

**DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR WHISPER RIDGE MHP**

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DECLARANT AND RESERVATIONS

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CONDITIONS AND RESTRICTIONS for

WHISPER RIDGE MHP DEVELOPMENT

THIS DECLARATION is made and executed on this the 28 day of April 2016, by
WHISPER RIDGE MHP DEVELOPMENT

DEVELOPMENT CORPORATION, a Mississippi Corporation, hereinafter sometimes referred to as
the "Declarant."

WITNESSETH:

WHEREAS, the Declarant wish to create and develop on the real property described on Exhibit
"A" a distinctive residential community with Common Areas and Community Facilities reserved or
dedicated for the use and benefit of the residents of said community; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities
in said Community, for the designation and maintenance of said Common Areas and Community
Facilities; and to this end, the Declarant desire to subject all of said real property described in said
Exhibit "A", including any and all improvements existing or to be constructed thereon, to the
covenants, conditions, restrictions, uses, limitations, prohibitions, requirements, obligations,
easements, servitudes, charges, assessments, and liens hereinafter set forth, each of which separately
is and all of which jointly are for the benefit of said real property described in said Exhibit "A", for the
benefit of the Declarant, and for the benefit of the subsequent

grantees or successors to the Declarant of any and all of said real property described in said
Exhibit "A"; and

WHEREAS, the Declarant deems it desirable, for the efficient preservation of the values and amenities in said Community, to create a Homeowners' Association which can and shall be delegated and assigned the powers and duties of maintaining and administering said Common Areas and Community Facilities, administering and enforcing the covenants, conditions and restrictions hereinafter declared, and collecting and disbursing the charges

and assessments hereinafter specified; and,

WHEREAS, the Declarant has caused to be formed under the laws of the State of Mississippi, a non-profit and non-share corporation named Whisper Ridge MHP Homeowners' Association, Inc., which corporation shall have as its purpose the carrying out of the powers and duties mentioned herein; and

Now, therefore, Whisper Ridge MHP Development Corporation, Inc., a Mississippi Corporation, the Declarant herein, and the Owners of the real property described in said Exhibit "A", do hereby declare that all of said real property described in said Exhibit "A" is and shall be held, conveyed, sold, hypothecated or encumbered, assigned, leased, rented, used, occupied and improved subject to the covenants, conditions, restrictions, uses, limitations, prohibitions, requirements, obligations, easements, servitudes, charges, assessments, and liens, hereinafter set forth, all of which are agreed and declared to be in aid of a plan for the development of said Community and the improvement of said real property described in said Exhibit "A", all of which shall be deemed to run with and bind said real property described in said Exhibit "A", and all of which shall insure to the benefit of and be enforceable by the Declarant or its successors, by the grantees of the Declarant to all or any part of the said real property described in said Exhibit "A", or by any person acquiring or owning any interest in said real property described in said Exhibit "A" or an improvement thereon, including, without limitation, any person who holds such interest solely as security for the performance of an obligation or payment of a debt.

Declarant. The word "Declarant" shall mean and include said Whisper Ridge MHP Development Corporation, Inc., Mississippi Corporation. The word "Declarant" shall also mean and include any successors and assigns of the entire interest of said Whisper Ridge MHP Development Corporation, Inc.

(in) Mortgagee. The word "mortgagee," as used herein, means and includes the mortgage in or the holder, insurer or guarantor of any recorded mortgage, and the party secured or beneficiary in any recorded deed of trust, encumbering one or more Lots. The word "mortgage," as used herein, means and includes mortgage, deed of trust, and any similar encumbrance. The expression "first mortgage," as used herein, means a mortgage with priority over all other mortgages encumbering the same. Lot. The word, "holder," as used herein, means the person entitled to the security afforded by a mortgage. The word "institutional," when used to describe a mortgagee or holder, shall mean and include mortgages or holders who are banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trust, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, all corporations, and any agency or department of the United States Government or of any state or municipal government.

(n) Member. The word "Member" shall mean and include every person holding any class of membership in Whisper Ridge MHP Homeowners' Association, Inc. Each and every person who is, or who hereafter becomes, an Owner of a Lot comprising part of the Property shall be and is required to be a Member of Whisper Ridge MHP Homeowners' Association, Inc.

(o) Community. The word "Community" shall mean that certain residential development known generally as

"Whisper Ridge MHP", which is being constructed, and which hereafter will be constructed and/or improved by the Declarant and others on the real property described in Exhibit "A" attached hereto.

(p) **Board of Directors.** The expression "Board of Directors" shall mean and include the Board of Directors of Whisper Ridge MHP Homeowners Association, Inc. **By-Laws.** The word "By-Laws" shall mean and include the By-Laws of the Association and all amendments thereto.

(r) **Herein.** The word "herein" shall mean in this Declaration.

(s) **Fee Simple.** The words "fee simple" shall mean and refer to the fee simple title acquired or held by an Owner, his heirs, successors and/or assigns, pursuant to a Deed from the Declarant.

Section 2. Property Subject to Declaration. The real property which is and shall be held, conveyed, hypothecated or encumbered, assigned, leased, rented, used, occupied, and improved subject to this Declaration is comprised of that certain parcel of real property which is described in Exhibit "A" attached hereto, and which is shown, subdivided and described on the Plat of said Whisper Ridge MHP which is appended as Exhibit "B," reference to which is hereby made for all purposes.

Section 3. Initial Common Areas. Each of the parcels of real property described in Exhibit "B" attached hereto declared to be a "Common Area" and the fee simple title therein shall be held by the Association for the common use, benefit and enjoyment of the Members. The designation of said parcels as Common Areas shall not mean that the public at large acquires any easement of use or right of enjoyment therein.

ARTICLE I
DEFINITIONS AND PROPERTY SUBJECT TO DECLARATION

Section 1. Definitions. The words and phrases set out below, when used in this Declaration, shall have the

following meanings, respectively, to wit:

(a) **Association.** The word "Association" shall mean and refer to Whisper Ridge MHP Homeowners' Association, Inc., a Mississippi non-profit, non-share corporation, and its successors and assigns.

(b) **Property.** The word "Property" shall mean and refer to all the real property described in Exhibit "A" attached hereto and any sub-divisions or parcels granted therefrom.

(c) **Plat.** The word "Plat" shall mean and refer to that certain plat designated "Whisper Ridge MHP," appended as Exhibit

(d) **Declaration.** The word "Declaration" shall mean and include this instrument and all amendments hereto.

Covenants, Conditions and Restrictions. The expression "covenants, conditions and restrictions" shall mean and include all the covenants, conditions, restrictions, uses, limitations, prohibitions, requirements, obligations, easements, servitudes, charges, assessments, and liens set forth in this Declaration.

(f) **Lot.** The word "Lot" shall mean and refer to each of the numerically designated subdivided parcels of property constituting a part of the Property. The word "Lot" shall be deemed to include, without limitation, each of the numerically designated lots delineated on the Plat. The word "Lot" shall not include any of the parcels shown on the Plat, if any, which are labeled as Common Areas. Each Lot shall also be either an "Improved Lot" or and "Unimproved Lot" as hereinafter defined.

