

# **MARINERS LANDING MASTER COVENANTS**

## **DECLARATION OF RIGHTS, RESTRICTIONS, AFFIRMATIVE OBLIGATIONS AND CONDITIONS**

WHEREAS, J. W. Development, Inc., a stock corporation, existing under the laws of the Commonwealth of Virginia (the Declarant), is the owner of certain lands located within a community known as "Mariners Landing" in Bedford County, Virginia.

WHEREAS, the Declarant wishes to declare certain restrictive covenants affecting certain lands in Mariners Landing (not including Monoacan Shore).

Now, THEREFORE, the Declarant does hereby declare that the covenants contained herein shall be covenants running with the land and shall apply to the lands described in Exhibit "A" attached hereto and such additional lands as may be placed under the coverage hereof by express declaration. The Declarant reserves in each instance the right to add additional restrictive covenants in respect to said properties to be conveyed, or to limit therein the application of this Declaration.

### **DEFINITIONS**

The term "Mariners Landing" when used herein shall refer to the lands in Bedford County, Virginia, which are shown as a part of Mariners Landing on the Declarant's Master Development Plan as revised from time to time.

The term "Declarant" shall refer to J. W. Development, Inc., or its successor or assigns.

The term "Master Association" shall refer to Mariners Landing Master Association, Inc., a Virginia nonstock corporation, its successors and assigns.

The term "Development Unit Parcels" shall mean and refer to those parcels or tracts of land which have been made subject to covenants and restrictions permitting the division of such parcel or tract into smaller land units such as Residential Lots, Multiple-Family Residential Tracts, or Public and Commercial Sites.

The term "Family Dwelling Unit" shall mean and refer to any improved Property intended for use as a single-family dwelling, including without limitation any single-family detached dwelling, garden home (Patio or Zero lot line), condominium unit, townhouse unit, cooperative apartment unit, or apartment unit located within the Properties. A parcel of land shall not be deemed to be improved until the improvements being constructed on said parcel are sufficiently complete to be subject to assessment as improved properties.

The term "Lot" or "Residential Lot" shall mean any subdivided but unimproved parcel of land located within the Properties which is intended for use as a site for a single family detached dwelling, townhouse, or garden home (Patio or Zero lot line) as shown upon any recorded final subdivision map of any part of the Properties. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessments as improved properties.

The term "Multiple-Family Tract" shall mean any unimproved parcel of land located within the Properties, intended for development of attached residential units including townhouse lots, condominiums and apartments. For the purposes of this Declaration, a parcel of land shall not be deemed a "Multiple-Family Tract" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such Property for multiple-family use is recorded in the Office of the Clerk of Circuit Court of Bedford County, Virginia, and further, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties. Townhouse lots shall become "Residential Lots" at such time as they appear on a plat recorded in said Clerk's Offices.

The term "Property" when used herein shall refer to any tract of land or subdivision thereof in Mariners Landing which has been subjected to the provisions of this Declaration by reference in deeds issued by the Declarant or by declarations recorded in the Clerk's Office of the Circuit Court of Bedford County, Virginia.

The term "Property Owner" when used in this Declaration shall mean and refer to all owners (including the Declarant) of Property within Mariners Landing. The term Property Owner shall include, but not be limited to, owners of Property or tracts of land and owners of condominium units whether such Property, tracts or units are used or are intended to be used for residential, commercial or recreational purposes.

The term "Public or Commercial Site" shall mean any unimproved parcel of land within the Properties, intended for use as a site for improvements designed to accommodate commercial or business enterprises to serve residents of Mariners Landing and /or the public, including but not limited to: business and professional offices; facilities for the retail sale of goods and services; banks and other financial institutions; social clubs; restaurants; hotels, motels, inns; theaters; lounges; indoor recreational facilities; marinas; transportation terminals or stations; automobile or other parking facilities, gasoline stations, and condominium regimes designed for mixed commercial and residential uses. For the purposes of this Declaration, a parcel of land shall not be deemed a "Public and Commercial Site" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such Property as a public or commercial site is recorded in the Office of the Clerk of the Circuit Court of Bedford County, Virginia, and further, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties.

The covenants and restrictions below will be referred to as the Master Covenants of Mariners Landing, and will be recorded in the Office of the Clerk of Circuit Court of Bedford County, Virginia, and may be incorporated by reference in deeds to real property issued by the Declarant by reference to the book and page of recording in the land records of said Clerk's Offices.

## **PART I - COVENANTS, RESTRICTIONS AND AFFIRMATIVE OBLIGATIONS APPLICABLE TO ALL PROPERTIES IN MARINERS LANDING**

The primary purpose of these covenants and restrictions and the foremost consideration in the origin of same has been the creation of a community which is aesthetically pleasing and functionally convenient. The establishment of objective standards relating to design, size, and

location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of Property and of technological advances and environmental considerations. For this reason such standards are not established by these covenants. In order to implement the purposes of these covenants, the Declarant may establish and amend, from time to time, objective standards and guidelines which shall be in addition to and more detailed than these Master Covenants.

1. No building, fence, mailbox, any other structure or any landscaping having a value of over \$500 shall be erected, established, placed or altered, nor shall a building permit for such improvement be applied for on any Property in Mariners Landing, until the proposed building plans and specifications, showing floor plans, the front, side and rear elevations, exterior color and finish, a plot plan detailing the proposed location of such building or structure, drives and parking areas, a landscape plan, an erosion and drainage control plan and the construction schedule shall have been filed with and approved in writing by the Declarant, its successors or assigns. Refusal of approval of plans, location or specification may be based by the Declarant upon any ground, including purely aesthetic conditions, which in the sole and uncontrolled discretion of the Declarant shall seem sufficient. No alteration in the exterior appearance of any building, lights or structure shall be made without like approval by the Declarant. The Declarant may delegate these approvals to an Architectural Review Board which may be established by the Declarant for this purpose.

