, shall not be less than:

- 1600 square feet for single level homes
- 800 square feet on the first floor for two story homes, or
- 1100 square feet on the ground level of tri-level homes

**1.2 GARAGES:** No dwelling house shall be constructed so as to contain a carport or other exposed space that may be used for storage. At least a single, one car attached garage is required. Side or rear garage entrances are required, except, however, as determined by the ACC that such side or rear entry is impractical/inappropriate for the house and lot. In such case, and if approved by the ACC, an enclosed garage with an entrance facing a street shall be acceptable. All garages shall be equipped with doors adequate to render the interior of the garage out of view.

**1.3 FENCES, GRADE WALLS, AND HEDGES:** No fence, wall, hedge or shrub planting which obstructs sight at elevation between two and six feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street, property lines, and a line connecting them at a point twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. Fences are not permitted forward of the dwelling front line. Fences from the dwelling front line to the rear shall not exceed 6-feet in height. Material of construction of the fence shall be in keeping with the general appearance of the neighborhood and approved by the ACC. Additional covenants, applicable to lots that front on Swan Lake, are provided in a later section of these covenants.

**1.4 DRIVEWAYS LOCATION, NUMBER, AND INSTALLATION:** The dwelling shall include a driveway of concrete construction from the point of road access to the garage. Each lot will be limited to one connection of its driveway to the road, unless approved by the ACC. The driveway will connect with the road so as to meet Aiken County Specifications. The driveway shall be at least ten (10) feet wide.

**1.5 CONCRETE WALKWAYS:** A concrete walkway and/or a 12-foot wide private driveway connecting to the adjacent walkways is required on certain lots as shown on the Record Plat named above. The construction and location of the walkway shall be in accordance with the engineering drawings for the subdivision. The construction of the walkway/driveway is the responsibility of the builder/owner and must be constructed (poured) at the same time as the

basement or slab. Slab floors shall be at least 18-inches above grade at the closest approach to grade. On other than stucco faced houses, the foundation shall be faced with brick or stone on the front and sides.

1.13 EXTERIOR COLORS: The ACC may review and recommend exterior colors in keeping with the colors of the neighborhood.

1.14 MAIL BOXES: Mail box posts shall not exceed 5-feet in height and the mailbox and its support shall be in harmony with the neighborhood. The first mailbox will be provided by the Declarant.

1.15 LOT CLEARING: Trees of greater than 6-inch diameter, measured 6-feet above ground shall not be removed without permission of the ACC.

## SECTION 2. PROTECTIVE COVENANTS

Without intending to limit the generality of the other provisions of this Article IV, the following restrictions are imposed as a common scheme on all lots:

2.1 LAND USE AND BUILDING TYPE: All lots shall be known and designated as residential lots and used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one, detached, single-family dwelling not to exceed two and one-half (2-1/2) stories in height in the front and a private garage for not more than four (4) vehicles, and other approved structures as hereinafter provided. Specifically, mobile and modular homes are not permitted.

2.2 COMMERCIAL ACTIVITY: No commercial activity of any kind or nature shall be conducted upon any of the lots, except that the Lakes and Streams Development Company and its management Company, Tharpe Investment Enterprises, shall have the privilege of maintaining an office on the property to manage the development, distribute information regarding the development, make sales and manage the Home Owner Association affairs and such other activities as are required for the benefit of the development. Said office shall not exceed three (3) permanent employees.

2.3 HOBBIES: The pursuit of hobbies or other activities, including, without limiting the generality hereof, the assembly and disassembly of motor vehicles and other mechanical devices, which might lead to disordered, unsightly, or unkempt conditions, shall not be pursued or undertaken in the front yard of any residential building lot, or rear yard of a lot facing the lake, or in driveway, or garage where such condition shall be visible from any street upon which such residential building lot may abut.

2.4 LOT SIZE AND QUALITY: Lots may be enlarged by the addition of other contiguous property lying inside or outside said subdivision, combined or divided, provided that in such re-subdivision of any lots, the setback line and the side and rear line restrictions as set forth in

shall be allowed to be kept on any lot and are prohibited within the boundaries of the subdivision. All pets are the responsibility of the owners and shall be contained on owner's property at all times unless accompanied by owner and on a leash.

**2.10 SIGNS:** Except as required by statute or county ordinance, no signs may be maintained upon any lot without the prior written approval of the ACC. The Declarant shall have the right to install any and all signs it deems necessary in the construction of the development and any common areas. Real estate companies, general contractors and builders, and owners may place a for sale type sign on not more than one property boundary, but in no event shall a sign exceed two (2) feet by three (3) feet in area. Subcontractors or suppliers may not display signs. No signs may be placed on or about rights-of-way, easements or common areas without written approval of the Declarant.

**2.11 VISUAL OR MATERIAL POLLUTION, GARDENS, CLOTHESLINES, AND STORAGE TANKS:** No pollution visually, chemically, or by virtue of the presence of an element shall be allowed in the subdivision. All garbage and refuse disposal shall be contained in portable containers associated with public or private trash and garbage collection authorities, in sanitary condition and removed on a routine and frequent schedule as not to present any noxious smells on or about lot. Storage shall be behind the rear line of the dwelling. All cut vegetation or trash shall be removed within ten (10) calendar days. No garbage or domestic trash shall be disposed of by burning or burying on any lot within this subdivision or adjacent property. A vegetable garden may be planted in the rear or backyard of any lot, consistent with the easements and other provision set forth herein. No clotheslines, drying racks, or fences used for drying clothes shall be constructed or maintained nearer the front street line than the rear line of the residence constructed on each lot. Neither of the above shall extend beyond the side lines of the house. No exposed, above ground tanks will be permitted for the storage of fuel, water or any other use. Additional covenants regarding fences are applicable to fences in the rear yards of lots fronting on Swan Lake are listed hereafter.

**2.12 RE-SURVEY OF LOTS:** The Declarant reserves unto itself, its successors and assigns, the full right and privilege to resurvey and change the lots in the subdivision owned by the Declarant, provided, however, that such right and privilege shall not affect any lots already sold and provided that no lot in such resurvey shall be less in area than the smallest lot now shown in the subdivision from which such resurvey lot may be carved and provided that such resurvey shall be in accordance with the provisions of Paragraph 2.4 above.

**2.13 VEHICULAR STORAGE:** No junked or abandoned vehicles shall be allowed or permitted to be on any lot for a period exceeding thirty (30) days and any vehicle not bearing a current license plate issued by a State Highway Department shall be considered abandoned. Such vehicles may be stored in a garage with a garage door concealing visual contact from the street or adjacent properties. Campers, recreational vehicles (RVs), school buses, boats or other types of similar equipment shall be parked no closer to the street than the rear corner of the dwelling and in the case of a corner lot, no vehicle shall be parked any closer than a far rear corner from either street. No house trailer, heavy construction equipment, or heavy commercial vehicles such

**SECTION 3. SPECIAL PROTECTIVE COVENANTS APPLICABLE TO LOTS "FRONTING" ON SWAN LAKE AND THE SWAN LAKE COMMON AREA.**

Without intending to limit the generality of the other provisions of this Article IV, the following restrictions are imposed as a common scheme on lots numbered 01027 through 01056 on the Swan Lake Village Subdivision plat named in Attachment A-2.

**3.1 BEAUTY EASEMENT:** A Beauty and Access Easement of 30-foot width measured from the lake high waterline up the shoreline is established. Fences, hedges or other enclosures are not permitted within the beauty easement. Lawn chairs, picnic tables, beach umbrellas and other similar transportable equipment may reside in the beauty easement. Plans for landscaping in the Beauty and Access Easement shall be submitted to the ACC prior to start of work for review and approval.

**3.2 REAR SETBACK REQUIREMENT:** The rear line of the dwelling, garage, or other outbuildings must be at least 50-foot from the lake high water line.

**3.3 FENCES:** Fences from the dwelling front line to the rear shall not exceed 4-foot in height, except; however that fences up to 6-foot in height shall be allowed provided that the fence not be closer than 50-foot to the shoreline or 20-foot to the lot side-lines. Material of construction of the fence shall be in keeping with the general appearance of the neighborhood and approved by the ACC.

**3.4. CHANGES TO LAKE SHORELINE, EXCAVATION OR FILL-IN OF LAKE:** Changes to lake shoreline, any excavation or fill-in of lake is prohibited. No dumping into the lake is permitted.