(1) **Improved Lot.** The Expression "Improved Lot" shall mean and refer to a Lot on which the dwelling has been substantially completed or is occupied or would be reasonably considered as ready for occupancy.

(2) **Unimproved Lot.** The expression "Unimproved Lot" shall mean and refer to a Lot on which the dwelling has not yet been started or may have been started but is not yet substantially complete or be reasonably considered as ready for occupancy. However, if a person acquires the fee simple in two or more contiguous platted lots,

constructs on such contiguous platted lots only one dwelling, and by covenant made for the benefit of the Association and his successors and filed for record in the office of the Chancery Clerk of Madison County, Mississippi, declares that such contiguous platted lots **shall thereafter be held, conveyed, sold hypothecated or encumbered, assigned, leased, rented, used,**

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occupied, and improved collectively in a manner which effectively combines such contiguous platted

lots into one parcel of land, then such contiguous platted lots shall constitute one Lot.

(g) **Person.** The word "person" shall mean and include individuals, corporations, trusts, partnerships and all other legal entities, and any combinations or group of any of the same.

(h) **Common Areas.** The expression "Common Areas" shall mean all those portions of the Property, if any, designated and/or described on the Plat. The designation of any portion of the Property as a Common Area shall not mean that the public at large acquires any easement of use or right of enjoyment therein.

Community Facilities. The expression "Community Facilities" shall mean all real property assigned or otherwise available to the Association for the use, benefit and enjoyment of its Members and their invited guests, and including lands subject to an easement for the benefit of the Association in the discharge of its responsibilities. The designation of *any* portion of the Property as a Community Facility shall not mean that the public at large requires any easements of use or right of enjoyment therein. Unless indicated otherwise in an instrument conveying same to the Association, the real property designated and/or described as Community Facilities on the Plat attached hereto, and the components and appurtenances thereof and thereto shall be considered and treated as Community Facilities.

a) Dwelling. The word "dwelling" shall mean and refer to any building or portion of a building situated upon

the Property and designed and intended for use and occupancy as a residence by a single individual or family. (k) Owner. The word "owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot comprising part of the Property, including "contract sellers," but excluding those holding a security interest in such fee simple title solely as security for the performance of an obligation or payment of a debt. ¶

ARTICLE II
PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association, acting by and through its Board of Directors, to levy reasonable admission and other fees for the use of any Community Facilities (including streets, roads and parking areas) situated upon the Property by the Members and their families, tenants and guests; provided, however, that any such fees shall be charged on a uniform basis for each Member; and
- (b) the right of the Association to suspend any Member's voting rights and any Member's rights to use the Common Areas and Community Facilities (except rights to use streets, roadways and parking areas, which latter rights shall not be subject to suspension for any reason) for any period during which any assessment remains unpaid and for any period not exceeding sixty (60) days for any infraction of any of the published rules and regulations of the Association; and
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless two-thirds (2/3) of

each class of the then Members of the Association consent to such dedication, transfer, purpose and conditions, at a special meeting of the Members duly called for such purpose or an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of Members has been recorded;

(d) the right of the Association, in accordance with its Charter of Incorporation and By-Laws, to borrow money for the purpose of improving the Common Areas and Community Facilities in a manner designed to promote the enjoyment and welfare of the Members, and in aid thereof to mortgage any of the Common Areas and Community Facilities, provided, however, that no such borrowing shall be done and no such mortgage shall be executed unless and until the same has been approved by the vote of at least two thirds (2/3) of each Class; and

(e) the right of the Association to take such steps as are reasonably necessary to protect the property of the Association against mortgage default and foreclosure; provided, however, that any such steps are in conformity with the other provisions of this Declaration; and the right of the Association to adopt reasonable rules respecting use of the Common Areas and Community Facilities to reasonably limit the number of guests of any Member who may use any facilities on the Property; and

(f) the right of the Association, acting by and through its Board of Directors, to grant licenses, right-of-way and easements for access or for the construction, reconstruction, maintenance and repair of any utility lines or appurtenances, whether public or private, to any municipal agency, public utility, the Declarant or any other person, provided, however, that no such licenses, rights-of-way or easements shall be unreasonably and permanently inconsistent with the rights of the Members to the use and enjoyment of the Common Areas and Community Facilities; and the right

of each Member to use the streets, roadways, and vehicular parking areas situated upon the Common Areas and Community Facilities; provided, however, that each Member shall comply in all respects with all supplementary rules and regulations which are not inconsistent with the provisions of this Declaration and which the Board of Directors of the Association may from time to time adopt and promulgate with respect to parking and traffic control upon the Common Areas and Community Facilities.

(g) The right to dedicate or grant to Madison County, or such other

(h) rental authority having jurisdiction over the Property, the streets and right-of-ways as shown on the recorded

(i) whisper Ridge MHP appended as Exhibit "B," and all additions thereto as annexed pursuant to the provisions of this

declaration. In the event that said streets and right-of-ways have not been dedicated to the Madison County, or the governmental authority having jurisdiction over the property, the Association shall have the right to dedicate said streets and right-of-ways to such governmental authority at such time that such authority will accept the dedication thereof and agree to maintain the streets and right-of-ways as public streets.

Section 2. Rights Not Subject to Suspension. Notwithstanding anything in this Declaration to the contrary, the Association shall have no authority to suspend, either temporarily or permanently, any of the rights specified in subparagraphs (i) and (j) of Section 1 of this Article II for any reason whatsoever.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and Community Facilities to the members of his family who reside permanently with him, his tenants, or

contract purchasers who reside on the Property and guests, all subject to such reasonable rules and regulations as the Board of Directors of the Association may adopt and uniformly apply and *enforce*.

(f) the right of the Association, acting by and through its Board of Directors, to open the Common Areas and Community Facilities, or any portions thereof, to a wider group of persons, all for such purposes and on such basis as the Board of Directors may from time to time consider appropriate; and

(g) the rights of the Owners of Lots to perpetual easements over and upon any of the Common Areas and Community Facilities, for support, for the purpose of necessary repairs and maintenance, for maintenance of reasonable appurtenance to the dwellings, and for reasonable ingress and egress to and from any dwelling through and over the Common Areas and Community Facilities; and

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Memberships. The Members of the Association shall be and consist of each and all of the following, to wit;

(a) Every person who is, or who hereafter becomes, an owner of record of the fee title to a Lot. The expression "owner of record of the fee title to a Lot" shall include a contract seller of any such Lot, but shall not include any person who owns such title solely as security for the performance of an obligation or payment of a debt.