2. Prior to the commencement of construction of improvements on any Property, a building certificate must be obtained from the Declarant or its assigns and prior to occupancy of any dwelling unit a certificate of occupancy must be obtained from the Declarant or its assigns. A certificate of occupancy will not be issued unless the improvements on the Property substantially conform to the plans filed pursuant to the provisions of Section One (1) above.

3. In order to assure that location of buildings and other structures will be located and staggered, so that the maximum view, privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each Property taking into consideration the location of large trees and other aesthetic and environmental considerations, the Declarant reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site and location of any building or structure or structures on any Property in Mariners Landing, for reasons which may in the sole and uncontrolled discretion and judgment of the Declarant seem sufficient. Such location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. Provided, however, that in the event an agreed plan, color scheme or house location shall be stipulated in writing in the contract of purchase from the Declarant, the Declarant shall automatically approve such plans, color scheme or location.

4. Should any dwelling unit or other structure on any Property be destroyed in whole or in part, it must be reconstructed or the debris therefrom must be removed and the Property restored to a neat and slightly condition within six (6) months.

5. No signs other than normal "For Sale" signs shall be erected or maintained on any Property by anyone including, but not limited to, the owner, a Realtor<sup>®</sup>, a contractor or subcontractor, except with the written permission of the Declarant or except as may be required by legal proceedings. If such permission is granted, the Declarant reserves the right to restrict

size, color and content of such signs. Residential property identification and like signs not exceeding a combined total of more than one (1) square foot may be erected without the written permission of the Declarant.

6. It shall be the responsibility of each Property Owner and tenant to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such Property. No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted on any Residential Lot, whether or not a dwelling shall have been constructed thereon.

7. All animals must be secured by a leash or lead at any time they are permitted outside a house or other dwelling or other enclosed area approved by the Declarant for the maintenance and confinement of animals. As long as the Declarant has open spaces not dedicated to a particular Association, he may give permission for a pet, under owner supervision, to be without a leash or lead.

The Declarant and/or Association reserves the right to require the removal of pet(s) upon the receipt of complaints. The removal will not be required until due and timely notice to the Owner, a hearing with the Owner, and a vote by the Board of Directors of the Association for the removal of the pet(s). Should there be repeated complaints against an Owner for pet(s), the Board shall have the authority to impose fines as set forth in Part VI of the Declaration.

8. Prior to the occupancy of a building or structure on any Property, proper and suitable provisions shall be made for the disposal of sewage by means approved by the Declarant.

9. Prior to the occupancy of a residence on any Property, provision for water shall be made by means approved by the Declarant.

10. No Property Owner shall obstruct, alter or interfere with the flow or natural course of the waters of any creek, stream, lake or pond in Mariners Landing without first obtaining the written consent of the Declarant.

11. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric service, Community Antenna Television, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of such Property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such Property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these covenants by the Declarant, or (b) such portion of the Property as may be designated as the site for a building on a plot plan for erection of a building which has been filed with the Declarant and which has been approved in writing by said Declarant. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, sewage septic fields, septic tanks, pumping stations, siltation basins and tanks within Mariners Landing in any open space or on any Property designated for such use on the applicable plat of said Property, or to locate same upon any Property with the permission of the

owner of such Property. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service. Following the installation of any utility apparatus or other improvement on any Property pursuant to the provisions of this Section, the Declarant shall restore such Property as nearly as is reasonably possible to its condition immediately prior to such installation.

12. The Declarant hereby reserves the right to establish reasonable limitations on the number of overnight guests who may occupy a dwelling unit at one time and to limit the number of non-related persons who may reside in a dwelling unit.

13. The use of any private roads in Mariners Landing shall be subject to rules and regulations established and modified from time to time by the Declarant.

14. No private motorcycles, motor bikes, commercial vehicles, motor homes or ATV's (all terrain vehicles) shall be operated or stored on any Lot or in any Home, except with Declarant's permission. Motor homes may be loaded and unloaded on a Lot for a period not to exceed eight (8) hours each event.

Private golf carts may be operated and stored as long as they operate by the rules of Mariners Landing and the State of Virginia, are stored under cover, and are registered with the Association. The Association will require identification tags for all carts operated in Mariners Landing and reserves the right to charge a fee for the registration.

15. Whenever the Declarant is permitted by these covenants (including all parts hereof) to correct, repair, clean, preserve, clear out or do any action on any Property or on the easement areas adjacent thereto, entering the Property and taking such action shall not be deemed a trespass.

## **PART II - ADDITIONAL RESTRICTIONS TO IMPLEMENT EFFECTIVE ENVIRONMENTAL CONTROLS**

In order to protect the natural beauty of the vegetation, topography, and other natural features of all properties within Mariners Landing and the beauty and purity of the watershed areas in Mariners Landing the following environmental controls are hereby established:

1. Topographic and vegetation characteristics of Properties within Mariners Landing shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the Declarant. Written approval will be granted hereunder only after a plan designed to protect neighboring Properties, the lakes and waterways from damage or pollution resulting from surface drainage, erosion, pesticides or the seepage of fertilizer or other materials has been submitted to and accepted by the Declarant. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of Section 1 of Part I of these covenants.

2. No trees, shrubs or other vegetation may be removed without the written approval of the Declarant. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building will be granted unless such removal will substantially decrease the beauty of the Property.

