

STATE OF ALABAMA
COUNTY OF BALDWIN

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
WINDWARD LAKES

State of Alabama, Baldwin County
I certify this instrument was filed
and taxes collected on
2001 June -22 12:48PM
Instrument Number 603209 Pages 31
Recording 93.00 Mortgage
Deed Min Tax
Index DP 1.00
Archive 3.00
Adrian T. Johns, Judge of Probate

This Declaration is executed by Romar Development Company, Inc ("the Developer"), an Alabama Corporation, on this the 20th day of June, 2001

WHEREAS, ROMAR DEVELOPMENT COMPANY, INC is the owner of certain real property located in Baldwin County, Alabama, and shown on the Plat for Windward Lakes Residential Subdivision (the Subdivision), recorded in Slide 1939A in the records of the Office of the Judge of Probate of Baldwin County, Alabama, desires to place certain requirements, covenants, restrictions, conditions and reservations upon the Subdivision in accordance with a general scheme or plan in order to (a) protect the Owners of each Lot of the Subdivision against improper use of surrounding Lots within the Subdivision as will depreciate the value of the property, (b) promote the creation of attractive, well-designed, properly proportioned and appropriate homes of suitable materials with appropriate locations on said Lots, and (c) in general, promote the best and most appropriate development and improvement of the Subdivision and each Lot thereon

WHEREAS, the Developer intends to subject the Subdivision to these covenants, conditions, and restrictions

NOW, THEREFORE, the Developer, for itself and its successors and assigns, does hereby declare that all of the property described on the Plat of Windward Lakes, a Subdivision, as recorded in the Office of the Judge of Probate of Baldwin County, Alabama, in Slide 1939A, shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions, which are for the purpose of protecting the value and desirability of and which shall run with the real property and be binding on all parties having any right, title or interest in said Subdivision, or any party thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof

ARTICLE I

1.01 'Association' shall mean and refer to Windward Lakes Property Owners Association, Inc., its successors and assigns

1.02 'Owner' shall mean and refer to the record owner, his heirs, successors, or assigns, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Subdivision, excluding those having such interest merely as security for the performance of an obligation

1.03 'Subdivision' or 'Properties' shall mean and refer to the Windward Lakes Planned Unit Development, the Lots and common areas of Windward Lakes as shown on Exhibit "A"

603209

attached hereto, together with such additions thereto, if any, as may hereafter be brought within the scope of this Declaration

1 01 "Common Area" shall mean such property (real, fixtures, personal, and mixed) comprising Windward Lakes and contained within the plat of Windward Lakes, including, but not limited to, the grounds, lakes, yards, shrubbery, trees, plants, ornamental decoration, recreation and community facilities, service areas, service facilities, walkways, parking spaces, parking facilities and arcas, access roads, driveways, driveway arcas, curbs, sidewalks, and all other facilities for service and utilities including but not limited to all pipes, conduits, ducts, wires, the plumbing network, the wiring network, the sewer network, and the television cables, wires, conduits, system and network, other than the properties and structures (real, fixtures, personal and mixed) as set forth as Lots 1 to 36 (inclusive) of said plat of Windward Lakes which shall be known as Phase I and other than all facilities for service and utilities that are located within the actual boundaries of said Lots for the exclusive use of said Lot

1 05 "The Plat" shall mean that certain plat recorded at Slide 1939A in the Offices of the Probate Court of Baldwin County, Alabama

1 06 "Lot" shall mean and refer to a plot of land designated as any numbered lot(s) shown upon the recorded subdivision map of the Properties with the exception of the Common Areas

1 07 "Board" or "Board of Directors" shall mean and refer to the Association's Board of Directors

1 08 "The Developer" shall mean and refer to Roman Development Company, Inc., its successors and assigns, if any successor or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development, and said Developer shall specifically assign and designate in writing such successor or assign as a successor Developer

1 09 "By-Laws" shall mean and refer to the By Laws of the Association

1 10 "Rules and Regulations" shall mean and refer to the Rules and Regulations promulgated or to be promulgated by the Association

1 11 "Common Expenses" shall mean and include the actual and estimated expenses of the Association and any reasonable reserve for such purposes as may be found and determined necessary or useful by the Board of Directors, and all sums designated as common expenses by or pursuant to the Declaration documents, including but not limited to assessments by the master association for common expenses

1 12 "Lakes" shall mean a series of water retention facilities within Windward Lakes. All these water retention facilities are common area for Windward Lakes

1 13 "Member" shall mean a member of the Association. Only Owners shall be a member of the Association

1.14 "Vote" shall mean and refer to the vote of a Member or the votes of a group of Members. "Votes" shall mean and refer to the votes of a group of Members. The maximum number of votes at any time is the combined number of votes for Class A and Class B Members as set forth in Article 4.02.