(b) The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Members with the exception of Declarant. Class A Members shall be entitled to one vote for each Lot owned. When more than one person or entity holds an interest or interests in any Lot, all such persons or entities shall be Members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. The Class B Member(s) shall be the Declarant. The Class B Member(s) shall be entitled to three (3) votes for each Lot owned. When the total votes outstanding in the Class A membership equal the votes outstanding in the Class B membership, then the Class B membership shall cease and be converted into Class A membership. Notwithstanding the foregoing, 5 years hence, all Class B memberships shall cease and be converted into Class A memberships.

Voting on all matters, including officers, shall be by majority vote except as is otherwise restricted herein. **Section 2. Memberships Appurtenant to Real Property.** In every case, the membership of both Class A and Class B Members shall be appurtenant to the ownership of a Lot. A membership shall not be held, assigned, transferred, pledged, hypothecated, encumbered, conveyed or alienated in any manner except in conjunction with, and as an appurtenance to, the ownership, assignment, transfer, pledge, hypothecation, encumbrance, conveyance, or alienation of the Lot to which the membership is appurtenant.

Section 3. Other Voting Provisions. If the fee title to a particular Lot is owned of record by more than one person or entity, then the vote appurtenant to such Lot may be exercised by any one of the fee owners thereof, unless the **other owner or one voting upon the particular matter under consideration objects. In the case of any such objection, the vote appurtenance to said Lot shall be counted.**

ARTICLE IV
COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned by it within the Properties, hereby covenants and agrees, and each purchaser of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree, to pay the Association: (1) annual maintenance assessments or charges for purposes set forth in Article IV, Section 2; and (2) special assessments for capital improvements as set forth in Article IV, Section 4 such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual maintenance and special individual assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made. Each such assessment together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the *continuing* personal obligation of the person who was the *Owner* of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting health, safety and welfare of the residents of the Properties, and in particular for the improvement and maintenance of the Common Area and Community Facilities; and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of the Common Area, including but in no way limited to the following:

furnishing the services furnished to or in connection with the Common Areas and Community Facilities, including charges by the Association for any services furnished by it and

- (b) the cost of necessary management and administration of the Common Areas and Community Facilities, including fees paid to any managing agents; and
- (c) the amount of all taxes and assessments levied against the Common Areas and Community Facilities; and
- (d) the cost of fire and extended coverage and liability insurance on the Common Areas and Community Facilities and the cost of such other insurance as the Association may place in force with respect to the Common Areas and Community Facilities; and
- (e) the cost of garbage and trash collection to the extent provided by the Association, and of utilities and other services which may be provided by the Association, whether for the Common Areas and Community Facilities or for the Lots, or both; and
- (f) the cost of maintaining, replacing, repairing and landscaping the Common Areas and Community Facilities, including, without limitation, the cost of maintaining, replacing and repairing the sidewalks, streets, other than those accepted by Madison County, Mississippi for maintenance, and open areas in the property, and the cost of such equipment as the Board of Directors shall determine to be necessary and proper in connection therewith; and
- (g) the cost of funding all reserves established by the Association, including, when appropriate, a general operating reserve and a reserve for replacement.
- (h) the cost of maintaining the front yards of all residences, including cutting grass, pruning shrubs, repairing sprinkler systems, etc. to be included in yearly assessments.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Five Hundred Fifty Dollars (\$550) per lot.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.
- (b) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

Section 4. Special Assessments.

- (a) Special Assessments for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvement up on the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a simple majority (51%) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.
- (b) Special Assessment for Willful or Negligent Acts. Upon an affirmative vote of a simple majority (51%) of each class of Members in interest, the Association may levy special assessments against individual Lot Owners, of reimbursement for repairs occasioned by the willful or negligent acts of the Lot Owners and not ordinary wear and tear.
- (c) The Association is hereby authorized to assess each Lot upon which a dwelling has been placed or constructed with an amount equal to the charge made by the Madison County for backup fire protection pursuant to an agreement by and between the association and the Madison County now in force and as may be hereafter amended

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of *taking any action authorized under Sections 3 and 4* shall be sent to all members not less than 30 days nor 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 sixty percent

(60%) of all the votes of each class of membership shall constitute a quorum. If the required *quorum* is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

(d) Section 6. Uniform Rate of Annual and Special Assessments. Both annual and special capital assessments

(e) must be fixed at a uniform rate for all Lots payable as set forth in Section 4 above. Unless two-thirds (2/3) of each Class of Members and their respective first mortgagees (and if their interest be affected, the Federal National Mortgage Association, Federal Housing Administration and the Veterans Administration) have given prior written approval, the Board of Directors of the Association shall not change the pro rata interest or obligations of any Lot (or owner thereof) for the purposes of levying annual and special capital assessments and charges. The Association may add to the assessments to an individual Lot Owner such additional maintenance expense as may be required to care for such Owner's yard to the extent the extra expense is due to special or extraordinary landscaping beyond that which is normal among the other owners.

Section 7. Date of Commencement of Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due dates shall be established by the Board of Directors.

Section 8. Duties of the Board of Directors with Response to Assessments.

(a) The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least thirty (30) days in advance of such date or period, and shall, at that time, *prepare* a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association.

(b) Written notice of the assessment shall thereupon be delivered or mailed to *every* owner subject thereto.

(c) The Board of Directors shall, upon demand at any time, furnish to any Owner liable for said assessment, a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Said certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. A reasonable charge may be made by the Board for the issuance of such certificates.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association.

(a) If any assessment or *any* part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the Lot of the non-paying Owner, which lien shall be binding upon such Lot and the *Owner* thereof, his heirs, executors, devisees, personal representatives and assigns. The Association shall have the right to reject partial payment of an assessment and deemed the full payment thereof. The obligation of the then existing Owner to pay

such assessment, however, shall remain his personal obligation and shall not be extinguished by Lot and shall transfer of title. The lien for unpaid assessments shall be unaffected by any sale or assignment of a The Association shall give written notification to the holder(s) of the mortgage on the Lot of the nonpaying Owner of such Owner's default in paying any assessment when such default has not been cured within sixty (60) days, pursuant to Article XIII, Section 7 of this Declaration.

(b) If any assessment or part thereof is not paid within forty (40) days after the delinquency date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the maximum interest rate *per annum* which can be charged to individuals and the Association may, at its election, bring an action at law or equity against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the Property subject thereof after giving Notice to the holder of any Recorded First Mortgage as set out in Article XIV. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action and/or all costs of foreclosure, including a reasonable attorney's fee.

Section 10. Reserves for Replacements. The Association shall establish and maintain an appropriate reserve fund for replacements of the Common Areas and Community Facilities, and shall allocate and pay to such reserve fund whatever amount may be designated from time to time by the Board of Directors. Amounts paid into such fund shall be conclusively deemed to be a common expense of the Association, and all such amounts may be deposited in any banking institution,

accounts, or, in the discretion of the Board of Directors, may be invested in obligations of, or obligations fully guaranteed as to principal by, the United States of America. The reserve for replacements of the purpose of affecting the replacement of the Common Areas and Community Facilities, for major repairs to any transfer of title. The lien for unpaid assessments shall be unaffected by any sale or assignment of a The Association shall give written notification to the holder(s) of the mortgage on the Lot of the nonpaying Owner of such Owner's default in paying any assessment when such default has not been cured within sixty (60) days, pursuant to Article XIII, Section 7 of this Declaration.