3. In order to implement effective and adequate drainage and erosion control and protect the purity and beauty of lakes and waterways in Mariners Landing, the Declarant, its successors and assigns, and its agents shall have the right to enter upon any Property for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices. Such entries shall, however, be made only after construction of improvements have commenced on such Property or the soil thereof has been graded. Provided, however, that prior to exercising its right to enter upon the Property for the purpose of performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Declarant, its successors and assigns, shall give the owner of the Property the opportunity to take any corrective action required by giving the owner of the Property notice indicating what type of corrective action is required and specifying in that notice that immediate corrective action must be taken by the owner. If the owner of the Property fails to take the specified corrective action, the Declarant shall then exercise its right to enter upon the Property in order to take the necessary corrective action. The cost of such erosion prevention measures when performed by the Declarant shall be kept as low as reasonably possible. The cost of such work, when performed by the Declarant, its successors or assigns, shall be paid by the owner thereof.

4. In order to implement effective insect, reptile, wildlife and woods fire control, the Declarant and its agents have the right to enter upon any Property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented, for the purpose of mowing, removing, clearing, cutting or pruning underbrush or weeds or other growth which in the opinion of the Declarant detracts from the overall beauty or safety for Mariners Landing. The cost of this vegetation control shall be kept as low as reasonably possible and shall be paid by the owner of the Property. The Declarant and its agents may likewise enter upon such Property to remove any trash which has collected or to abate a threat to the watershed of Mariners Landing from pollution. Such entry shall not be made until thirty (30) days after the owner of the Property has been notified in writing of the need of such work, and unless such owner fails to perform the work within said thirty (30) day period. The provisions in this Section shall not be construed as an obligation on the part of the Declarant to mow, clear, cut or prune any Property, to provide garbage or trash removal services, or to provide water drainage or pollution control on any privately owned Property.

5. In addition, the Declarant reserves unto itself, its successors and assigns a perpetual, alienable and releasable easement and right on, over and under any Property to dispense pesticides and take other action which in the opinion of the Declarant is necessary or desirable to control insects and vermin, to cut firebreaks and other activities which in the opinion of the Declarant are necessary or desirable to control fires on any Property, or any improvements thereon. In the exercise of the rights reserved in this Section 5 the Declarant must take necessary precautions to protect the purity of the Mariners Landing watershed.

6. The Declarant, the Association, and owners of Property within Mariners Landing, their successors and assigns have a responsibility to avoid causing material adverse effect to the beauty, quality and purity of the waters thereof. In order to insure that this responsibility is fully met, the Declarant shall promulgate and may amend from time to time rules and regulations which shall govern such sensitive environmental activities as the application of fertilizers and pesticides and other chemicals, erosion control measures, use of lake surface, and any other

activities as may materially affect any body of water within Mariners Landing. Failure of any owner or tenant of Property in Mariners Landing to comply with the requirements of such rules and regulations shall constitute a breach of these covenants. The Declarant hereby reserves unto itself a perpetual, alienable and releasable easement and right on, over and under all Property in Mariners Landing for the purpose of taking any action necessary to effect compliance with the environmental rules and regulations. The cost of such action by the Declarant shall be paid by the owner(s) of the Property upon which the work is performed. The provisions of this Section shall not be construed to be an obligation of the Declarant to take any action to effect compliance with environmental rules and regulations.

### **PART III - ADDITIONAL RESTRICTIONS AFFECTING OPEN SPACE AREAS**

1. It is the intent of the Declarant to maintain and enhance (or to convey subject to open space restrictions to the Association) certain areas which the Declarant designates as "Open Space Areas" or "Private Open Space Areas" on plats filed for record in the Office of the Clerk of Circuit Court of Bedford County, Virginia, by the Declarant. It is the further intent and purpose of these restrictions and covenants to protect, to maintain and enhance the conservation of natural and scenic resources, to promote the conservation of soils, wet lands, wildlife, game and migratory birds, enhance the value of abutting and neighboring properties adjacent to such forests, wildlife preserves, natural reservations or sanctuaries or other open areas and open spaces, and to afford and enhance recreation opportunities, preserve historical sites and implement generally the Mariners Landing Master Plan for development.

2. Land designated as "Open Space Areas" may be employed for the purposes and uses described in Part VII hereof.

3. Land designated as "Private Open Space Areas" shall be subject to the easement granted in Section 2 of this Part III in every respect except that the enjoyment thereof shall be and is hereby limited to owners of Property, tenants, and their guests immediately contiguous and adjacent to such land and owners of non-contiguous Property designated on plats of Property in Mariners Landing as being entitled to the enjoyment thereof. The easement in Private Open Space Areas hereby granted shall not extend to any area not clearly designated as "Private Open Space Areas." All expenses incurred in the protection, maintenance and enhancement of "Private Open Space Areas" shall be paid equally by the owners who are entitled to an easement or enjoyment over such areas.

4. Pursuant to its overall program of wildlife conservation and nature study, the right is expressly reserved to the Declarant to erect wildlife feeding stations, to plant small patches of cover and food crops for quail, turkey and other wildlife, to make access trails or paths or boardwalks through said Open Space Areas and Private Open Space Areas for the purpose of permitting observation and study of wildlife, hiking and riding, to erect small signs throughout the Open Space Areas and Private Open Space Areas designating points of particular interest and attraction, and to take such other steps as are reasonable, necessary and proper to further the aims and purposes of the open space community use and enjoyment thereof.

5. The Declarant shall have the right to protect from erosion the land described as Open Space Area or Private Open Space Area by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation ba-

sins or other means deemed expedient or necessary by the Declarant. The right is likewise reserved to the Declarant to take steps necessary to provide and insure adequate drainage ways in open space, to cut firebreaks, remove diseased, dead or dangerous trees and carry out other similar activities.

6. The Declarant hereby reserves the right to selectively cut, limb and prune trees, bushes and shrubs within the Open Space Areas and Private Open Space Areas to establish, maintain or improve the views from residential or commercial properties within Mariners Landing.