1.15 "Director" or "Directors" shall mean and refer to the Directors of the Board of Directors of Windward Lake Property Owners Association, Inc.

ARTICLE II

ARCHITECTURAL REVIEW COMMITTEE

2.01 Establishment and Composition There is hereby established an Architectural Review Committee (ARC). Until such time as the Developer no longer owns any portion of the property subject to this Declaration or at such time the Developer records a waiver of the right herein retained, whichever event occurs first, the Developer shall constitute the ARC, or the Developer may appoint three persons who shall comprise the ARC. Hereafter the ARC shall consist of three (3) persons (who are Owners) which shall be appointed by the Association and whose decisions must be in writing and signed by at least two (2) ARC members. ARC members shall serve without salary or pay, and none of the ARC members shall be required to be an architect or to meet any other non-specified qualifications for membership. The term of each ARC member shall be for a period of six (6) years and thereafter until the appointment of a successor, however, the Association by a majority Vote may remove any ARC member prior to the expiration of such ARC member's term. Any new ARC member appointed to replace an ARC member who has resigned or been removed shall serve such ARC member's unexpired term. ARC members who have resigned or whose terms have expired may be reappointed. Any ARC member may resign at any time from the ARC by giving written notice thereof to the Association, and vacancies shall be filled by the Association. An affirmative vote of a majority of the ARC shall be required in order to issue any approval of plans, proposals, or specifications. The Developer may relinquish control of the ARC at any time in writing in order to allow the Owners to control the ARC.

2.02 Function of the ARC No improvement, building, garage, or any other structure of any nature or addition shall be commenced, erected, placed, attached, altered, maintained or permitted to remain on any portion of any Lot until plans and specifications in such form and detail as the ARC may require shall be submitted and approved in writing by the ARC. (See also 3.06) The ARC shall receive, consider and act upon all proposals, plans, specifications, complaints, requirements for determination, or other matters submitted pursuant to the terms of this Declaration, and to carry out any other duties imposed on it by this Declaration.

2.03 Purposes of the ARC The purpose of the ARC shall be directed toward obtaining the following objectives:

(1) Preventing excessive or unsightly grading, indiscriminate earth moving, clearing of property, or removal of trees and vegetation which could cause disruptions of natural water courses or erosion of natural land forms

(2) Insuring that the architectural design of structures and their materials and colors are visually harmonious with the overall appearance of the lands owned by the Developer and other Owners

(3) Insuring that the plans for landscaping provide visually pleasing settings for structures on the Lot and on adjoining Lots and blend harmoniously with the natural landscape

(4) Insuring that any development, structure or landscaping complies with the provisions of these covenants, and the guidelines adopted by the ARC

2.04 Procedure for Submission and Approval by ARC Two sets of plans and specifications prepared by a registered and currently licensed architect who shall affix his official registration seal thereto, shall be submitted and approved prior to the commencement of construction. The submission must be accompanied by (i) an executed plan submission form (Available from the ARC) and (ii) The ARC fee (Sec 2.06). Plans and specifications to be submitted and approved shall be retained by the ARC and shall include, as a minimum the following:

(a) A plot plan showing location of all proposed improvements, structures, walks, garages, patios, driveways. Existing and finished grades shall be shown at Lot corners and at corners for proposed improvements. Lot drainage provisions shall be indicated as well as cut and fill details if any appreciable change in the Lot contour is contemplated,

(b) Exterior elevations, exterior materials, colors, textures and shapes,

(c) Landscaping plans, including walkways, elevation changes, watering-systems,

(d) Driveway size and location,

(e) Heated and cooled areas,

(f) Floor plans,

(g) 'Design proposals' which shall include more detailed building and site design documents sufficient and definitive in detail so that there can be determined the character, exterior appearance, building and landscape materials proposed, and

(h) Construction plans and specifications' which shall be a true extension of the preliminary concept plans and design proposals

The copy of the plans and specifications submitted to the ARC may be kept by the ARC. If plans and specifications are not sufficiently complete or are otherwise inadequate, the ARC may reject them totally or may approve or disapprove in part.

In the event the information submitted to the ARC is, in the ARC's sole opinion, incomplete or insufficient in any manner, the ARC may require the submission of additional or supplemental information.