(b) If any assessment or part thereof is not paid within forty (40) days after the delinquency date, the unpaid amount of such assessment shall bear interest from the date of delinquency at the maximum interest rate per *annum* which can be charged to individuals and the Association may, at its election, bring an action at law or equity against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the Property subject thereof after giving Notice to the holder of any Recorded First Mortgage as set out in Article XIV. There shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgement shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action and/or all costs of foreclosure, including a reasonable attorney's fee.

Section 10. Reserves for Replacements. The Association shall establish and maintain an appropriate reserve fund for replacements of the Common Areas and Community Facilities, and shall allocate and pay to such reserve fund whatever amount may be designated from time to time by the Board of Directors. Amounts paid into such fund shall be conclusively deemed to be a common expense of the Association, and all such amounts may be deposited in any banking institution, the accounts, or, in the discretion of the Board of Directors, may be invested in obligations of, or obligations fully guaranteed as to principal by, the United States of America. The reserve for replacements of the purpose of affecting the replacement of the Common Areas and Community Facilities, for major repairs to any sidewalks, parking areas, streets or roadways on the Property, for equipment replacement, and for startup expenses and operating contingencies of a non-recurring nature relating to the Common Areas and Community Facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of each Member in any such reserves shall be considered an appurtenance to the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any Recorded First Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to the mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. This subordination shall not apply to second mortgages. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments, charge and lien created herein:

- (a) All properties dedicated and accepted by the local public authority and devoted to public use.
- (b) All areas un-platted or reserved by the Declaration on the recorded plat of the Property.

ARTICLE V

GENERAL POWERS AND DUTIES OF BOARD
OF DIRECTORS OF THE ASSOCIATION

(c) ARTICLE V

(d) GENERAL POWERS AND DUTIES OF BOARD
(e) OF DIRECTORS OF THE ASSOCIATION

Section 1. Powers and Duties. The Board of Directors shall have all powers, authorities, and duties necessary and **appropriate for the management and administration of**

the affairs of the Association, and in managing and administering such affairs, the Board of Directors shall have all power and authority to do all acts and things except those which by law or by the Declaration or by the Charter or by these By-Laws may be exercised and done only by the Members. The powers, authorities and duties of the Board of Directors shall include, but shall not be limited to, the following:

- (a) **To provide for the care, upkeep and surveillance of the Common Areas and Community Facilities and services in a manner consistent with law and the provisions of these By-Laws and the Declaration; and**
- (b) **To provide for the establishment, assessment, collection, use and expenditure of assessments and carrying charges from the Members, and**

for the filing and enforcement of liens therefor in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(c) To provide for the designation, hiring and dismissal of the personnel necessary and appropriate for the proper care and maintenance of the **Common Areas and Community Facilities** and to provide services on the project in a manner consistent with law and the provisions of these By-Laws and the Declaration; and

(a) To provide for the promulgation and enforcement of such rules, regulations, restrictions and requirements as may be deemed proper respecting the use, occupancy and maintenance of the **Common Areas and Community Facilities**, including but by no means limited to rules, regulations, restrictions and requirements designed to prevent unreasonable interference with the use of the **Common Areas and Community Facilities** by the Members and others, all of which rules, regulations, restrictions and requirements shall be consistent with law and with the provisions of these By-Laws and the Declaration; and continue in full force and effect. No Owner may waive or otherwise escape liability for the assessment provided herein by abandonment of his Lot.

(g) To authorize, in their discretion, the payment of patronage refunds if and when the funds derived from assessments shall prove to be more than sufficient to meet all reasonably foreseeable needs of the Association during the then current fiscal year; and To repair, restore or reconstruct all or any part of the **Common Areas and Community Facilities** after any casualty loss in a manner consistent with law and the provisions of these By-Laws and to otherwise improve the **Common Areas and Community Facilities**; and

(h) To lease and to grant licenses, easements, rights-of-way, and other rights of use in all or any part of the Common Areas and Community Facilities; and

(i) To purchase Lots and to lease, mortgage or convey the same, subject of the provisions of these By-

Laws and the Declaration.

j To employ for the Association, at their sole discretion, a management agent or manager (herein at times referred to as the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors from time to time shall prescribe. Any management agreement entered into by the Association shall provide, *inter alia*, that such agreement may be terminated by either party upon thirty (30) days' written notice to the other party. The term of any such management agreement shall not exceed one year, provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one-year periods.

ARTICLE VI INSURANCE

(a) The Association shall obtain fire and extended coverage and comprehensive public liability insurance in such limits, form and companies, as the Board shall deem advisable to adequately insure the Common Areas and Common Facilities and to protect the Owners from and against liability in connection with the Common Area.

(b) All costs, charges and premiums for all insurance authorized by the Board as provided herein shall be a common expense for all Owners and -a part of the assessment.

(c) Each Owner shall keep his residence insured at all times for its full replacement value against losses due to fire, windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, and smoke, and any other hazards that may be covered under standard extended coverage provisions, and shall furnish the Association proof of such coverage. In every case of a loss due to these hazards, each Owner shall promptly *repair* or rebuild his Lot from the insurance proceeds. Repair or reconstruction of the improvements as used here shall mean restoring the improvements to substantially the same condition which existed prior to the damage.

(d) Each Owner's fire insurance policy shall contain a waiver of subrogation clause; and each Owner shall furnish the Association with a copy of his policy. Each Owner does, by his acceptance of a deed, irrevocably constitute and appoint the Association his true and lawful attorney in his name, place, and stead for the purpose of accomplishing the repair or reconstruction of the improvements in the event the Owner fails or refuses to carry out any of the provisions contained herein. If insurance proceeds are insufficient to cover the cost of reconstruction, the Association may pay the excess and the cost thereof shall become a part of the assessment to which said Lot is subject. Each Owner shall be responsible at his own expense and cost for his own personal insurance on the contents of his own residence, carport or parking space, including decorations, furnishings and personal property therein, and his personal property stored elsewhere on the properties; and for his personal liability not covered by liability insurance for all Owners obtained as a part of the common expense.

ARTICLE VII
AD VALOREM PROPERTY TAXES

Each Owner shall be responsible for and promptly, pay ad valorem taxes on his Lot. The Association shall pay the ad valorem taxes on the Common Area and Common Facilities.

ARTICLE XIII

MANUFACTURED HOME PARK RESIDENTIAL DISTRICT (MHP)

SECTION 1300 - PURPOSE OF THIS DISTRICT

The purpose of this district is to provide for properly planned manufactured home parks in which spaces are offered on a rental or lease basis only for owner-occupied manufactured homes, or in which the space and manufactured home combination are both offered to the public on a rental or lease basis only. It is the intent of this Ordinance that these districts may be located only in such areas as to not adversely affect the established residential subdivisions and residential densities in the County. Such location, however, shall have necessary public services, a healthful living environment and normal amenities associated with residential zones of the County. All areas zoned MHP shall have public sewerage.