7. The Declarant hereby reserves to the extent reasonably necessary a perpetual, alienable and releasable easement over Open Space Areas and Private Open Space Areas to provide vehicular and pedestrian access to any Property in Mariners Landing.

8. No television antenna, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of open space Property within Mariners Landing except as following:

(a) The provisions of this Section shall not prohibit the Declarant from installing equipment necessary for a master antenna system, Community Antenna Television (C.A.T.V.) and mobile radio systems or other similar systems within Mariners Landing; and

(b) Should C.A.T.V. services be unavailable and good television reception not be otherwise available, an association owner may make written application to the Declarant for permission to install a television antenna or disc and such permission shall not be unreasonably withheld.

9. No trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon such Open Space Areas or Private Open Space Areas, except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as open space.

10. The granting of the easement in Open Space Areas and Private Open Space Areas in this part in no way grants to the public or to the owners of any land outside Mariners Landing the right to enter such open space without the express permission of the Declarant.

11. The Declarant expressly reserves to itself, its successors and assigns, every reasonable use and enjoyment of said open space, in a manner not inconsistent with the provisions of this Declaration.

12. The Declarant further reserves the right to convey "Open Space Areas" and "Private Open Space Areas" to the Association. Such conveyance shall be made subject to the provisions of this Part III. As an appurtenance to such conveyances, the Association shall have all of the powers, immunities and privileges reserved unto the Declarant in this part as well as all of the Declarant's obligations with respect thereto, including the obligation to maintain and enhance set out in Section I of this part. Property conveyed to the Association pursuant to the authority of this Section shall become "Common Properties" as described in Part V hereof.

13. Where the Declarant is permitted by these covenants to correct, repair, clean, preserve, clear out or do any action on the restricted Property, entering the Property and taking

such action shall not be deemed a breach of these covenants.

14. It is expressly understood and agreed that the granting of any easements set out in this Part III in no way places a burden of affirmative action on the Declarant, that the Declarant is not bound to make any of the improvements noted herein, or extend to any Property Owner any service of any kind, except as such may be undertaken at the expense of the Association.

#### **PART IV- MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

1. *Membership.* Every person or entity who is a record owner of any property in Mariners Landing subject to the Mariners Landing Master Covenants shall automatically become a member of the Corporation. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from the ownership of such properties in Mariners Landing.

2. *Membership and Voting Rights.* The corporation shall have three classes of voting membership as follows:

Class A. Class A membership shall be all those owners as defined in paragraph 1. above with the exception of the Class B member and Class C members, if any. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership by paragraph 1. above. Whenever a property is owned of record in the names of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, or if the Lot shall be owned by a corporation or a partnership, then such Owners shall file with the Secretary of the Association an instrument in writing signed by such Owners designating one Owner (one Officer in the case of a Corporation or one Partner in the case of a Partnership) to cast the vote attributable to such property. Individuals or entities which hold an interest in the property solely for the purpose of securing an obligation or debt shall not be considered Owners hereunder.

Class B. The Class B member shall be the Declarant, J. W. Development Incorporated, a Virginia Stock Corporation, its successors and assigns. The Class B member shall have one vote for each lot or dwelling either developed, platted, or zoned to be developed on property owned by the Declarant in Mariners Landing. The Class B vote associated with any lot or dwelling shall cease and be converted to a Class A vote or, if commercial, to a Class C membership and vote (a) upon the sale and conveyance of such property to a purchaser; or (b) when, in its discretion, the Declarant so determines and declares in a recorded instrument. The Class B member shall select the initial Board members.

Class C. Class C membership shall be comprised of all owners of commercial and other nonresidential properties within Mariners Landing subject to the Mariners Landing Master Covenants. Whenever a property is owned of record in the names of two or more persons or entities, then such Owners shall file with the Secretary of the Association an instrument in writing signed by such Owners designating one Owner (one Officer in the case of a Corporation or one Partner in the case of a Partnership) to cast the vote attributable to such property. Individuals or entities which hold an interest in the property solely for the purpose of securing an obligation or debt shall not be considered Owners hereunder. The Class C members shall have one vote accruing to each 1,000 sq. ft. of enclosed and heated commercial or other nonresidential space owned within Mariners Landing and subject to the Mariners Landing Master Covenants. Less than 1,000 sq. ft. will equal one vote.

The principles of the Section shall apply, insofar as possible, to execution of proxies,

waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

## **PART V - PROPERTY RIGHTS IN THE COMMON PROPERTIES**

1. *Members' Easements of Enjoyment in Common Properties.* Subject to the provisions of these covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every guest or tenant shall have an easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Residential Lot, Family Dwelling Unit and Multiple Family Tract.

2. *Title to Common Properties.* The Declarant shall have the option, but not be bound, to convey to the Association, at no cost to the Association, by deed or ninety-nine (99) year lease, or other instruments appropriate to irrevocably convey to the Association the entire beneficial use for ninety-nine (99) years, such Properties as the Declarant shall designate in writing to the Association. Upon such conveyance, or upon completion of any improvements thereon by the Declarant, if such be required, such that the facility is functionally complete, the Association shall immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized hereby. It is the purpose of this provision to provide that the Association shall be responsible for all maintenance of Common Properties upon which all improvements required to be made by the Declarant have been completed, notwithstanding the fact that the Declarant is not obligated to convey or lease such properties to the Association. In addition, if the Declarant so desires, he may convey the private water system to the Bedford County Public Service Authority or another appropriate water company.