**3.5. EFFLUENTS:** No effluent other than natural rain water is permitted into the lake.

**3.6. BLOCKAGE OF LAKE VIEW - TREES AND LANDSCAPING:** Wooded, landscaped lots are desirable; however, trees can be added or existing trees can grow to such extent that the view of the lake from the encircling road would be blocked. A balancing of individual property owners rights versus the rights of others in the HA is required. In the event of conflict concerning the blockage of view, the issue shall be presented to the ACC. If in the opinion of the ACC, corrective action is required, the issue will be presented to the Board of Directors of the HA. If the Board of Directors is of the unanimous opinion that corrective action is required, necessary pruning, tree removal, etc., shall be taken at the expense of the HA. If the Board of Directors is not unanimous, the issue shall be presented to the HA at the next annual meeting where majority vote will decide the issue.

**SECTION 4. SPECIAL COVENANTS APPLICABLE TO THE LAKES, COMMON AREAS, STREAMS AND WATERS.**

Without intending to limit the generality of the other provisions of this Article VI, the following

**SECTION 5. GENERAL COVENANTS AND RESERVATIONS**

Without intending to limit the generality of the other provisions of this Article IV, the following restrictions are imposed as a common scheme on all lots:

**5.1 DURATION OF COVENANTS:** These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until the year 2012, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by a majority of the then owners of the lots it is agreed to change said covenants in whole or in part.

**5.2. COMPLIANCE WITH REGULATIONS:** All provisions of the ordinances and requirements of the Aiken County Planning Commission, or its successors, applicable to the subdivision shall be observed. In the event of any conflict between any provision of the Aiken County Zoning Ordinance or these protective covenants, the more restrictive provision shall apply.

**5.3 AMENDMENTS BY LOT OWNERS:** These restrictions of Article VI may be amended from time to time by the majority vote of the members of the HA.

**5.4 AMENDMENTS BY ACC:** It is specifically provided that the ACC as provided for herein shall have the right and power to alter, amend, add to, or cancel any provision of Article VI set forth in this Declaration and said ACC and their successors in office shall have this authority.

**5.5 UTILITIES AND SERVICES:** For the good of all in the subdivision, the Declarant reserves to itself the right to: (1) approve those utilities (i.e., cable tv, gas, garbage collection, etc.) that may be offered or installed and (2) designate lots which shall use natural gas for space heating in the Swan Lake Village Subdivision, such designation for the required use of natural gas shall be at sale of the lot.

**ARTICLE VII  
ENFORCEMENT OF THIS DECLARATION**

The Association and any Owner (including Declarant) shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration, and in the event of a violation thereof the Association and any Owner shall be entitled to injunctive relief and damages, or both, from the Owner or other person committing such violation. Any monies received by any Owner from any other Owner or former Owner on account of assessments levied by the Association, less all reasonable enforcement costs, shall be paid by such enforcing Owner to the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

notice of such proposed or actual taking by the Association or occurrence of such loss.

**SECTION 2. APPROVAL OF CERTAIN ACTIONS.** In addition to the votes or approvals of Owners and Members of the Association required by other provisions of this Declaration, the assent in writing of all the holders of first mortgages of record on the Lots (based upon one vote for each first mortgage owned) shall be required for the following actions:

- a. any attempt by the Association to abandon, partition, release, subdivide, encumber, sell or transfer the Common Areas and Facilities, except for the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas and Facilities;
- b. any change in the method of determining the assessments or the proportional share thereof which may be levied against a Lot;
- c. any attempt by the Association to waive or abandon the restrictions imposed herein relating to the architectural design or exterior appearance of the Lots, the exterior maintenance of the Lots and maintenance of the Common Areas and Facilities;
- d. The discontinuance of the maintenance by the Association of the insurance specified in Article XI hereof; and
- e. any attempt by the Association to use hazard insurance proceeds arising from any loss or damage to the Common Areas and Facilities for other than the repair, replacement or construction thereof.

**SECTION 3. OTHER RIGHTS OF MORTGAGEES.** The holders of first mortgages on the Lots may, jointly or singly, pay taxes and other charges which are in default and which may or have become a charge or lien against any portion of the Common Areas and Facilities, and may pay overdue premiums on the insurance policies or secure any insurance policies with respect to the coverage to be maintained by the Association pursuant to Article XI hereof, and upon so doing the first mortgagees making such payments shall be entitled to immediate reimbursement therefor by the Association.

**SECTION 4. FHAVA APPROVAL.** If the purchase of any Lot is financed with the help of any program administered by the Federal Housing Administration or the Veterans Administration, so long as there is a Class B membership in the Association, the following actions will require the prior approval of the Federal Housing Administration, or the Veterans Administration, as the case may be: annexation of additional properties beyond those identified in Exhibit A-1, dedication or other disposition of the Common Areas and Facilities; and any amendment of this Declaration that would prejudice the interest of either Administration.

**SECTION 2. INSURERS.** The insurance set forth in this Article XI shall be maintained in reputable insurance companies authorized to transact business within the State of South Carolina.

**ARTICLE XII  
DISSOLUTION**

In the event that the Association shall be dissolved, the interests, rights and obligations of the Association in and to the Common Areas and Facilities shall be dedicated or assigned to Aiken County, South Carolina. If Aiken County shall not accept said dedication or assignment, then such interests, rights and obligations of the Association shall be transferred to such other public or private agency or instrumentality as will most nearly carry out the original intention of this Declaration. The provisions herein shall apply also if the Association ceases to operate, and in such case, it shall be the duty of the Owners herein to cause said interests, rights and obligations to be dedicated, assigned or transferred as provided herein.

**ARTICLE XIII  
SPECIAL EASEMENTS**

**SECTION 1. DECLARANT'S EASEMENT TO CORRECT DRAINAGE.** For a period of two years from the date of conveyance of each Lot, Declarant reserves an easement and right on, over and under the ground within that Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, making any gradings of the soil or to take any other similar action reasonably necessary, following which Declarant shall restore the affected Lot to its original condition as near as practicable. Declarant shall give timely notice of intent to take such action to all affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice.

**SECTION 2. EASEMENT TO INSPECT.** There is hereby created an easement in favor of the Association for ingress and egress on any Lot during reasonable hours:

a. to inspect the Lot for alleged violation of this Declaration, and/or compliance with architectural standards and/or approved plans for alterations and improvements, provided the Owner of such Lot is given written notice of the purpose and time of inspection at least three (3) days in advance thereof, and

b. to perform such maintenance as is required by this Declaration.

There shall be no amendments to this Declaration or the Articles of Incorporation or By-Laws of the Association which:

- a. Discriminate or tend to discriminate against Declarant's rights as an Owner.
- b. Changes the Definitions appearing in Article I of this Declaration in a manner which alters Declarant's rights or status.
- c. Alters Declarant's rights under Article II as regards annexation of additional properties.
- d. Alters the character and rights of membership or the rights of the Declarant as set forth in Article IV.
- e. Alters previously recorded or written agreements with public or quasi-public agencies as regards easements and rights of way.

**SECTION 7. USAGE.** Whenever used the singular shall include the plural and the singular, and the use of any gender shall include all genders.

**SECTION 8. EFFECTIVE DATE.** This Declaration shall become effective upon its recordation in the Office for the Recording of Deeds in and for Aiken County, South Carolina.

**SECTION 9. ANNEXATION.** At some time in the future it may be in the best interest of the Lakes and Streams Subdivision or some part thereof to annex into a different political subdivision such as the City of North Augusta. Such annexation will take place at the sole option of the Declarant if he alone determines that such action is in the best interest of the Lakes and Streams Subdivision or portion thereof. The right to annexation is encumbered upon every lot in the Subdivision whether unsold, sold or occupied with a dwelling as well as all common areas.