SECTION 1301 - LAND USES PERMITTED

- A. Single-family manufactured homes (single-wide or larger) or mobile homes (as defined by this Ordinance) provided the trailer or towing tongue and wheels are permanently removed, and the manufactured home is permanently anchored to foundation piers or a concrete slab, not merely resting upon the foundation. Further, the manufactured home must be completely skirted with brick or masonry materials from the concrete pad or foundation to the bottom of the manufactured home. Plastic, wood, aluminum, or other metal materials for skirting will not be acceptable.
- B. Private lakes, swimming pools, open space, and other private recreational facilities intended only for the use of the residents of the manufactured home park.
- C. Laundromat, vending machine center, and related auxiliary uses incidental to the primary manufactured home uses, provided that such structures for auxiliary uses do not constitute over 10 percent of the total site area of the manufactured home park, and further provided that they be exclusively for the use of the residents of the manufactured home park.
- D. Accessory uses and structures as defined under Article II of this Ordinance.
- E. Private streets (circulation drives).

SECTION 1302 - CONDITIONAL USES AND STRUCTURES AS PROVIDED IN SECTION 2605

The only conditional uses or structures which may be considered in MHP districts are public or quasi-public facilities and utilities and in compliance with Section 402 and other regulations of this Ordinance. An example of a quasi-public building in an MHP district might involve a manufactured home park owner who wishes to allow a civic club to use a building on the same property with the manufactured home park for meetings, etc.

SECTION 1303 - SITE PLAN REQUIRED

No building permit to construct a new manufactured home park or to expand (by the addition of one or more spaces) an existing manufactured home park shall be issued until the applicant for the building permit has complied with the provisions of Sections 2607 through 2610 relative to site plan review. All new manufactured home parks established after the effective date of this Ordinance shall comply with all of the provisions herein. With regard to manufactured home parks established prior to the effective date of this Ordinance, which are expanded (by the addition of one or more spaces) after the effective date hereof, the expanded portions of such parks shall comply with all applicable provisions of this Ordinance.

SECTION 1304 - BUILDING PERMIT REQUIRED

Prior to the connection of utilities (water, sewer, electricity) to serve any manufactured home located in a manufactured home park, the owner of the manufactured home or mobile home, or the owner (or his authorized representative) of the manufactured home park in cases where both the space and the manufactured home are leased or rented, shall apply for a building permit. All electrical wiring and plumbing connections shall be performed in accordance with the adopted codes of Madison County by qualified, licensed, and bonded electricians and plumbers.

Furthermore, any person responsible for placing a manufactured home or mobile home in a manufactured home park shall comply with the tie-down standards prescribed in the Standard Building Code (latest edition) prepared by the Southern Building Code Congress, International, Inc.

SECTION 1305 - DIMENSIONAL REQUIREMENTS

- 1305.01 Minimum Size of Park: 10 acres.
- 1305.02 Maximum Density: The maximum density shall not exceed six manufactured homes per gross acre.
- 1305.03 Maximum Building Height within Manufactured Home Parks: 20 feet or one story.

- 1305.04 Minimum Set-Backs for Park Perimeter: All manufactured homes shall be located at least 25 feet from any property line or any existing or proposed right-of-way line of a public street or road. This park perimeter set-back shall be a landscaped open area with no encroachments permitted, including parking lots, patios, or swimming pools, or other paved areas except for entrance/exit driveways (front yard only).
- 1305.05 Minimum Manufactured Home Space Area Within the Park: 5,000 square feet.
- 1305.06 Minimum Space Width Within the Park: 50 feet measured at the front set-back line.
- 1305.07 Required Set-Backs for Individual Manufactured Home Spaces Within the Park:
- (a) Front yard: There shall be a minimum distance of 20 feet between an individual manufactured home and the adjoining pavement of a park street, or common parking area or other common areas.
 - (b) Side yards: There shall be a minimum distance of 10 feet between all manufactured homes and the side yard lines of each manufactured home space (lot). On corner lots there shall be a minimum side yard of 20 feet on the corner side.
 - (c) Rear yards: There shall be a minimum distance of 10 feet between all manufactured homes and the rear yard lines of manufactured home space (lot).
- 1305.08 Accessory Buildings or Uses: Accessory buildings or uses shall comply with the same height and yard requirements as manufactured homes. Accessory buildings or uses shall be located a minimum distance of 10 feet away from all manufactured homes or other main buildings within the manufactured home park.

SECTION 1306 - OFF-STREET PARKING REQUIREMENTS

In order to provide for free movement of traffic through the park on park streets, no on-street parking shall be permitted on any manufactured home park street. See Article XXIII for the off-street parking requirements of this district.

SECTION 1307 - REQUIRED LANDSCAPING ALONG ARTERIAL STREETS

See Section 404.02 of this Ordinance regarding the provision of landscaping along arterial streets upon which the manufactured home park abuts.

SECTION 1308 - PRIVATE STREETS WITHIN MANUFACTURED HOME PARKS

All manufactured home lots (spaces) shall abut upon a paved private street of not less than twenty (20) feet in width for one-way streets, and thirty (30) feet for two-way streets. All streets within the manufactured home park shall be constructed with a minimum of six inches of compacted clay gravel and shall be surfaced with asphalt or concrete. Proper maintenance of all streets within manufactured home parks shall be the responsibility of the owner or operator of the park and not Madison County. Failure to maintain the streets in a satisfactory manner shall constitute a violation of this Ordinance.

SECTION 1309 - UTILITIES AND DRAINAGE

Utilities (electrical power, natural gas, water, and sanitary sewerage) and storm drainage shall be provided in all manufactured home parks in accordance with the requirements of the applicable codes adopted by Madison County. All electrical, telephone and cable television lines shall be installed underground to eliminate overhead wires. The maintenance of water and sanitary sewage facilities and storm drainage facilities within manufactured home parks shall be the responsibility of the owner of the park, and not Madison County.

SECTION 1310 - FREEDOM FROM FLOODING AND PONDING

All manufactured home parks shall be located on ground which is not susceptible to flooding and graded so as to prevent any water from ponding or accumulating on the premises.

SECTION 1311 - REFUSE COLLECTION FACILITIES

The owner, or his authorized representative, of a manufactured home park shall provide for adequate refuse collection approved by Madison County, and shall be responsible for the cleanliness of the premises. The owner or his authorized representative shall collect refuse in the manufactured home park.

SECTION 1312 - ACCESS TO PUBLIC STREETS AND HIGHWAYS

All access points to public streets or highways shall be approved by the Board of Supervisors and/or the Mississippi Department of Transportation.