Natural areas, trail areas, etc. may be conveyed in large or small parcels from time to time after the Declarant has completed the surveying and platting of all adjacent subdivisions for single family detached and Garden Home (Patio or Zero lot line) housing areas, multiple family tracts or public and commercial sites which may abut such natural areas, trail areas, etc. The Declarant covenants for itself, its successors and assigns, that it shall convey by deed to the Association all such properties within two (2) years of notification to the Association, in writing, of its intent to convey such properties, provided, however, that in the case of Common Properties upon which improvements are required to be made by the Declarant, such notification of "intent to convey" shall not be deemed to be made until such time as the improvements have been completed such that the facility is functionally complete. Such notification will not normally show metes and bounds and, in any event, the metes and bounds as shown on the recorded plat and deed to the Association shall govern. All said parcels of land may be conveyed to the Association subject to:

(1) all restrictive covenants of record at the time of the conveyance; (2) all existing mortgages; and (3) a reservation by the Declarant of the right to substitute or add new mortgages thereon, provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgages. The obligation to make payments of principal and interest in accordance with their due dates on all mortgages affecting Property conveyed to the Association except mortgages on Purchased Common Properties (as described hereinbelow in Section 4 of this Part V) shall continue to be the sole obligation of the Declarant or any Affiliate of the Declarant as the case may be. Notwithstanding anything in the foregoing to the contrary, the Declarant shall not be required to convey the above referred to parcels where such conveyance would be prohibited under agreements existing on the date hereof but, in such case, shall be allowed to postpone such conveyance, without penalty, until such time as said

prohibition may be nullified.

3. *Purchased Common Properties.* Subject to the provisions of these covenants, the rules and regulations of the Association, and any charges established by the Association every Class "A" Member shall have a right and easement of enjoyment in and to any Property now or hereafter designated "Purchased Common Properties" pursuant to this Declaration. "Purchased Common Properties" may not be acquired by the Association unless approved by a vote of fifty-one (51%) per cent of the total votes in a Referendum of Class "A" Members and, in the event such approval is obtained, the Declarant may, at its election, elect to receive in lieu of a cash payment a first mortgage and the Association's promissory note for the purchase of such properties at the then prevailing interest rates for loans on that type Property from commercial lending institutions. Except for such Purchased Common Properties the Declarant may not require the Association to pay for any other type properties conveyed to the Association such as those described in Section 2 of Part V.

4. *Extent of Members Easements.* The easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to assume and pay any liens or encumbrances against the Purchased Common Property at the time of conveyance; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures; and

(c) The right of the Association, to suspend the rights and easements of enjoyment of any Member or Tenant or Guest of any Member for any period during which the payment of any assessment against Property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment, and provided that the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties and Purchased Common Properties, and any facilities included therein.

(e) The Board of Directors of the Association shall have the power to place any reasonable restrictions upon the use of the Association's roadways, including, but not limited to the types and sizes of vehicles permitted to use such roads, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of the Commonwealth of Virginia or of Bedford County, Virginia, shall not make such restrictions unreasonable.

(f) The right of the Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties and Purchased Common Properties.

(g) The right of the Association to give or sell all or any part of the Common Properties, including leasehold interests, to any public or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gifts or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized

by the affirmative vote of fifty-one (51%) percent of the votes cast at a duly called meeting of the Association at which a quorum shall be present as established under the Bylaws of the Association. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(h) The rights of reversion of the Lessor, of any Common Properties leased by the Association upon expiration of the lease.

5. *Special Recreational Parcels.* Certain recreational facilities located within the Properties, which may include, without limitation, a fieldhouse, tennis courts, a swimming pool, a community building, and parking facilities, may be designated as a Special Recreational Parcel. The Declarant has the option to retain these properties; or it may in the future, convey them to the Association. The Declarant, or its assignee, shall have the right to restrict use of all or any portion of such facilities to only such Persons as affirmatively elect to use the facilities and agree to pay such initiation fees and additional assessments as are charged for such privilege of use. Such Persons may, in the discretion of the Declarant, include Persons other than Owners and occupants within the Properties; provided such Persons shall be required to pay assessments which are no less than those charged Owners and occupants, and shall have no greater use rights than those extended to Owners and occupants.

The fees and assessments established by the Declarant for use of, or the rental payments charged by the Declarant, pursuant to a lease of these Special Recreational Parcel facilities shall include such sums as the Declarant in the exercise of its business judgment deems sufficient to cover the estimated costs to be incurred by the Declarant for the operation, maintenance, repair, replacement and insurance of this Special Recreational Parcel, but rental payments need not be limited to such amounts.

The Declarant may lease any Special Recreational Parcel to a private club composed of such Owners who use the facility, or to a commercial operator, or to the Declarant, on such terms and renditions as may be agreed to by the Declarant. If the Declarant so agrees in the lease of such facilities, the lessee shall have the right to permit public use upon payment of such use fees which shall not be less than the fees charged to Owners for such use. There is hereby reserved to all authorized users of any Special Recreational Parcel an easement over the Common Areas of the Association for direct ingress to and egress from such Special Recreational Parcel, subject to regulation.

The Declarant shall have the right at any time, subject to the terms of any existing lease, to declare that use of all or any portion of such facilities shall no longer be restricted as provided in this section, and thereafter such facilities shall be made available for the use of all Owners and all costs associated with such Special Recreational Parcel shall be deemed Common Expenses. Throughout this section the reference to "Declarant" shall not limit the ability of the Declarant to convey the Special Recreational Parcels to the Association. Upon such conveyance, the powers vested herein to the Declarant, shall be vested in the Board of the Association.

6. *Private Amenities.* Access to and use of the Private Amenities is strictly subject to the rules and procedures of the respective Owners of the Private Amenities, and no Person gains any right to enter or to use those facilities by virtue of membership in the Association or ownership or occupancy of a Unit.