*NOT OFFICIAL*

**LEGAL DESCRIPTION**  
**EXHIBIT "A-1"**

**TRACT 1:**

ALL that certain piece, parcel or tract of land, together with any improvements thereon, situate, lying and being in the County of Aiken, State of South Carolina, and being shown as Tract "A" containing 372.3 acres, more or less, and Tract "B" containing 10.76 acres more or less, on a plat to be recorded contemporaneously herewith, prepared for Estate of Marshall B. Garner, First National Bank of Augusta Trustee, by Baldwin & Cranston Associates, Inc., under date of January 15, 1978, all lines having been reinspected on July 1, 1980. Said tract of land is more fully described as follows:

Tract "A" begins at an iron pipe located on the South side of Highway No. S. R. 1760, and running thence N 13 34'30" E, 568.99 feet to an iron pin; thence running along a curved line  $R=731.91$  feet/ $L=606.16$  feet to an iron pin, thence running N 61 01' 35" E, a distance of 100.00 feet to an iron pin; thence running N 28 58'25", a distance of 18.00 feet to an iron pin at the end of the state right-of-way and pavement (aforementioned) Highway No. S. R. 1760; thence running N 61 01' 35" E, a distance of 982.06 feet along the southern side of a graded public dirt road to an iron pin; thence running N 61 12' 30" E, a distance of 1,349.91 feet along said public dirt road to an iron pin, located at the Northeastern corner of subject property, adjacent to property now or formerly of W. E. Raines; thence turning and continuing S 48 06' 20" E, a total distance of 1,109.02 feet to an iron pin located at the northeastern corner of subject property at its intersection with property now with property now or formerly of W. E. Raines and property now or formerly of Sudlow Lake Corporation; thence turning and continuing S 41 28' 05" W a distance of 172.34 feet to an iron pin located at a corner of subject property and property now or formerly of Sudlow Lake Corporation; thence, turning and continuing S 39 18' 25" E a total distance of 1350.30 feet to an iron pin located approximately 25 feet to the west of the center line of Little Horse Creek; thence extending from such iron pin along the same line to the center of Little Horse Creek; thence turning in a southerly direction and following the meandering course of Little Horse Creek for a distance of 7,550+ feet to a point 40+ feet East of an iron pin located at the southernmost boundary line of the subject property adjacent to the property of John E. Morris; then extending from the center line of said Creek to such iron pin; thence turning and continuing N 43 04' 55" W, a distance of 1,353.62 feet along said boundary line to an iron pin; thence turning and continuing N 58 56' 50" W, a distance of 770.50 feet along said boundary line to an iron pin located at the Southwestmost corner of subject property at its intersection with property of John E. Morris and property of James Ware, Jr., thence turning and continuing N 19 24' 25" E, a distance of 399.89 feet, to an iron pin located on the westernmost boundary of subject property, said pin being the corner marker of property of James Ware, Jr., and property of Canal Industries, Inc.; thence continuing N 20 28' 55" E, a distance of 954.91 feet to an iron pin; thence continuing N 22 55' 55" E, a distance of 1,166.58 feet to an iron pipe located at the corner of subject property and the Northwestmost corner of property of Canal Industries, Inc., thence turning and continuing N 68 45' 00" W, a total distance of 1,578.74 feet to

VOL 641 PAGE 212

LEGAL DESCRIPTION  
EXHIBIT "A-2"

ALL that certain piece, parcel or lots of land, situate, lying and being within the County of Aiken, State of South Carolina, containing fifty-two and eighty-four one-hundredths (52.84) acres as is more fully shown on a plat prepared for Lakes & Streams Development Company, Inc., a South Carolina Corporation by Southern Partners, Inc., dated December 16, 1991, which subdivision is identified as Swan Lake Village of Lakes & Streams and recorded in Plat Book 26, Page 183 of records of Aiken County, South Carolina, which said plat is incorporated herein by reference thereto for a more complete and accurate description as to the metes, bounds and location.

RECORDED 2-19-97 at 11:00 hr  
*[Signature]*  
AIKEN COUNTY

RETURNED TO: *The Inc - Escrow*  
*PO Box 600*  
*Valley Forge Pa. 19482*

OFFICIAL  
RETURNED: *B & L*

**SUPPLEMENTAL DECLARATION #9 OF  
COVENANTS AND EASEMENTS  
LAKES AND STREAMS SUBDIVISION**

THIS SUPPLEMENTAL DECLARATION #9, made and executed this 4<sup>th</sup> day of MARCH, 1997, by LAKES AND STREAMS DEVELOPMENT COMPANY, INC., a South Carolina corporation, herein referred to as "Declarant".

**WITNESSETH:**

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 641, page 186 at the RMC, Aiken County, South Carolina, the document "Declaration Of Covenants And Easements, Lakes and Streams Subdivision", dated 16-Jan-92, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 709, page 302 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #1 Of Covenants And Easements, Lakes and Streams Subdivision", dated 04-June-93, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 752, page 218 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #2 Of Covenants And Easements, Lakes and Streams Subdivision", dated 9-May-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 785, page 273 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #3 Of Covenants And Easements, Lakes and Streams Subdivision", dated 23-Feb-95, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 802, page 217 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #4 Of Covenants And Easements, Lakes and Streams Subdivision", dated 30-March-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 830, page 71 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #5 Of Covenants And Easements, Lakes and Streams Subdivision", dated 01-April-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 837, page 119 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #6 Of Covenants And Easements, Lakes and Streams Subdivision", dated 12-July-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 844, page 63 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #7 Of Covenants And Easements, Lakes and Streams Subdivision", dated 06-Sep-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 847, page 76 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #8 Of Covenants And Easements, Lakes and Streams Subdivision", dated 20-Sep-96, and

Signed this date of March 4, VOL 878 PAGE 178 1997.

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

Attest: LAKES AND STREAMS DEVELOPMENT COMPANY, INC.  
By Bobby J. Tharpe  
Bobby J. Tharpe, President

LAKES AND STREAMS HOMEOWNERS ASSOCIATION, INC.  
By Bobby J. Tharpe  
Bobby J. Tharpe, President

Witness, Susan T. Colflesh  
Susan T. Colflesh

Witness, Notary: Lou H Berry  
Lou H Berry

THE STATE OF SOUTH CAROLINA  
AIKEN COUNTY

PROBATE

PERSONALLY appeared before me SUSAN T. COLFLESH  
and made oath that SHE saw the within named BOBBY J. THARPE  
sign, seal, as HIS act and deed, deliver the within written document,  
and that SHE with Lou H Berry (notary)  
witnessed the execution thereof.

SWORN to before me this 4th day of March, A.D., 19 97.

Susan T. Colflesh (Susan T. Colflesh)

Lou H Berry (notary)

NOTARY PUBLIC  
Notary Public of South Carolina  
My Commission Expires 1-31-99

RETURN TO:

Tharpe Investment  
Enterprise, Inc.  
P.O. Box 6066  
North Augusta, SC 29841-6066

Page 3

RECORDED 8-1-97 1100  
Guido M. Williams  
R.R.C. Serial 000...  
RETURNED TO: SCOTT

COVE3220  
COVE3220

MISCELLANEOUS  
VOL. 107 PAGE 3 05-Apr-2001

**SUPPLEMENTAL DECLARATION #18 OF COVENANTS AND EASEMENTS FOR  
LAKES AND STREAMS SUBDIVISION  
ADDITIONS, DELETIONS AND MODIFICATIONS TO  
PRIOR COVENANTS**

THIS SUPPLEMENTAL DECLARATION #18 made and executed this 16<sup>th</sup> day of APRIL 2001 by LAKES AND STREAMS DEVELOPMENT COMPANY, INC., a South Carolina corporation, herein referred to as "Declarant" and the LAKES AND STREAMS HOMEOWNERS ASSOCIATION, herinafter referred to as the "Association".

WITNESSETH:

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 641, page 186 at the RMC, Aiken County, South Carolina, the document "Declaration Of Covenants And Easements, Lakes and Streams Subdivision", dated 16-Jan-92, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 709, page 302 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #1 Of Covenants And Easements, Lakes and Streams Subdivision", dated 04-June-93, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 752, page 218 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #2 Of Covenants And Easements, Lakes and Streams Subdivision", dated 9-May-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 785, page 273 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #3 Of Covenants And Easements, Lakes and Streams Subdivision", dated 23-Feb-95, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 802, page 217 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #4 Of Covenants And Easements, Lakes and Streams Subdivision", dated 30-March-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 830, page 71 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #5 Of Covenants And Easements, Lakes and Streams Subdivision", dated 02-May-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 837, page 119 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #6 Of Covenants And Easements, Lakes and Streams Subdivision", dated 12-July-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 844, page 63 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #7 Of Covenants And Easements, Lakes and Streams Subdivision", dated 6-Sep-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 847, page 76 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #8 Of Covenants And Easements, Lakes and Streams Subdivision", dated 20-Sep-96, and

cove3220: Page 1

**A. In the section titled:**

**ARTICLE VII, ENFORCEMENT OF THIS DECLARATION**

**Insert the following paragraphs after the words ".....waiver of the right to do so thereafter."**

Additionally, the Association shall have the right to assess a penalty of \$20.00 per month to a Homeowner that fails to observe the provisions of the Protective Covenants. The penalty shall be applied as follows:

1. The amount of \$20.00 per month for each infraction of the covenants.
2. The penalty, if unpaid, shall accrue monthly with interest added at 15% per annum.
3. The penalty shall become a lien against the property of the infringing Homeowner.
4. The Association shall not issue the CERTIFICATE OF ESTOPPEL for the sale or transfer of the subject property until all such fees are paid.
5. The Association shall use its best efforts to obtain conformance to the covenants by any infringing Homeowner. The effort shall include at least two written notices to the Homeowner. The notices shall describe the infringement and request correction within a specific time period. If these efforts are unsuccessful, a penalty shall be assessed. Prior to the initiation of the penalty, the infringing Homeowner shall receive written notice via registered mail that a penalty beginning at a specific date is to be levied upon the Homeowner.
6. The assessment of a penalty shall require the approval of the Chairman, the Treasurer and at least one member of the Board of Directors.
7. The infringing Homeowner may choose to contest the application of the penalty via written request to the Board of Directors. The Homeowner may also choose to appeal personally to the Board of Directors at one of the regular meetings of the Board. If the view of the Homeowner is upheld by majority vote of the Board, all penalties shall be cancelled.

**B. In the section titled:**

**ARTICLE VI, ARCHITECTURAL CONTROL: PROTECTIVE COVENANTS**

**Delete in its entirety the portion titled "2.13 VEHICULAR STORAGE" and insert the following:**

**2.13 PARKING AND VEHICULAR STORAGE:**

- a) No junked or abandoned vehicles shall be allowed or permitted to be on any lot for a period exceeding thirty (30) days and any vehicle not bearing a current license plate issued by a State Highway Department shall be considered abandoned. Such vehicles may be stored in a garage with a garage door concealing visual contact from the street or adjacent properties.
- b) Campers, recreational vehicles (RVs), boats or other types of similar equipment shall be parked no closer to the street than the rear corner of the dwelling and within the extended sidelines of the dwelling. Additionally, in the case of a corner lot, no vehicle shall be parked any closer than a far rear corner from either street. If enclosed by a 6 foot, wooden fence, the vehicles may be parked outside of the sidelines of the main dwelling. For lake front lots, recreational vehicles (RVs) or oversize boats shall not be parked in the rear yard. Such vehicles may be parked in an enclosed garage in the rear yard.
- c) Vehicles parked forward of the rear corner of the dwelling (i.e., side and front yards) shall only be

THE STATE OF SOUTH CAROLINA  
AIKEN COUNTY

MISCELLANEOUS  
VOL 1070 PAGE 7

PROBATE

PERSONALLY appeared before me Tony Williams

and made oath that HE/SHE saw the within named BOBBY J. THARPE

sign, seal, as HIS act and deed, deliver the within written document,

and that HE/SHE with SUSAN T. COLFLESH (notary)

witnessed the execution thereof.

SWORN to before me this 24<sup>th</sup> day of April, A.D., 20 01.

Witness: T. J. [Signature]



(SEAL)

Susan T. Colflesh  
Notary Public of South Carolina

My Commission Expires July 18, 2008

Please Return To:  
Tharpe Inv. Ent.  
253 Lake Murray Dr.  
N. Augusta, S.C.  
29841

NOT OFFICIAL

4-27-01 at 1020 hrs.  
RECORDED  
Judith Warner  
R.M.C. AIKEN COUNTY

A.00

**SUPPLEMENTAL DECLARATION #19 OF COVENANTS AND EASEMENTS FOR  
LAKES AND STREAMS SUBDIVISION  
ADDITIONS, DELETIONS AND MODIFICATIONS TO  
PRIOR COVENANTS**

THIS SUPPLEMENTAL DECLARATION #19 made and executed this 5<sup>th</sup> day of SEPTEMBER 2001 by LAKES AND STREAMS DEVELOPMENT COMPANY, INC., a South Carolina corporation, herein referred to as "Declarant" and the LAKES AND STREAMS HOMEOWNERS ASSOCIATION, herinafter referred to as the "Association".

**WITNESSETH:**

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 641, page 186 at the RMC, Aiken County, South Carolina, the document "Declaration Of Covenants And Easements, Lakes and Streams Subdivision", dated 16-Jan-92, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 709, page 302 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #1 Of Covenants And Easements, Lakes and Streams Subdivision", dated 04-June-93, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 752, page 218 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #2 Of Covenants And Easements, Lakes and Streams Subdivision", dated 9-May-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 785, page 273 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #3 Of Covenants And Easements, Lakes and Streams Subdivision", dated 23-Feb-95, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 802, page 217 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #4 Of Covenants And Easements, Lakes and Streams Subdivision", dated 30-March-94, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 830, page 71 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #5 Of Covenants And Easements, Lakes and Streams Subdivision", dated 02-May-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 837, page 119 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #6 Of Covenants And Easements, Lakes and Streams Subdivision", dated 12-July-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 844, page 63 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #7 Of Covenants And Easements, Lakes and Streams Subdivision", dated 6-Sep-96, and

WHEREAS, Declarant has caused to be recorded in Miscellaneous Book 847, page 76 at the RMC, Aiken County, South Carolina, the document "Supplemental Declaration #8 Of Covenants And Easements, Lakes and Streams Subdivision", dated 20-Sep-96, and

NOT OFFICIAL

The Protective Covenants and Supplemental Declarations set forth above are hereby altered, added to or deleted as described in the following paragraphs:

**1. Change of ARTICLE IV, MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION, SECTION 2.**

Delete in its entirety the Paragraph "Class B" and substitute the following:

Class B. The Class B Member shall be the Declarant. The Declarant plans the Lakes and Streams Subdivision as a major development. To help assure a development that is beneficial to all persons, the Declarant shall retain a vote equal to a majority-plus-one in the appointment of the Architectural Control Committee and in the votes of the Association until the property remaining to be developed is less than 38 acres and the number of lots owned by the Declarant has been reduced to less than 50, or until such other time as it or its assigns shall elect. Except however,

b. If at any time the number of lots titled to the Declarant decreases to less than 10, the Declarant shall be judged to have discontinued its development of the subdivision and its majority-plus-one authority shall expire.

c. Declarant, his successors or assigns have elected to terminate any further development of Lakes and Streams Subdivision and has notified Association of said decision via Certified Mail.

Upon termination of its majority-plus-one authority, the Class B Member shall continue as a Class B Member and have votes equal to one vote for each remaining lot in the subdivision that is titled to the Class B Member and three votes for each undeveloped acre remaining in the ownership of the Declarant or its assigns..

**2. Addition to ARTICLE IV, MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

Following SECTION 2, add the following SECTION 3:

SECTION 3. LIMITED QUORUM: In the event that the number of members present at a duly called meeting of the Association shall be less than fifty (50 percent), but more than twenty (20) percent of its membership, the Chairman may declare that a Limited Quorum is present. The Limited Quorum may continue to meet; however its authority shall be limited to only the approval of minutes of prior meetings. By majority vote of the members present and voting in the Limited Quorum, the meeting may formulate recommendations for actions by the Association. Upon adjournment of the meeting, the Chairman and/or Secretary shall submit the individually formulated recommendations in writing within 15 days to the Board of Directors. The Board of Directors shall meet within thirty (30) days to consider the recommendations and vote thereon (a quorum shall not be required). The recommendations shall then be sent by mail to the address of record of each Homeowner with a ballot (each ballot shall be coded to one Homeowner) and with attached notice that:

a. The recommendations were formulated by a less than fifty (50) percent majority of the members, and that :

b. Unless more than fifty (50) percent of the ballots of such recommendations are returned with a negative vote within 30 days of the notice, the recommendations will become approved actions of the Association and the

ARTICLE XIV  
GENERAL PROVISIONS

MISCELLANEOUS  
VOV092 PAGE 11

Article XIV, Section 2 is added to as follows:

The Declaration and the Supplementary Declarations may be amended in whole or in part solely by the Declarant for a period of two (2) years from the date of this document.

Signed this date of SEPTEMBER 5, 2001

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

Attest: LAKES AND STREAMS DEVELOPMENT COMPANY, INC.