SECTION 1313 - RECREATIONAL AREA

A minimum of ten percent (10%) of the gross land area of each manufactured home park shall be set aside as a recreational area or common open space for park residents. Parking lots, driveways, front, side, and rear yards MAY NOT be included in calculating this required open space.

Such open space shall consist of land reserved exclusively for the recreational use of the residents of the manufactured home park. The required site plan (see Section 1003) shall indicate the location and area (in acres) to be so reserved or dedicated for open space or recreational facilities.

- 1313.01 Maximum Amount of Common Open Space Covered by Water: No more than fifty percent (50%) of the required amount of open space may be covered by lakes or ponds.
- 1313.02 Steep Slopes: In reviewing the site plan for a proposed manufactured home park, the Planning Commission shall determine if any land containing slopes of twelve percent (12%) or greater may be included in the required common open space. This determination shall be based upon the developer's specific proposed use of the steep slope land. The Planning Commission shall make a recommendation to the Board of Supervisors as to whether or not any steep slope land should be approved for use in meeting the requirements of this Section.
- 1313.03 Physical Improvements: Common open space shall be suitably improved for the intended use, but open space containing natural features worthy of preservation may be left unimproved if such unimproved areas are approved by the Board of Supervisors as part of the site plan review process. Open space improvements may include pedestrian or bicycle trails, tennis courts, recreational buildings and swimming pools or similar facilities.
- 1313.04 Performance Bonds: Prior to the rental/ lease of any apartment or the sale of any condominium, the developer may be permitted, at the discretion of the Board of Supervisors, to post with the County a performance bond of sufficient surety to insure the completion of all proposed open space improvements (where applicable). Such performance bonds must be issued by a company that is licensed and admitted to business in the State of Mississippi. The County Engineer in conjunction with the developer shall determine the amount of the performance bond after reviewing the construction plans for all improvements.

SECTION 1314 - EXTERIOR LIGHTING

Adequate street lights shall be provided by the park developer to illuminate all streets and walkways for the safe movement of vehicles and pedestrians at night.

SECTION 1315 - FIRE HYDRANTS

Fire hydrants approved by the County Engineer shall be placed by the developer a maximum of 250 feet from each manufactured home stand and every building within the manufactured home park.

SECTION 1316 - REQUIRED PLANTING SCREEN FOR ALL MANUFACTURED HOME PARKS

Developers of manufactured home parks are required to plant appropriate shrubbery to form a planting screen that will reach a height of at least six feet along the sides and rear property lines of the proposed park. The location and type of planting screen to be installed shall be noted on the site plan, which shall be acceptable to the County prior to approval of the site plan. Maintenance of this required planting screen shall be the responsibility of the property owner and failure to maintain the planting screen in a satisfactory manner shall constitute a violation of this Ordinance and be subject to the penalties prescribed herein.

SECTION 1317 - COMMON MAIL DELIVERY FACILITY REQUIRED

A common mail delivery facility (or facilities if the park is large enough to necessitate more than one) shall be constructed in the manufactured home park to eliminate individual mailboxes for each manufactured home.

SECTION 1318 - ANNUAL INSPECTION REQUIRED

An annual inspection for compliance with this Ordinance and other Madison County ordinances or codes of all manufactured home parks by the Zoning Administrator or his designated representative shall be required.

ARTICLE X
USE RESTRICTIONS

The Property shall be subject to the following *USE* restrictions:

Section 1. Use of Lots and dwellings. Each Lot and dwelling shall be used for residential purposes only, and no trade and business of any kind may be carried on therein. The use of a portion of a dwelling as an office by the Declarant or its tenant shall not be considered to be a violation of this covenant if such use does not create regular customers, clients, or employee traffic, provided that in no event shall any Lot or dwelling be used as a storage area for any building contractor or real estate developer. Lease or rental of a dwelling for residential purposes shall not be considered to be a violation of this covenant so long as the lease (i) is not for less than the entire dwelling and all the improvements thereon, (ii) is for a term for at least six (6) months, and (iii) is otherwise in compliance with the rules and regulations as may be promulgated and published from time to time by the Board of Directors. All leases shall be required to be in writing, and prior to commencement of any such lease, the property owner shall provide the Association and the managing agent of the Association, if any, with copies of such lease. Any lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration and the rules and regulations adopted hereunder. Notwithstanding any provisions in this Section 1 to the contrary, Declarant, its successors or assigns, if the right is so transferred by the Declarant, shall have the perpetual right to designate in writing to the Association from time to time dwellings in the development which may be leased for such period of time as the Declarant shall determine, including daily and weekly rentals, for these dwellings, and arbitrarily withheld. If any such sign or advertising device is approved, it shall only contain one name and/or one number plate, not exceeding 120 square inches and if for sale purposes such sign shall not exceed six square feet in area and shall be subject to the right of the Architectural Review Committee to restrict color and content. Notwithstanding the foregoing, the restrictions of this Section 3 shall not apply to Declarant, its agents or assigns, so long as Declarant shall own any of the Lots. In addition, the Board of

Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Common Area and within those easement areas established under the Declaration.

Section 4. Other Buildings and Vehicles. No tent, trailer, barn or other similar outbuilding or structure, shall be placed on any lot, landscape easement, or on any other area at any time, either temporarily or permanently without prior approval of the Architectural Review Committee. No mobile home shall be placed on any lot or any other area at any time, either temporarily or permanently. Each owner shall provide for parking for at least two automobiles per owner for each dwelling owned or maintained by such owner. All automobiles owned or used by owners or occupancies other than temporary guests and visitors, shall, as far as possible, be parked in enclosures which screen the automobile from street view. The Board of Directors shall have authority to promulgate rules and regulations to govern or prohibit the outside storage or parking upon any Lot, dwelling or within any portion of the Common Areas, (other than areas provided therefore within the Common Areas, if any) of motor homes, tractors, trucks, (other than pickup trucks) commercial vehicles of any type, campers, motorized campers or trailers, boats or other water craft, boat trailers, motorcycles, motorized bicycles, motorized go-carts, or any other related forms of transportation devices. Furthermore, although not expressly prohibited hereby, the Board of Directors may at any time prohibit motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other similar vehicles, or any of them from being kept, placed, stored, maintained, or operated upon any portion of the Property. No owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot, dwelling, or within any portion of the Common Areas, except (i) within enclosed garages or workshops or (ii) for emergency repairs and then only to the extent necessary to enable the movement thereof to a proper repair facility.

Section 5. Unsightly conditions and nuisances. It shall be the responsibility of each property Owner and tenants

thereto to prevent the development of any unclean, unsightly or unkept conditions of buildings or grounds on the

Property which shall tend to substantially decrease the beauty of the Community as a whole or as a specific area.