All Persons, including all Owners, are hereby advised that no representations or

warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenity(ies) which are the subject thereof. The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operators of the Private Amenity, or (c) the conveyance of a Private Amenity to one or more affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, any Community Association, or any Owner shall be required to effectuate such a transfer or conversion. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

## **PART VI - COVENANTS FOR ASSESSMENTS**

1. *Creation of the Lien and Personal Obligations of Assessments.* The Declarant covenants, and each Owner of any Property, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (1) Annual assessments or charges; and (2) Special assessments or charges for the purposes set forth in this Part, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special assessments together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the real Property and improvements thereon 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 personal obligation of the Owner of such Property at the time when the assessment first became due and payable. In the case of co-ownership of a Residential Lot, Family Dwelling Unit, Multiple Family Tract, or any unsubdivided Land, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

2. *Purpose of Assessments.* The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement and operation of the Common Properties and Purchased Common Properties, to provide services which the Association is authorized to provide, and to establish reserves for future expenses. In carrying out these duties, the Association may expend funds derived from the assessments to make payments of principal and interest as consideration for the conveyance by the Declarant to the Association of Purchased Common Properties.

3. All Assessments shall be due and payable thirty (30) days from the date of mailing the same. Assessments on Declarant owned lots and residential units shall be due thirty (30) days after settlement of the sale.

4. *Special Assessments for Improvements and Additions.* In addition to the annual regular assessments authorized by Section 3 hereof, the Association may levy special assessments as provided under §55-514 of the Code of Virginia, as amended from time to time.

5. *Reserve Funds.* The Association may establish reserve funds from its regular annual assessments to be held in an interest drawing account or investments for (a) major rehabilitation or major repairs, (b) emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss, and (c) initial costs of any new service to be performed by the Association.

6. *Date of Commencement of Annual Assessments. Due Date.* Notwithstanding anything in the foregoing to the contrary, the annual assessments provided for herein shall commence no earlier than September 1, 1999.

7. *Fines.* The Association shall have the authority to assess charges upon owners who violate the provisions of this declaration or any rules and regulations promulgated hereunder as provided in §55-513 of the Code of Virginia.

8. *Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of Association.* If the assessment is not paid on or before past-due date, then such assessment shall become delinquent and shall (together with interest thereon at the maximum annual rate permitted by law from the due date and cost of collection and attorney's fees thereof as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the then Owner, his heirs, devisees, personal representatives, tenants, and assigns.

9. *Subordination of the Lien to Deeds of Trust.* The lien of the assessments provided for herein shall be subordinate to the lien of any deed or deeds of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Property pursuant to foreclosure, or any other proceeding or deed in lieu of foreclosure.

10. *Exempt Property.* The following Property, individuals, partnerships or corporations, subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

- The grantee in conveyances made for the purpose of granting utility easements;
- All Common Properties and Purchased Common Properties;
- Property which is used for any of the following purposes:
  - In the maintenance and service of facilities within Common properties;
  - Places of worship;
  - Schools;
  - Non-profit, governmental, and charitable institutions.

11. *Annual Statements.* The President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually, within ninety days after the close of the fiscal year of the Association, prepare and execute a general itemized statement showing the

actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses.

12. *Annual Budget.* The Board of Directors shall prepare and make available to all Members at least thirty (30) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year. The financial books of the Association shall be available for inspection by all Members at all reasonable times.

## **PART VII - FUNCTIONS OF ASSOCIATION**

1. *Ownership and Maintenance of Common Properties.* The Association shall be authorized to own, lease and/or maintain Common Properties, equipment, furnishings, and improvements devoted to the following uses:

For roads or roadways, and parkways along said roads or roadways throughout the Properties;

For sidewalks, walking paths or trails, bicycle paths, jeep trails, equestrian centers, and bridle paths throughout the properties;

For providing any of the services which the Association is authorized to offer under Section 3 of this Part;

For purposes set out in deeds or long-term leases by which Common Properties are conveyed or leased to the Association, provided that such purposes shall be approved by the Members of the Association as set out in Section 5 of this Part;

For lakes, play fields, camps and campgrounds, tennis facilities, wildlife areas, fishing facilities, boat slips and docking facilities, other recreational facilities of any nature, and community meeting facilities serving the Properties; and

For water and sewage facilities and any other utilities, if not adequately provided by a private utility, Bedford County, or some other public body.

2. *Ownership and Maintenance of Purchased Common Properties.* The Association shall be authorized to purchase, lease, own and maintain properties following approval of the Members pursuant to the requirements of Section 3 of Part V hereof. In the event such facilities are purchased from the Declarant, the purchase price may be paid as hereinbefore provided, and the debt amortized over a period not to exceed twenty (20) years, from receipts of regular annual assessments or special assessments.

3. *Services.* The Association shall be authorized but not required to provide the following services:

(a) Cleanup and maintenance of all roads, roadways, roadway medians, jeep trails, bridle paths, parkways, lakes and other Common Properties, within the Properties and also all public properties which are located within or in a reasonable proximity to the Properties such that their deterioration would affect the appearance of the Properties as a whole;

(b) Landscaping of roads and parkways, sidewalks and walking paths and any Common Properties;

(c) Transportation facilities other than privately owned automobiles, e.g., buses, electric vehicles, etc., paid for by special assessment as provided for in Part V Section 3 hereof.