Approvals shall be dated and shall not be effective for construction commenced more than twelve (12) months after such approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. If the ARC fails to approve or disapprove any material submitted to it hereunder within thirty (30) days after the date shown on the submittal receipt or to give notice of its actions as above required, the ARC shall be deemed to have disapproved the submission, provided however that the failure to approve or disapprove within such period shall not relieve the submitting Owner from the obligation to conform the improvements to the provisions contained in the other articles of this Declaration. Refusal or approval of plans, site location, building height, or specifications, may be based by the ARC upon any ground which is consistent with the objectives of these covenants, so long as such ground is not arbitrary or capricious.

ARC may extend any of the deadlines upon written request of the Owner.

The approval, rejection, or withholding of any approval by the ARC, or Developer, of the plans, proposals and specifications and the location of all structures, and every alteration of any structure shall not be construed or interpreted as a representation or determination by the ARC or Developer that any building code, plumbing code, electrical code or other applicable governmental regulations or requirements have, or have not been properly met by the Owner. Each Owner shall be responsible for obtaining all necessary technical data and to make application to and obtain the approval of the City of Orange Beach, and any other appropriate governmental agencies.

Neither the Developer nor the ARC shall have any duty, responsibility, or liability to any Owner or to any other person whomsoever in respect to the exercise of its right or the failure to exercise its rights. The ARC may reject plans, proposals and specifications based on any grounds or reason whatsoever, including purely aesthetic grounds, in its sole and absolute discretion. The ARC's decision to approve, reject or withhold its approval of such proposed work may, in the sole exercise of its discretion, be based upon (i) the harmony of its exterior design, color and location in relation to, and its effect upon, surrounding structures, vegetation, topography, and the overall community design, (ii) the character of the exterior design, (iii) the ARC's design and construction standards, (iv) the general development plan, or (v) any other material and relevant factors.

2.05 Waiver and Estoppel The approval of the ARC of any plan, specification or drawings, or any materials accompanying the same for matters requiring approval of the ARC shall not be deemed a waiver of, or create any right of estoppel against, the ARC's right to withhold approval of any other similar or dissimilar plan, drawing, specification, or materials subsequently submitted for approval.

2.06 ARC Fees The ARC shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architects or attorney's retainer. The fee initially established by this declaration shall be \$250.00 for each submission. The ARC shall have the right to increase or decrease this amount. In the event the cost to review exceeds the then established fee, the ARC shall notify Owner as soon as is practicable of the increased cost and Owner shall submit same to the ARC before final determination of such plans and/or specifications is made. Failure to submit such additional cost or fee shall result in denial of approval.

2.07 Variances The ARC may, in its sole discretion, grant variances from the requirements contained herein or as elsewhere promulgated by the ARC, on a case-by-case basis, provided however that the variance sought is reasonable and does not impose a hardship upon other Owners. The granting of such a variance by the ARC shall not nullify or otherwise affect the ARC's right to require strict compliance with the requirements set forth herein on any other occasion.

2.08 Developer Not Subject to ARC Notwithstanding anything contained herein to the contrary, any improvements of any nature at any time made or to be made by the Developer, including, without limitation, improvements made or to be made to the Common Area or any Lot in the subdivision, shall not be subject to review or other procedures of the ARC under this Declaration.

2.09 Requirements No improvements of any nature whatsoever shall be constructed, altered or maintained upon any parts of the Lots, except (i) for dwellings and other improvements which are constructed by Developer (ii) such improvements as are approved by the ARC in accordance with this Article II, or, (iii) improvements which pursuant to this Article II do not require consent of the ARC.

ARTICLE III

PROTECTIVE RESTRICTIONS

3.01 Residential Only Restrictions The Properties within Windward Lakes shall be used only for low density single family residential purposes. There shall be only one such residence per Lot. No trade or business use will be permitted off or on the Lots within the subdivision. No building may be erected on any Lot prior to the erection of a dwelling. No trailer home, mobile home, tent, shack, barn, travel trailer nor any other outbuilding will be permitted on any Lot, and no pre-manufactured home nor modular home shall be permitted. The ARC's determination that an item is a pre-manufactured home, shack, barn, tent, or other outbuilding, trailer home, mobile home, modular home, or travel trailer will be conclusive.