By Bobby J. Therpe  
Bobby J. Therpe, President

LAKES AND STREAMS HOMEOWNERS ASSOCIATION

By Bobby J. Therpe  
Bobby J. Therpe, Chairman

Witness: Mr. Wells

Witness: Scott

NOT OFFICIAL

**BY-LAWS OF THE LAKES AND STREAMS  
HOMEOWNERS ASSOCIATION, INC.**

**INTRODUCTION**

The name of the corporation is THE LAKES AND STREAMS HOMEOWNERS ASSOCIATION, INC. (hereinafter referred to as the "Association"). The Association shall maintain an office at such place as the Board of Directors of the Association may determine. The corporate seal of the Association shall be in circular form and shall bear the name of the Association and such other language as may be required by the laws of the Commonwealth of South Carolina.

**ARTICLE I  
DEFINITIONS**

The following words, phrases and terms, when used in these By-Laws shall have the meanings provided for below in this Article I.

Section 1.1. "Appointed Director" shall mean and refer to a Board member who has been appointed by the Declarant in accordance with the provisions of Article IV of the By-Laws.

Section 1.2. "ArchitECTUAL Control Committee" shall mean the committee referred to at Article VI, Section 1 of the Declaration and Article VII of these By-Laws.

Section 1.3. "Homeowners Association" or "Association" or "HA" shall mean and refer to the Lakes and Streams Homeowners Association, Inc., a South Carolina corporation not for profit, its successors and assigns.

Section 1.4. "Board" shall mean the Board of Directors of the Association.

Section 1.5. "By-Laws" shall mean the By-Laws of the Association, as such By-Laws may be amended from time to time.

Section 1.6. "Common Areas and Facilities" shall mean and refer to all real property, and the improvements thereon, in which the Association holds a fee interest or an easement of the common use and enjoyment of the Owners, including all portions of Lakes and Streams not included within the Lots as shown on the Title Plan and all personal property which the Association owns.

Section 1.7. "Declarant" shall mean and refer to the Lakes and Streams Development Company, Inc., a South Carolina corporation, and its successors and assigns.

Section 1.8. "Declaration" shall mean and refer to the Declaration of Covenants and Easements applicable to Lakes and Streams dated \_\_\_\_\_, 19\_\_, and recorded by Declarant in the Office of the Recorder of Deeds of Aiken County, South Carolina, as the same may be amended from time to time.

Section 1.9. "Elected Director" shall mean and refer to a Board member who has been elected by the Members in accordance with the provisions of Article IV of the By-Laws.

Section 1.10. "Governing Documents" include the Declaration, the By-Laws, the Articles of Incorporation of the Association, any rules or regulations adopted by the Board or any committee or subcommittee of the Association, and all amendments and supplements to the foregoing.

Section 1.11. "Lot" shall mean and refer to any lot or other parcel in Lakes and Streams shown upon the Title Plan, together with any and all improvements thereon, on which a residential structure could be constructed whether or not one has been constructed.

Section 1.12. "Manager" shall mean and refer to any managing agent, whether corporate or individual, retained by the Association on contract and charged with the maintenance and upkeep of the Common Areas and Facilities. A Manager may be retained by the Association to manage and administer the affairs of the Association and to consult with the Association, its officers and directors.

Section 1.13. "Member" shall mean and refer to the members of the Association and shall include all Owners and Class B Members or Members referred to in Article IV of the Declaration.

Section 1.14. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including Declarant and contract sellers, but excluding contract purchasers and those having such interest merely as security for the performance of an obligation.

Section 1.15. "Property" of Lakes and Streams shall mean and refer to the real property situate in Aiken County, South Carolina, more particularly described in Exhibit "A" to the Declaration.

Section 1.16. "Title Plan" shall mean and refer to the Record Plan, dated \_\_\_\_\_, 19\_\_, prepared by \_\_\_\_\_, approved by the Aiken County Planning Commission, and recorded in the Office for the Recording of Deeds in and for Aiken County, South Carolina, on \_\_\_\_\_, 19\_\_, Plan Book \_\_\_\_\_ and Page \_\_\_\_\_.

**ARTICLE II**  
**MEMBERS; VOTING; QUORUM;**  
**PROXIES AND ASSESSMENTS**

**SECTION 2.1. MEMBERSHIP.** Every Owner of a Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to each Lot and transfer of title to each Lot shall transfer automatically membership in the Association without the necessity of the delivery of any document. Membership in the Association shall not be separated from ownership of any Lot.

**SECTION 2.2. VOTING RIGHTS: CLASSES.** The Association shall have two classes of voting membership:

**CLASS A.** Class A Members shall be all Owners and shall be entitled to one vote for each Lot owned. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one Class A membership vote be cast with respect to any Lot. The Class A Members shall not include the Declarant unless and until its Class B membership has ceased and has been converted to Class A membership as hereinafter provided.

**CLASS B.** The Class B Member shall be the Declarant. The Declarant plans the Lakes and Streams Subdivision as a major development. To help assure a development that is beneficial to all persons, the Declarant shall retain a vote equal to a majority plus one in the appointment of the Architectural Control Committee and in the votes of the Association until 90% of the ~ 390 acre Lakes and Streams Tract is developed, or until such other time as it or its assigns shall elect. Except however,

b. if 90% of the tract shall not have been developed by January 1, 2006, the Class B Member shall be converted to a Class A Member on the basis of one undeveloped acre remaining shall equal three lots.

c. Declarant, his successors or assigns have elected to terminate any further development of Lakes and Streams Subdivision and has notified Association of said decision via Certified Mail.

**Section 2.3. MAJORITY OF THE MEMBERS.** As used herein, the term "Majority of the Members" shall mean the persons entitled to cast more than fifty percent (50%) of the total votes to which all Members are entitled.

**Section 2.4. QUORUM**

a. Except as otherwise provided in the Declaration, any other Governing Document, or in Section 2.4(b) or elsewhere in these By-Laws, the presence in person or by proxy of a Majority

of the Members shall constitute a quorum at a meeting of the Association. The Members 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 persons so that less than a quorum is present, and the Members then remaining and entitled to cast votes at such meeting shall constitute a quorum in connection with the conduct of such business prior to adjournment. The concurrence of a majority of the votes cast at a meeting at which a quorum is present shall be the act of, and binding upon, all Members for all purposes, unless otherwise provided under these By-Laws or the other Governing Documents.

b. If a quorum is not present at any meeting, the Members present, either in person or by proxy, may, by majority vote, reschedule the meeting for a later date, and notice thereof, in accordance with the provisions of Section 3.4 shall be given to all Members entitled to attend and vote at such meeting. A quorum at such second meeting shall consist of whatever number of Members is present, and such fact shall be communicated to the Members in the notice of the second meeting.

Section 2.5. PROXIES. Votes may be cast in person or by written proxy. Proxies must be filed with the Association Secretary before the appointed time of each meeting. A proxy shall be revocable at any time only upon written notice to the Secretary and shall automatically cease after one (1) year. A proxy shall also become void when the Association has received written notice of the death or judicially-declared incompetence of the grantor of the proxy or of recording of a transfer of title to the Lot from the grantor of such proxy.

### ARTICLE III MEETINGS OF MEMBERS

Section 3.1. ANNUAL MEETINGS. The first annual meeting of Members shall be held on such date as is fixed by the Declarant, which date shall in no event be later than the earlier of (1) sixty (60) days from the date when there is no longer a Class B Member, or (2) three (3) years after the date of recording of the Declaration. Thereafter, an annual meeting of the Members shall be held on the second Saturday of October or such other date as is selected by the Board.

Section 3.2. SPECIAL MEETING.

a. Special meetings of the Members may be called at any time by the Association President or by the Board, or upon written request of twenty percent (20%) of the Members.

b. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except that stated in the notice unless consented to in person or by proxy by sixty percent (60%) of all Members entitled to attend and vote at such special meeting.

**Section 3.3. PLACE AND TIME OF MEETING.** All meetings of the Members shall take place at 8:00 p.m., in some section of Lakes and Streams designated by the person or persons calling the meeting, or at such other reasonable place or time designated by the Board or the person or persons calling the meeting.

**Section 3.4. NOTICE.**

a. Written notice stating the place, day, and hour of any meeting of Members shall be given to the Members not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the President or Secretary.

b. Notices provided for in these By-Laws or any other Governing Document shall be addressed to Members at each Member's respective Lot or to one (1) other address as any such Member may from time to time specify in writing to the Associational Secretary. Delivery shall be deemed to have been made when the notice is hand delivered to the Member's mailbox or Lot, or when the notice has been duly deposited in the United States mail, postage prepaid and sent to the address indicated for such notice. Notice may be waived by any Member in writing given at any time.