(d) Lighting of roads, sidewalks and walking or bike paths throughout the

Properties;

(e) Police protection and security, including but not limited to the employment of police and security guards, maintenance of electronic and other security devices and control centers for the protection of persons and Property within the Existing Property, and assistance in the apprehension and prosecution of persons who violate the laws of Virginia within the Properties;

(f) Fire protection and prevention;

(g) Garbage and trash collection and disposal;

(h) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;

(i) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(j) Maintenance of all lakes, streams and creeks located within the properties, including the stocking of such lakes and lagoons;

(k) To take any and all actions necessary to enforce all covenants and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Properties;

(l) To set up and operate an architectural review board in the event that the Association is designated by the Declarant as the agent of the Declarant for such purpose;

(m) Improvement of fishing available to Members within the Properties;

(n) To provide day care and child care services;

(o) To conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;

(p) To provide legal and scientific resources for the improvement of air and water quality within the Properties;

(q) To maintain water search and rescue boats for the protection and safety of those in the waters located on or adjacent to the Properties;

(r) To provide safety equipment for storm emergencies;

(s) To support the operation of transportation services between key points of the Properties and the airports, other public transportation terminals and public centers serving the area surrounding the Properties with special assessments as provided for in Part V, Section 3 hereof;

(t) To construct improvements on Common Properties for use for any of the purposes or as may be required to provide the services as authorized in this Part;

(u) To provide administrative services including but not limited to: legal, accounting and financial; and communication services informing Members of Activities, Notice of Meeting, Referendums, etc., incident to the above listed services;

(v) To provide liability and hazard insurance covering improvements and activities on the Common Properties and Purchased Common Properties;

(w) To provide water, sewage and any necessary utility services not provided by a public body, private utility or the Declarant.

(x) To provide, conduct, or maintain water pollution and shoreline erosion abatement measures including, without limitation, maintenance and repair of shore revetments and groins.

(y) To provide any or all of the above listed services to another association of owners of Property under a contract, the terms of which must be approved by the Board of Directors.

4. *Reduction of Services.* During or before the calendar year of 2000, the Board of Directors of the Association shall define and list a minimum level of services which shall be furnished by the Association. So long as the Declarant is engaged in the development of properties which are subject to the terms of this Declaration, the Association shall not reduce the level of services it furnished below such minimum level without first obtaining the written consent of the Declarant.

5. *Obligation of the Association.* The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Part except as specified in Section 4 of this Part. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association.

6. *Mortgage and Pledge.* The Board of Directors of the Association shall have the power and authority to mortgage the Property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the regular annual assessment at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

#### **PART VIII - ADDITIONAL RESTRICTIONS AFFECTING GOLF FAIRWAY PROPERTIES**

1. "Golf Fairway Property" is defined as all those properties intended for subdivision or development located adjacent to any golf course located in Mariners Landing.

2. That portion of any Golf Fairway Property within forty (40) feet of the property line bordering the golf course shall be in general conformity with the overall landscaping pattern for the golf course fairway area. All individual landscaping plans must be approved by the Declarant, before implementation.

3. There is reserved to the Declarant and/or Alta-Drew, Inc. a "Golf Course Maintenance Easement Area" on each Property adjacent to any golf course located in Mariners Landing. This reserved easement shall permit the Declarant and/or Alta-Drew, Inc., at its election, to go onto any Golf Course Maintenance Easement Area. Such maintenance and landscaping may include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer, and mowing the easement area. This Golf Course Maintenance Easement Area shall be limited to the portion of such Property within forty (40) feet of the boundary line(s) bordering the golf course, or such lesser area as may be shown as a "Golf Course Maintenance Area" on the recorded plat of such Property; provided, however, that the above described maintenance and landscaping rights shall apply to the entire Property until there has been filed with the Declarant a landscaping plan for such Property by the owner thereof, or alternatively, a building or other

structure is constructed thereon. Nothing herein shall be construed to increase the obligation of the Declarant to the owner of the golf course, Alta-Drew, Inc. Reference is made to the deeds of record between the Declarant and Alta-Drew, Inc. and the unrecorded Marketing and Operation Agreement.

4. The Association shall be responsible for all costs billed by Alta-Drew, Inc., the Declarant, or others for the reasonable maintenance of all Common Areas within forty (40) feet of Alta-Drew's property line, said cost to be fifty (50%) percent of the total cost incurred by Alta-Drew, Inc., the Declarant, or others in the maintenance of said Common Areas. Alta-Drew, Inc. will be responsible for a pro rata share of reasonable maintenance expense for mowing, grounds upkeep, and landscaping of the primary entrance way from the main entrance to the Pro Shop and Clubhouse, within a distance of twenty (20) feet from the edge of both sides of the entrance way road. All additional obligations of the Declarant under that certain deed dated 30 November 1992, with Alta-Drew Investments, Inc., to reasonably maintain Common Areas is transferred and assumed by the Association.

5. The Association does not receive any of the green fees payable to the Declarant.

6. Until such time as a building or other structure is constructed on a Property, the Declarant reserves an easement to permit and authorize registered golf course players and their caddies to enter upon a Property to recover a ball or play a ball, subject to the official rules of the course, without such entering and playing being deemed a trespass. After a building or other structure is constructed, such easement shall be limited to that portion of the Property included in the Golf Course Maintenance Easement Area, and recovery of balls only, not play, shall be permitted in such easement area. Golfers or their caddies shall not be entitled to enter on any such landscaping pattern for the golf course fairway area established by the golf course architect.

7. All individual landscaping plans must be approved by the Declarant before implementation.

8. Owners of Golf Fairway Property shall be obligated to refrain from any actions which would detract from the playing qualities of the golf course or the development of an attractive overall landscaping plan for the entire golf course area as decided by the Declarant or its assigns.

9. Notwithstanding the provisions of Section 3 of this Part VIII, the Declarant hereby reserves the right to allow an owner to construct a building or other structure over a portion of the "Golf Course Maintenance Easement Area" in those cases where it, in its uncontrolled discretion determines that such construction will not materially lessen the beauty or playing qualities of the adjacent golf course.