No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property. Nor shall any nuisance or odors be permitted to operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot, dwelling, or any part of the Common Areas or Community Facilities, and each owner, his family, tenants, invitees, guests, servants or agents shall refrain from any act or use of a Lot, dwelling, or the Common Areas or Community Facilities which would cause disorderly, unsightly or unkept conditions or which would cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Property or which would be in violation of any law, governmental code or regulation. Without limiting the generality of the foregoing conditions, no exterior speakers, horns, whistles, bells, or other sound devices except security and fire alarm devices used exclusively for such purposes shall be located, used, or placed within the Property. Any owner, or his family, tenants, guests, invitees, servants or agents, who dumps or places any trash or debris upon any portion of the Property shall be liable to the Association for actual costs or removal thereof or the sum of \$150.00, whichever is greater, and any sum shall be added to and become a part of that portion of the assessment next becoming due to which the owner and his Lot are subject.

n 6. Antennae. No television antennae, satellite dish, radio receiver or similar device shall be attached to or installed on any portion of the Property, unless contained entirely within the interior of a building or other structure, nor shall radio or television signals nor any other form of electromagnetic radiation be permitted to originate from any Lot which may unreasonably interfere with reception or other signals within the Property; provided however, that Declarant and the Association shall not be prohibited from installing equipment necessary for master antennae, security cable television, mobile radio, or other similar systems within the Property and should cable television services be unavailable, and adequate television reception not be otherwise available, then an owner may make written application to the Architectural Review Committee for permission to install a television antennae.

Section 7. Lights. The design and location of landscape lighting fixtures shall be subject to the approval of the Architectural Review Committee. Neither these or any other illumination devices, including but not limited to Christmas ornaments, located anywhere on the structure or grounds of any Lot shall be located, directed or of such intensity to affect adversely the nighttime environment of any adjoining Property.

Section 8, Pets. No animals, livestock or poultry of any kind, shall be raised, bred, kept, staked or pastured on any Lot, or in the Common Area, except dogs, cats, birds, or other household pets which shall be kept and maintained in accordance with the rules and regulations adopted from time to time by the Board of Directors. However, in no event may any animals, whether domesticated or otherwise, be bred.

Section 9. Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, heirs and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement, and sale of Lots and/or dwellings or the development of Lots, **dwellings, Common Areas and the additional Property, including, without**

limitation, the installation and operation of sales and construction trailers, offices, and dwellings as may be approved by the Declarant from time to time, provided that the location of any construction trailers of any assignees of Declarant rights under this Section 9 shall be subject to Declarant's approval. The right under this Section 9 shall be subject to Declarant's approval. The right to maintain and carry on such facilities shall contain specifically the right to use dwellings as model residences, and to use any dwelling as offices for the sale of Lots and/or dwellings, and for related activities.

Section 10. Time sharing. No Lots or dwellings shall be sold *under any time sharing, time interval, or right- to-use programs.*

Section 11. Trespass. Whenever the Association and/or the Declarant are permitted by the Declaration to repair, clean, preserve, clear out or do any action on any part of the Property, entering any Lot or any portion of the Property and taking such action shall not be deemed a trespass.

Section 12. Subdivided. No Lot shall be subdivided or its boundary lines changed, except with the written consent of the Board of Directors and the Declarant so long as Declarant owns any Lots subject to the Declaration, however, the Declarant hereby expressly reserve unto itself, its heirs, or assigns the right to replat any Lot or such Lots owned by it, shown on the plat of Whisper Ridge MHP and to take such other steps as are reasonably necessary to make such replatted Lots suitable and fit

as a building site including, but not limited to, the relocation of easements, walkways, rights of ways and other amenities to conform to the new boundaries of said replatted Lots. The provisions of this Section 12 shall not prohibit the combining of two or more contiguous Lots into one larger Lot or making two Lots out of three or more contiguous Lots, provided that each of the resulting Lots are larger and contain a minimum Lot frontage equal to or greater than their original frontage on the Lot having the least frontage before combining said Lots or portions thereof. Only the exterior boundary lines of the resulting larger lot(s) shall be considered in the interpretation of these covenants.

Section 13. Option. Declarant hereby reserve unto itself, its *heirs* and assigns, the right and option to purchase any Lot or dwelling within the Property which is offered for sale by the Owner thereof. Such option is to be at the price and only terms and conditions of any bona fide offer for such Lot or dwelling which is acceptable to such Owner and which is made in writing to such owner by a third party. Upon receipt of any such offer by an Owner, such Owner shall promptly submit a copy of sale to Declarant and Declarant shall have a period of seven days *from and after* the presentation of such offer in which to exercise its purchase option unless accepted within said seven day period, Declarant shall be deemed to have waived such purchase option. If Declarant decline to exercise such option, Declarant shall execute an instrument evidencing its waiver of such purchase option and if such sale to a third party is not consummated on such terms within six months from the date in which the offer transmitted to Declarant, the terms and limitations of this section 14 shall again be imposed upon any sale by such owner. If Declarant shall elect to purchase such Lot or dwelling, the

transaction shall be consummated following delivery of written notice by Declarant to such owner of Declarant' decision to purchase such Lot or dwelling.

Section 14. Compliance.

(a) In the event of a violation or a breach of any other restrictions contained in this Declaration by any Property Owner, or agent of such Property Owner, other property owners jointly or severally shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation amenities as are now and hereinafter located in the Common Areas.

ARTICLE XI

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. The Property. The Property is and shall be held, *transferred*, sold, conveyed and occupied subject to this Declaration.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Duration. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by

the Owners of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty-five (25) years from the date this Declaration is recorded in the Office of the Chancery Clerk of Madison County, Mississippi, after which time said covenants shall be automatically extended for the successive periods of five (5) years unless an instrument signed by a majority of the Owners has been recorded in the Deed Records, in said Chancery Clerk's Office agreeing to abolish the said Covenants, Conditions and Restrictions in whole or a substantial portion thereof; provided, however, that no such agreements to abolish shall be effective unless made and recorded one (1) year in advance of the effective date of such abolishment.

Section 2. Amendments. Notwithstanding Section 1 of this Article, the Covenants, Conditions and Restrictions of this Declaration may be amended and/or changed in part with the consent of two-thirds (2/3) of the Lot Owners if amended and/or changed during the twenty-five (25) year period of this Declaration, and thereafter said Covenants may be amended or terminated with the consent of at least sixty percent (60%) of the Lot Owners, and in each case such amendment shall be evidenced by a document in writing bearing each of their signatures. All amendments, if any, shall be recorded in the Office of the Chancery Clerk of Madison County, Mississippi.

Section 3. Enforcement: Enforcement of these Covenants, Conditions and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate them, or to recover damages, or to enforce any lien created by these covenants; and failure 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.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 5. Headings. The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration.

Section 6. Notices to Owner. Any notice required to be given to any Owner under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, addressed to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

Section 7. Notices to Mortgagees. Notwithstanding any provision herein to the contrary, the holder(s) of a Recorded First Mortgage on any Lot is entitled to, and shall receive, written notification from the Association of any default by the respective mortgagor/owner in the performance of such mortgagor's/owner's obligation(s) as established by this Declaration.

Section S. Consent of Holders of First Deed of Trust and Federal National Mortgage Association/Federal Housing Administration/Veterans Administration.