**Section 3.5. ACTION BY CONSENT.** Any action required or permitted to be taken by vote of Members may be taken without a meeting by the written consent, stating the actions so taken, of at least that number of such persons whose votes would otherwise have been sufficient to take the action of a meeting had been held at which all Members of such class or classes were present.

## ARTICLE IV BOARD OF DIRECTORS

**Section 4.1. NUMBER.** The affairs of the Association shall be managed by the Board which shall consist of three (3) Directors elected at large from the entire subdivision and one (1) Director elected from each village (section) as that village (section) is merged into the Lakes and Streams Homeowners Association. Until the first annual meeting of Members, the Board shall consist of Appointed Directors. Thereafter, the Board shall consist of Elected Directors.

**Section 4.2. COMPOSITION AND TERM.**

a. **APPOINTED DIRECTORS.** Appointed Directors shall be appointed by the Declarant, shall serve at the pleasure of the Declarant, and may be removed and replaced by the Declarant at any time and from time to time at Declarant's sole discretion. Appointed Directors need not be Members of the Association. Three (3) Appointed Directors shall be appointed to serve until the

first annual meeting of Members. Commencing with the first annual meeting of Members, all Directors shall be Elected Directors.

b. **ELECTED DIRECTORS.** Elected Directors shall be elected by the Members at the annual meeting and shall serve for a three (3) year term. The first election of Elected At Large Directors shall take place at the first annual meeting. In order to provide for staggered terms for the "at large" directors, at the first annual meeting, the candidate receiving the most votes shall serve for a three (3) year term, the candidate receiving the second highest number of votes shall serve for a two (2) year term and the candidate receiving the third highest number of votes shall serve for a one (1) year term. The village directors shall always serve for a period of three (3) years.

**Section 4.3. ELECTION.** The election of Elected Directors shall take place at the annual meeting of the Association. Election procedures, such as method of nomination, appointment of judges of election and tellers, shall be determined by resolution of the Board. In elections for Directors, each Member may cast, in respect to each vacancy, the number of votes to which such Member is entitled under Section 2.2 above. Cumulative voting is not permitted. Those nominees receiving the highest number of votes shall be elected. If the annual meeting is postponed, as provided herein, for any reason, any election which would have satisfied the requirements of this Section had the annual meeting been held on the originally scheduled date shall be unaffected by such postponement.

**Section 4.4. RESIGNATION AND REMOVAL.** The unexcused absence of a Director from three (3) consecutive regular meetings of the Board shall be deemed a resignation. Any Elected Director may be removed from the Board, with or without cause, by a vote of a Majority of the Members of the Association. A Director may resign at any time.

**Section 4.5. VACANCIES.** In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor, except that any vacancy occurring as a result of the death, resignation or removal of an Appointed Director shall be filled by appointment by the Declarant.

**Section 4.6. REGULAR MEETINGS.** A regular annual meeting of the Board shall be held in conjunction with the annual meeting of Members. The Board may, by rules which the Board may from time to time adopt, provide the time and place for the holding of additional meetings as the Board may deem necessary to carry out its duties and exercise its powers.

**Section 4.7. SPECIAL MEETINGS.** Special meetings of the Board may be called by the President. Special meetings of the Board must be called by the President upon the written request of at least two (2) Directors. Any such special meeting called by written request shall be scheduled by the President and held within ten (10) days after the Secretary's receipt of such written request, at the discretion of the President (or chairman). Except in the event of a significant emergency, no special meeting may be scheduled on less than three (3) days advance notice.

**Section 4.8. NOTICE; WAIVER OF NOTICE.**

a. Notice of any regular or special meeting of the Board shall be given to each Director serving thereon, personally or by telephone, mail or telegraph, stating the date, time and place of such meeting. In addition, in the case of special meetings, such notice shall state the purpose of the meeting. Notice of regular meetings shall contain a proposed agenda and be given at least ten (10) days prior to the scheduled date for the meeting.

b. Before or at any meeting of the Board, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any such meeting shall be a waiver of notice by him of the time and place thereof unless such attendance is solely for the purposes of objecting to the notice given. If all the Directors then serving on the Board are present at any meeting thereof, no notice shall be required, and any business may be transacted at such meeting unless one or more of the Directors are attending solely for the purpose of objection to the notice given.

**Section 4.9. ACTION BY WRITTEN CONSENT.** Any action which may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors who would be entitled to vote at a meeting for such purpose and shall be filed with the Secretary.

**Section 4.10. QUORUM; ACTION BY BOARD.** At all meetings of the Board, a quorum shall be deemed to be present for the transaction of business if a majority of the Directors then serving on the Board are present. The acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board. If, at any meeting of the Board, there be less than a quorum present, the majority of those present may adjourn or cancel the meeting. At any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 4.11. EFFECT OF PRESENCE.** Any Director present at any meeting shall be deemed to have assented to any action taken at such meeting unless his dissent is entered in the minutes or unless his written dissent is filed with the Secretary at or immediately following the adjournment thereof, provided that no Director may dissent from any action for which he voted in favor at the meeting.

**Section 4.12. COMMUNICATIONS EQUIPMENT.** One or more Directors may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can speak to and hear each other.

**Section 4.13. NO COMPENSATION.** No Director shall be compensated by the Association for acting as such.

**Section 4.14. RULES OF ORDER.** Where not otherwise provided herein, the Board and

Association shall conduct their respective business in accordance with Robert's Rules of Order, or such other rules as it may adopt from time to time for such purpose.

Section 4.15. CONSENT. Whenever any Governing document shall require written permission of the Board, such permission shall consist of a written statement setting forth the action or activity for which such permission is granted, signed by a member of the Board who shall have been authorized to sign such permission on behalf of the Board by a vote thereof. The action or activity for which permission is granted shall be noted by the Secretary in the records of the Board.

Section 4.16. DUTIES. In addition to any other powers which the Board may have under lay and pursuant to the Governing Documents, it shall be the duty of the Board to:

- a. exercise its powers in accordance with the Governing Documents and pursuant to any agreements the Association may enter into with purchasers, holders, or insurers of mortgages secured upon portion of the Properties, including without limitation, any mortgagee protective agreement which may relate to the Association's performance of its administrative and operational activities such as maintenance or insurance, general management function, and management standards.
- b. cause to be kept a record of its affairs, make such records available for inspection by any Member, his agent or any mortgagee which has an interest in the Project.
- c. supervise all officers, agents and employees of the Association and see that their duties are properly performed.
- d. designate depositories for Association funds, designate those officers, agents and/or employees who shall have authority to withdraw funds from such account on behalf of the association, and cause such persons to be bonded, as it may deem appropriate;
- e. send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of the due date of the annual assessment or first installment thereof, provided however that the failure to send such notice shall not relieve an Owner from the assessment obligation;
- f. to procure and maintain the insurance required by Article XI of the Declaration.

Section 3.17. POWERS. The Board shall have such powers for the conduct of the affairs of the Association as are granted by law and the Governing Documents, including, without limitation, the following:

- a. In its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of any Governing Documents and to enforce, by mandatory injunction or otherwise, all

the provisions thereof.

- b. Subject to provisions of the Declaration, to grant and convey to any third party easements and rights-of-way in, on, over and under the Common Areas and Facilities for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder (1) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of electricity and for lighting, heating, power, telephone, community television, radio and audio antenna facilities and for other appropriate purposes, (2) public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and (3) any similar public or quasi-public improvements and facilities.
- c. To employ the services of any person or corporation as Manager, together with employees, to manage, conduct and perform the business, obligations and duties of the Association as may be directed by the Board and to enter into contracts for such purpose. Such manager and employees shall have the right to ingress and egress over such portions of the Property as is reasonably necessary for the purposes of performing such business, duties and obligations.
- d. Without liability to any Owner, to cause its agents, independent contractors, and employees, after reasonable notice, to enter upon any Lot for the purposes set forth in the Declaration.
- e. To contract and pay for, or otherwise provide for, the maintenance, restoration and repair of the Common Areas and Facilities and the various easements established in the Declaration and of all improvements of whatsoever kind and for whatever purpose from time to time located upon or within the Common Areas and Facilities.
- f. To contract and pay for, or otherwise provide for, the services of architects, engineers, attorneys and certified public accountants and such other professional and non-professional services as the Association deems necessary or desirable.
- g. To contract and pay for, or otherwise provide for such other protective services as the Association shall from time to time deem appropriate for the benefit of the Property, the Owners, their tenants and guests.
- h. To contract and pay for, or otherwise provide for, such materials, supplies, furniture, equipment and labor as and to the extent the Board deems necessary.
- i. To pay and to discharge any and all liens from time to time placed or imposed upon any portion of the Common Area and Facilities on account of any work done or performed by the Association in the fulfillment of any of its obligations and duties of maintenance, repair, operation or administration.
- j. To procure and maintain other insurance in addition to that required to be maintained by the Association pursuant to Article XIV of the Declaration.