## **PART IX – ANNEXATION**

Declarant may unilaterally, subject to the provisions of this Declaration, add additional land to Mariners Landing. It is not required that the lots be platted as part of "Mariners Landing", nor is it required that the lots be contiguous to the originally platted lots. Such

annexation shall be accomplished by filing a supplemental Declaration in the Land Records of the Clerk's Office for the Circuit Court of Bedford County, Virginia. Such supplemental Declaration shall describe the property to be annexed and shall specifically subject the property to the terms of this Declaration. Such supplemental Declaration shall not require the consent of the Members. Any such annexation shall be effective upon the filing of record of such supplemental Declaration.

## **PART X- ADDITIONAL LIMITATIONS**

1. *Term.* All covenants, restrictions, and affirmative obligations set forth in this Declaration shall run with the land and shall be binding on all parties and persons claiming under them specifically including, but not limited to, the successors and assigns, if any, of the Declarant for a period of thirty (30) years from the execution date of this Declaration after which time, all said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by 67% of the then owners of Property substantially affected by a change in covenants, has been recorded, agreeing to change said covenants in whole or in part. Unless the contrary shall be determined by a court of equity jurisdiction, "substantially affected" shall mean those properties shown on (a) the plats showing the properties to be modified in permitted use by the change, and (b) the plats which subdivided the Property immediately abutting the Property shown on plats identified in and recorded in the Office of the Clerk of Circuit Court of Bedford County, Virginia.

2. *Violation or Breach.* In the event of a violation or breach of any of the restrictions contained herein by any Property Owner, or agent of such owner, the owners of properties in the neighborhood or subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Declarant and/or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing the Declarant and/or the Association shall have the right, whenever there shall have been built on any Property in the subdivision any structure in violation of these restrictions, to enter upon such Property where such violation exists and summarily abate or remove the same at the expense of the owner, if after thirty (30) days written notice of such violation it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions, or conditions contained in this Declaration, regardless of how long such failure shall continue, shall not constitute a waiver of or a bar to such right to enforce.

3. *No Change in Plats.* No lot shall be subdivided, or its boundary lines changed, nor shall application for same be made to Bedford County, except with the written consent of the Declarant. However, the Declarant hereby expressly reserves to itself, its successors, or assigns, the right to replat any lot or lots owned by it and shown on the plat of any subdivision with Mariners Landing in order to create a modified building lot or lots; and to take such other steps as are reasonably necessary to make such replatted lot suitable and fit as a building site including, but not limited to, the relocation of easements, walkways, rights of way, private roads, bridges, parks, recreational facilities and other amenities to conform to the new boundaries of said replatted lots.

4. The current zoning of Mariners Landing is defined as Planned Residential Development and Planned Commercial Development. No Property Owner or any agent of any Property Owner shall apply to change the zoning of Mariners Landing without the prior written approval of the Declarant for so long as the Declarant shall own any unsold Properties within Mariners Landing and shall thereafter not apply for a zoning change without the prior written approval of the Association.

5. *Additional Covenants.* The Declarant reserves in each instance the right to add additional restrictive covenants in respect to lands conveyed in the future in Mariners Landing, or to limit therein the application of these covenants. The right to add additional restrictions or to limit the application of these covenants shall be reasonably exercised and shall materially affect only properties against which these covenants have not been imposed.

6. *Declarant Not Liable.* The Declarant shall not be liable to an owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an owner or such other person arising out of or in any way relating to the subject matter of any reviews, acceptances, inspections, permissions, consents or required approvals which must be obtained from the Declarant whether given, granted or withheld.

7. *Assignment.* The Declarant reserves the right to assign in whole or in part to a subsequent developer of Mariners Landing or to the Association its rights reserved in these covenants which include but are not limited to its right to grant approvals (or disapprovals) to establish rules and regulations, and all other rights reserved herein by the Declarant including but not limited to, the right to approve (or disapprove) plans, specifications, color, finish, plot plan and construction schedules. Following the assignment of such rights, the Assignee shall assume all of the Declarant's obligations which are incident thereto (if any) and the Declarant shall have no further obligation or liability with respect thereto.

The assignment of such right or rights by the Declarant to an Assignee shall be made by written instrument which shall be recorded in said Clerk's Office.

8. *No Trespass.* Entrance upon any Property by the Declarant or its agents or assigns pursuant to the provisions of these covenants shall not be deemed to be a trespass.

9. *Amendment.* The Declarant specifically reserves the right to Amend this Declaration, or any portion hereof, on its own motion as long as it remains a Class "B" member. Thereafter, the procedure for amendment shall be as follows: All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendment shall be deemed approved if 67% of the votes eligible to be cast at such meeting vote in favor of such proposed amendment. Notice shall be given each Member at least ten (10) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than thirty (30) days after the date of the meeting of the Association at which such amendment was adopted), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment. Such Addendum shall be recorded in the Offices of the Clerk of the Circuit Court of

Bedford County, Virginia.

10. *Notices.* Any notice required to be sent to any Member under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address appearing on the Association's Membership list. Notice to one of two or more co-owners or co-tenants of real Property in Mariners landing shall constitute notice to all co-owners. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes a Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

11. *Enforcement.* Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person, persons, or entity violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these covenants; and failure by the Association or any Member or the Declarant to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

12. *Severability.* Should any covenant or restriction herein contained, or any Part, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby to be severable and which shall remain in full force and effect.

WITNESS the following corporate execution: J. W. DEVELOPMENT, INC.

Dated this, the \_\_\_\_ day of \_\_\_\_\_ 1999. By: \_\_\_\_\_  
John A. White, President

STATE OF VIRGINIA, at Large  
COUNTY OF BEDFORD; to-wit:

The foregoing instrument was acknowledged before me this the \_\_\_\_\_ day of \_\_\_\_\_, 1999, by John A. White, President of J.W. Development, Inc., a Virginia Corporation, on behalf of the Mariners Landing Master Association, Inc.

Notary Public \_\_\_\_\_ My commission expires: \_\_\_\_\_

\_\_\_\_\_