During *any* period when any Lot in the project is encumbered by a Recorded First Mortgage, and if their interests be affected, the Federal National Mortgage Association, Federal Housing Administration and the Veteran's Administration may:

- (a) Abandon, partition, subdivide, encumber, sell or transfer any of the Common Area, provided, however, that the granting of rights of way, easements and the like for public utilities or for other purposes consistent with the use of the Common Area by the Owners shall not be considered an encumbrance, sale or transfer within the meaning of this Subsection;
- (b) Abandon or terminate this Declaration; or
- (c) Modify or amend any material or substantive provision of this Declaration.
- (d) Annex additional properties; or merge or consolidate the Association.

Section 9. Additional Rights of Mortgagees - Notice.

(a) The Association shall promptly notify the holder of the Recorded First Mortgage on any Lot as to which any assessment levied pursuant to the Declaration, or any installment thereof, shall become and remain delinquent for a period in excess of sixty (60) days, and the Association shall promptly notify the holder of the Recorded First Mortgage on any Lot as to which there is default by the Owner with respect to performance of any other obligation under this Declaration which remains uncured for a period in excess of sixty (60) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority **of any Recorded First Mortgage on any Lot, and the protection extended in this Declaration of the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure. Also, any failure to give any such notice shall not affect the validity of the lien for any assessment levied pursuant to this Declaration, nor shall any such failure affect any of the priorities for liens as specified in Article IV hereof.**

- (b) No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) day's written notice to the holder of the Recorded First Mortgage encumbering the Lot which is the subject matter of such suit or proceeding.
- (c) Any holder of a Recorded First Mortgage on any Lot upon the Property may pay any taxes, utility charges or other charges levied against the Common Area which are in default and which may or have become a charge or lien against any of the Common Area. Any holder of a Recorded First Mortgage who advances any such payment shall be due immediate reimbursement from the Owners of the amount so advanced.
- (d) No mortgagee and no beneficiary or trustee under a deed of trust shall become personally liable for or obligated for any unpaid maintenance fund assessment.
- (e) No amendment to this Declaration shall affect the rights of the holder of any Recorded First Mortgage recorded prior to recordation of such an amendment who does not join in the execution thereof.
- (f) The holders, insurers or guarantors of any first mortgage on a lot in the Property will, upon request, be entitled to:
- (i) inspect the books and records of the property during normal business hours;

receive an annual audited financial statement of the project within ninety days following the end of any fiscal year of the project;

written notice of all meetings of the Homeowners' Association and be permitted to designate a representative to attend all such meetings; and current copies of this Declaration, the Bylaws of the Association and all other rules concerning the project.

Section 10. Cautions and Gender. The captions contained in this Declaration are for convenience only and are not a part of the Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders, and the singular shall include the plural.

Section 11. Record of Mortgage. Any owner who mortgages his unit shall notify the Association of such fact and shall furnish the Association the name and address of his mortgagee and a copy of his mortgage held by such mortgagee. The mortgagee shall be entitled to notify the Association that such mortgagee holds a mortgage on a lot. The Board of Directors shall maintain such information in a book entitled "Holders of Recorded First Mortgages".

Section 12. Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered forty-eight hours after a copy of the same has been deposited in the United States mail, postage pre-paid, addressed to any person if no address has been given to the Association; provided, however, that notice of meetings need not be mailed by Certified Mail, Return Receipt Requested. Such addresses may change from time to time by notice in writing to the Association.

ARTICLE XIII

DECLARANT'S RIGHTS AND RESERVATIONS

Section L Declarant's Rights and Reservations. Except as stated below, No provisions in the

Charter, By-Laws or this Declaration shall limit, and no Owner or the Association shall do anything to interfere with, the right of Declarant to subdivide or re-subdivide any portions of the Property, or to complete improvements or refurbishments (if any) to and on the Common Area or Community Facilities or any portion of the Property owned solely or particularly by Declarant or to alter the foregoing or the construction plans and designs, or to construct such additional improvements or add future phases in the course of development of Whisper Ridge MHP, pursuant to Article XIII, Section 2 of this Declaration as Declarant deems advisable in the course of development of the Property. Such rights shall include, but shall not be limited to, the right to install and maintain such structures, displays, signs, billboards, flags and sales offices as may be necessary for the conduct of Declarants business for completing the work and disposing of the lots by sale, lease or otherwise. Each Owner by accepting a deed to a lot hereby acknowledges that the activities of Declarant may temporarily or permanently constitute an inconvenience or nuisance to the Owners, and each Owner hereby consents to such inconvenience or nuisance. This Declaration shall not limit the right of Declarant, at any time prior to acquisition of title to a Lot by a purchaser from Declarant, to establish on that lot; Common Areas, additional licenses, easements, reservations and rights of way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the property. The Declarant need not seek or obtain Board approval any

improvement constructed or placed by Declarant on any portion of the Property. The rights of Declarant under this Declaration may be assigned by Declarant to any successors and any interest or portion of Declarant's interest in any portion of the Property by a recorded, written assignment. Notwithstanding any other provision of this Declaration, the prior written approval of Declarant, as Declarant of Whisper Ridge MHP Development Corporation, Inc., will be required before any amendment to this Article shall be effective while the Declarant owns a lot in Whisper Ridge MHP. Declarant shall be entitled to the non-exclusive use of the Common Area and/or Community Facilities without further cost of access, ingress, egress, use or enjoyment, in order to show the Property to its prospective purchasers or lessees and dispose of the Property to its prospective purchasers or lessees and dispose of the Property as provided herein. Declarant, its assigns and tenants shall also be entitled to the non-exclusive use of any portion of the Common Area which comprises drives or walkways for the purpose of ingress and egress and accompanying vehicle and pedestrian traffic to and from the Property. Each Owner hereby grants, by acceptance of the deed to a Lot, an irrevocable, special power of attorney to Declarant to execute and record all documents and maps necessary to allow Declarant to exercise its rights under this Article. This Article shall be applicable for so long as the Declarant own any portion of the Property.

WHERE AS DECLARANT HAS CAUSED this instrument to be
duly executed on the day and year first above mentioned and do deliver this
Declaration as the act and deed of said Whisper Ridge MHP Development
Corporation, Inc.

THIS the day of _____ , 2016.

By: James Ellington, Manager

Whisper Ridge
MHP Development

STATE OF MISSISSIPPI

COUNTY OF _____

Personally appeared before me, the undersigned authority in and for the said County and State, within my jurisdiction, the within named James Ellington, who acknowledged that he is President of Whisper Ridge MHP Development Corporation, Inc., a Mississippi corporation, and that for and on behalf of the said corporation, and as its act and deed, he signed and delivered the above and foregoing instrument of writing for the purposes mentioned on the day and year therein mentioned, after first having been duly authorized by said corporation so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL OF OFFICE, this the _____ day of 2011.

Notary Public

My Commission Expires: |