- k. To estimate the amount of the annual budget, levy assessments and to collect assessments from Members.
- l. To adopt and amend rules and regulations (and provide written notice thereof to all Members) governing the administration, management, operation and use of the Property, and Common Areas and Facilities, and the conduct of the occupants thereof. Such rules and regulations may be modified by a vote of a Majority of the Members.
- m. To maintain adequate reserves in order to meet any contingencies not expressly provided for in the annual budget.
- n. To make or cause to be made such alterations, additions and improvements to the Common Areas and Facilities as in the Board's opinion may be beneficial and necessary or desirable.
- o. To perform such other acts, whether or not expressly authorized by the Governing Documents, as may be reasonably necessary or appropriate to enforce or effectuate any of the provisions of the Governing Documents or other powers which the Board may have.

## ARTICLE V OFFICERS

Section 5.1. DESIGNATION. The officers of this Association shall be a President, a Secretary and a Treasurer, elected by the board from the At Large members of the board. The Board may create such other offices as the Board may from time to time deem necessary or desirable.

Section 5.2. ELECTION OF OFFICERS. The officers shall be elected by the Board at the first meeting of the Board held in conjunction with each annual meeting of the Members.

Section 5.3. TERM. The officers of the Association shall be elected annually by the Board, and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve. An officer having served in an office may be re-elected to the same office throughout his term.

Section 5.4. RESIGNATION AND REMOVAL. Any officer may be removed from office with or without cause by an affirmative vote of a majority of the entire Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect as of the date or receipt of such notice or at any later time specified therein, and unless otherwise specified by such resignation, the acceptance of such a resignation shall not be necessary to make it effective.

Section 5.5. VACANCIES. A vacancy in any office shall be filled by appointment by the Board.

The officer appointed to a vacancy shall serve for the remainder of the term of the officer so replaced.

Section 5.6. MULTIPLE OFFICES. The offices of President and Secretary may not be held by the same person.

Section 5.7. DUTIES. The duties of the officers are as follows:

a. PRESIDENT. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and of the Board. The President shall have the powers and duties usually vested in the office of president of any association and of a corporation incorporated under the laws of South Carolina, including, but not limited to, the power consistent with the authorization of the Board to appoint committees from among the Members from time to time as he may in his discretion decide are appropriate to assist in the conduct of the affairs of the Association.

b. SECRETARY. The Secretary shall keep the minutes of all meetings of the Association and the Board, shall have charge of such books and papers as the Board may direct and, in addition to those duties specifically assigned to him by these By-Laws, he shall, in general, perform all the duties incident to the office of the secretary of a corporation.

c. TREASURER. The Treasurer shall have the responsibility for the funds and securities of the Association and for the deposit of all monies and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board. Records of all receipts and expenditures shall be maintained by employees of the Association or by a Manager under the general supervision of the Treasurer. The records shall include expenditures affecting the Common Areas and Facilities, specifying and itemizing the maintenance repaid and replacement expenses of such Common Areas and Facilities, and any other expenses incurred by the Association. Except for current books of account which may be maintained elsewhere, such records shall be available for examination by the Members during regular business hours. In accordance with the action of the Board in making assessments against the Owners, accurate records shall be maintained of such assessments and of the payment thereof by each person so assessed. The Treasurer and any other employee or agent handling funds shall, if required by the Board, furnish a bond in such form and amount and covering such risks as the Board shall require, the premium for which shall be paid by the Association.

Section 5.8. DELEGATION OF DUTIES TO MANAGER. Certain specific duties of the Secretary and Treasurer of the Association may be delegated by the Board to the Manager designated by the Board.

Section 5.9. COMPENSATION. The officers of the Association shall serve without compensation.

Section 5.10. EXECUTION OF INSTRUMENTS. No agreement, check, deed, lease or other

Instrument shall be binding unless signed by two (2) officers of the Association or by one (1) officer and one (1) assistant officer or other person designated by the Board; provided however, that the Board may authorize the Manager or specified employees of the Manager to execute checks without the signature of an Association officer, subject to such conditions and limitation as may from time to time be imposed by the Board.

**ARTICLE VI**  
**COMMITTEES**

Section 6.1. BOARD APPOINTED COMMITTEES. The Board may appoint such committees as it deems appropriate to carry out its purposes and may delegate to the President full, partial, restricted, or unrestricted power to create committees and appoint the members to such committees.

**ARTICLE VII**  
**ARCHITECTURAL CONTROL**

Section 7.1. ARCHITECTURAL CONTROL COMMITTEE COMPOSITION – APPOINTMENT, REMOVAL

a. COMMITTEE COMPOSITION. The Architectural Control Committee shall consist of three (3) persons, none of whom shall be required to be an architect, Owner or meet any other particular qualification.

b. APPOINTMENT. The members of the ACC shall be appointed by the Declarant until the first annual meeting of the members, Thereafter, the Board shall appoint members of the Architectural Control Committee from among candidates nominated by any Member, including Declarant. The three (3) members of the first Architectural Control Committee shall serve until the first annual meeting of Members. At the time of the first annual meeting of Members and at the time of each annual meeting of Members thereafter, the Board shall appoint Architectural Control Committee members to serve from the close of such annual meeting until the close of the next annual meeting. If the board cannot obtain the services of a sufficient number of persons to serve as Architectural Control Committee members, the Board may act as the Architectural Control Committee for all purposes under the Declaration and these By-Laws. If a vacancy occurs, the Board shall appoint a new member of the Architectural Control Committee to serve for the remainder of the unexpired term.

Section 7.2. FUNCTIONS. The ACC shall:

- a. consider and act upon any and all proposals or plans submitted to it pursuant to the terms of the Declaration or the By-Laws.
- b. ascertain that any improvements constructed on the Property by anyone other than Declarant, or a successor Declarant, conform to plans previously approved by the Architectural Control Committee;
- c. adopt Architectural Control Committee rules;
- d. carry out all other duties imposed upon it by these By-Laws or delegated to it by the Board.
- e. carry out all other duties imposed upon it by these By-Laws or delegated to it by the Board.

Section 7.3. MEETINGS AND PROCEDURES.

- a. The Architectural Control Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the members of the Architectural Control Committee, at a meeting or otherwise, shall constitute the act of the Committee. The Architectural Control Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise.
- b. Any person desiring to take any action requiring approval of the Architectural Control Committee shall submit to such Committee an application including copies of the plans and specification therefor in the form specified by such Committee, plus such other information as such Committee may reasonably request and pay such reasonable fee as may from time to time be fixed by the Board. Any such submission not approved or disapproved in writing within sixty (60) days after submission shall be deemed disapproved.

Section 7.4. ESTOPPEL CERTIFICATE. Within twenty (20) days after written demand therefor is delivered to the Architectural Control Committee by the Board or any Member, and upon payment of such reasonable fee as may, from time to time, be fixed by the Board, such Committee shall provide an estoppel certificate, executed by one (1) of its members, certifying with respect to any Unit that as of the date thereof, either (1) the Committee has no objection to any improvements and other work made or done thereon or therein; or (ii) such improvements and/or work do not so comply with the Declaration, these By-Laws or Committee rules, in which event the certificate shall also (1) identify the non-complying improvements and/or work and (2) set forth with reasonable particularity the cause or causes for such non-compliance. Any purchaser from the Board or a Member, or mortgagee or other encumbrancer, shall be entitled to rely on any such certificate with respect to the matters therein set forth, such matters being conclusive as between the Board, Declarant, and all Owners and any such purchaser, mortgagee or other encumbrancer.

Section 7.5. COMMITTEE RULES. The Architectural Control Committee may, from time to time, adopt, amend and repeal, by majority vote or written consent of its members, rules and

regulations, to be known as "Architectural Control Committee Rules". Such Rules may interpret and implement the Declaration by setting forth the standards and procedures for review by Committee and guidelines to the Board or other body specified by such Architectural Control Committee. Such Rules may also provide, consistent with the jurisdiction of such Committee, guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use within the Property. A copy of such Rules shall upon request be made available by the Board to all Members and other interested persons.

**Section 7.6. NO WAIVER.** The approval by the Architectural Control Committee of any plans, drawings or specifications for any work done or proposed or for any other matter requiring the approval of the Architectural Control Committee under these By-Laws, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

**Section 7.7. ENFORCEMENT OF ARCHITECTURAL CONTROL COMMITTEE RULES AND DECISIONS.** The Architectural Control Committee may recommend to Declarant or the Board that Declarant or the Board take appropriate action to prevent or remove any unauthorized or unapproved construction or improvements on any portion of the Property. It shall be conclusively presumed that any action subject to approval of the Architectural Control Committee was so approved if the Committee fails to make such a recommendation to Declarant or to the Board within one (1) year after the date of the occurrence or completion of such construction or improvement.

**Section 7.8. APPEALS TO BOARD FROM DECISIONS OF ARCHITECTURAL CONTROL COMMITTEE.** The Board shall have the power to serve as a board of appeal for aggrieved parties from decisions of the Architectural Control Committee, and may adopt procedures for the exercise of the powers granted in this Section 7.8.

## ARTICLE VIII LIABILITY AND INDEMNIFICATION

**Section 8.1. LIABILITY OF DIRECTORS, OFFICERS, ARCHITECTURAL CONTROL COMMITTEE MEMBERS AND OTHER COMMITTEE MEMBERS.** Directors, officers, assistant officers, Architectural Control Committee members and other committee members:

a. shall not be liable to any Member, or any other person or entity, as a result of any actions taken or omitted to be taken in such capacities, or for any mistake or judgement, negligence or otherwise, except for their own willful misconduct or gross negligence;

b. shall have no personal liability in contract to a Member, or any other person or entity, under

any agreement, instrument or transaction entered into or executed by them on behalf of the Association in the performance of their duties;

c. shall have no personal liability in tort, direct or imputed, to a Member or any other person or entity, by virtue of acts performed by them or by agents, employees or contractors employed or retained by them, on their behalf in their official capacity, except for their own willfull misconduct or gross negligence; and

d. shall have no personal liability arising out of the use, misuse or condition of the Property or any part thereof, or which might in any other was be assessed against or imputed to them as a result, or by virtue of, their capacities as such.

Section 8.2. INDEMNIFICATION. a. The Association shall, to the fullest extent permitted by law, indemnify and hold harmless any person, his heirs and personal representatives, from and against any and all personal liability, and all expenses, including counsel fees, incurred or imposed, or arising out of, or in settlement of, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, instituted by any one or more Owners or any other persons or entities, to which he shall be or shall be treated to be made a party by reason of the fact that he is or was a member of the Board or an officer or assistant office, or a member of the Architectural Control Committee or any other committee, other than to the extent, if any, that such liability or expense shall be attributable to his willful misconduct or gross negligence, provided in the case of any settlement, that the Association or Board shall have approved the settlement, which approval shall not be unreasonably withheld. Such right of indemnification shall not be deemed exclusive of any other rights to which such person may be entitled as a matter of law or agreement, or vote of Members of the Board, or otherwise. The indemnification by the Association set forth in this subsection (a) shall be paid by the Association and shall be assessed and collected in accordance with the terms of the Declaration.

b. The Association shall indemnify any such person, his heirs and personal representatives in the same manner and to the same extent as provided in subsection (a) above where such action, liability or expense arises out of his serving as a Director, officer or assistant officer, or Architectural Control Committee Member or other committee member and relates to the condition of, or any event concerning, the Common Areas and Facilities, The indemnification by the Association set forth in this subsection (b) shall be paid by the Association and shall be assessed and collected in accordance with the terms of the Declaration.

c. The Association shall indemnify any such person, his heirs and personal representatives, in the same manner and to the same extent as provided in subsection (a) above where such action, liability or expense arises out of such person serving as a Director, officer or assistant officer member of the Architectural Control Committee or any other committee, and relates to any other matter concerning or affecting the Property except as set forth this subsection (a) and (b) above. The indemnification set forth in this subsection (c) shall be paid by the Association and shall be assessed and collected pursuant to the terms of the Declaration.

d. The right of indemnification set forth in Sections 8.2(a), (b) and (c) above shall not be exclusive of any other rights to which the person may be entitled by law, or agreement, or vote of the Members or the Board, or otherwise.

Section 8.3. LANGUAGE CONCERNING LIABILITY IN AGREEMENTS. The agreements, deeds, leases, or other instrument entered into by the Association may provide that the Board and the officers or assistant officers executing the same are acting on behalf of the Association and shall have no personal liability thereunder and that any claim by the other party or parties with respect thereto or the subject matter thereof shall be asserted against the Association.

## ARTICLE IX AMENDMENT OF BY-LAWS

### Section 9.1. METHOD

a. The provisions of these By-Laws may be amended by the affirmative vote of a majority of the members of the Board and the affirmative vote of a Majority of the Members provided, however, that if such amendment shall make any change would affect any of the rights, privileges, powers and options of the Declarant, such amendment shall require the joinder of Declarant.

b. Amendments shall become effective five (5) days after adoption.

Section 9.2. CONFLICT. In the event of a conflict between the provisions of these By-Laws and the Declaration, the Declaration shall prevail.

Section 9.3 SPECIAL AMENDMENTS. Notwithstanding anything contained herein the the contrary, the Declarant, by its own action, without the approval of the Board or Members, shall have the right to amend these By-Laws during a one (1) year period commencing on the date of these By-laws and additionally have the right to amend these By-Laws during a three (3) year period commencing on the date of these By-Laws solely in order to comply with the rules or requirements of any governmental or quasi-governmental body or any Institution purchasing, holding or insuring a security interest in any portion of the Property.

## ARTICLE X FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of Decemter of every year, unless changed by resolution of the Board.

ARTICLE XI  
SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity, partial invalidity or unenforceability of any one provision or portion hereof shall not affect the validity or enforceability of any other provision or portion hereof unless such deletion shall destroy the uniform plan for development and operation of the Property.

ARTICLE XII  
CERTAIN SPECIFIC CONTRACTS

Section 12.1. VALIDITY OF CONTRACTS WITH MEMBERS OF THE BOARD. No contract or other transaction between the Association and one or more of the members of the Board or between the Association and any corporation, firm or association, including Declarant, in which one or more of the members of the Board of the Association are directors or officers, or are financially interested, shall be void or voidable because such member or members of the Board are present at any meeting of the Board or a committee thereof which authorized or approved the contract or transaction of because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exist:

a. The fact that a member of the Board is also such a director or officer or has such financial interest is disclosed or known to the Board or committee and is noted in the minutes, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such member or members of the Board; or

b. The contract or transaction is commercially reasonable to the Association at the time it is authorized, approved or ratified.

Section 12.2 INCLUSION OF INTERESTED MEMBERS OF THE BOARD IN QUORUM. Members of the Board holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 12.1 hereof.

ARTICLE XIII  
MISCELLANEOUS

Section 13.1. HEADINGS. The headings introducing the text of the several sections of these By-Laws are solely for convenience of reference and shall not constitute part of these By-Laws or affect its meaning in any way.

Section 13.2. REFERENCE OF PRONOUNS. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular and plural as the identity of the person or persons or entities may require.

Section 13.3. FAILURE TO INSIST ON STRICT PERFORMANCE IS NO WAIVER. The failure of the Board to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of the Governing Document or Association rules and regulations or to exercise any right or option therein contained or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future of such term, covenant, condition, restriction, option or right, but such term, covenant, restriction, option or right shall remain in full force and effect. The receipt of the Board of any payment of assessments from any Owner with knowledge of the breach of any covenant of the Governing Documents or Association rules and regulations shall not be deemed a waiver of such breach, and no waiver by the Board of any provision of the Governing Documents of the Association rules and regulations shall be deemed to have been made unless expressed in writing and signed by duly authorized members of the Board.

IN WITNESS WHEREOF, Declarant, the incorporator of the LAKES AND STREAMS HOMEOWNERS ASSOCIATION, INC., has executed these By-Laws on this 17 day of JANUARY, 1992

APPROVED:

*B. J. Tharpe*  
*B. J. Tharpe*  
B. J. Tharpe, President  
Lakes and Streams Dev. Co.

WITNESS:

*Lisa Kerstenberger*  
*[Signature]*