3.02 Dwelling Quality and Size

(a) Maximum Building Coverage A maximum of fifty one percent (51%) of the gross total lot area can be covered by a building or structure, excluding roof overhang, unenclosed balconies and unenclosed walkways

(b) Minimum Square Footage None of the Lots shall contain any residential structure that has less than 1200 square feet of heated and cooled living area, and no ground floor of any multi story residential structure shall have less than 1200 square feet of heated and cooled area

3 03 Maximum Building Heights/Stories All structures must conform to Federal Flood Zone regulations for minimum finished floor elevations. The total maximum height of structures shall not exceed the height restrictions, if any, as may be imposed by applicable governmental authorities. In no instance, shall the height of any structure exceed two habitable stories

3 04 Building and Accessory Structure Setbacks Setback requirements represent the perimeters in which all buildings, garages, decks, patios, or other permanent structures can be built in both horizontal and vertical applications. All building setbacks are measured from and perpendicular to the property lines

Minimum yard requirements

Front 20 Feet
Side 5 Feet
Rear 20 Feet

For purposes of this document, the front of each Lot shall be the side of such Lot adjacent to a right of way. In the event that a Lot contains more than one side adjacent to a right of way, the shortest side adjacent to a right of way shall be considered the front of the Lot

3 05 Aesthetic Appearance Each property Owner shall provide a visually screened in area to serve as a service yard for garbage receptacles, electric meters, and air conditioning equipment. Other unsightly objects must be placed or stored in order to conceal them from view from the street and adjacent properties. No clotheslines shall be permitted

3 06 Accessory Structures There shall be no accessory structures allowed

3 07 Garages A garage built to accommodate two automobiles is required to be built as an attachment to each residential structure. Studios will be allowed on the second floor above the garage in a design compatible with the main house and approved by the ARC. Studios are not allowed to serve as the main dwelling on the property. Garages must be equipped with automatic door openers and shall remain closed when not entering or exiting

3 08 Design Criteria The following are allowed or required

Exterior Color Houses or other buildings must be painted or otherwise colored. All proposed colors to be applied to the exterior of any structure must be submitted to the ARC for

approval. This includes initial colors proposed for new building and any proposed colors for re-application. No more than three (3) colors, exclusive of the roof color, may be used in any one scheme.

Exterior Materials Only conventional stucco shall be allowed as the exterior sheathing materials. Other materials may be approved by the ARC if, in its sole discretion, these materials are compatible with the Subdivision. No foil or other reflective materials may be used on any windows for sunscreens, blinds, shades, or other purposes on any Lot, nor shall any window-mounted, nor wall mounted heating or air conditioning units be permitted on any Lot.

Foundation Concrete or concrete block shall not be exposed as a result of a slab or pier foundation. The same must be faced or covered to grade or below grade with conventional stucco or other exterior materials acceptable to the ARC.

Roof Materials and Appurtenances Roof Accessories such as vent stacks and roof vents shall be painted to match the roof color, and whenever possible placed out of the street view of the house. All vents shall be covered with lead or copper boot. No exposed PVC pipe shall be allowed. No roofs allowed with less than a 6/12 of pitch.

Chimneys No wood burning fireplaces, stoves or similar devices are allowed, however, ventless gas fireplaces shall be allowed. No chimney is required for a ventless gas fireplace and thus no chimney shall be allowed even if it is an architectural feature of the house design.

Driveways/Parking All homes must have a driveway of a permanent nature and shall be constructed of concrete, brick paver or aggregate with a permanent curb wall of concrete. All driveways shall be completed at the time of the completion of the main dwelling structure and must be designed in a fashion to accommodate automobiles for both the Owner and guests. Access to garages shall be reviewed by the ARC on an individual basis.

3.09 Pool and Pool Enclosures All pools and pool enclosures will be considered on a case by case basis by the ARC. Any pool placed on the property must be designed to complement the architectural components of the residence. Pools must be of an in-ground nature. Pool enclosures may not be freestanding. If screening is desired, the enclosure must be designed as an integral part of the principal structure's roof and walls, and must not appear as an added appendage. All pools, equipment pumps, etc., shall be stored out of view and pump houses must be architecturally compatible with main structure. All pools shall be calculated in maximum lot coverage restrictions.

3.10 Exterior Lighting Exterior lighting may be provided for safety and security, and shall be in character with the general subdivision. Recessed down lighting, scones, and vertical lighting are recommended. Flood lights are not permitted. No lighting should be located as to interfere with vehicular traffic or become a nuisance to neighbors by adversely affecting the night time environment of adjacent properties. The ARC shall review and approve or disapprove all post mounted and building fixtures which are visible from any street or any other Lot.

3.11 Landscaping Approval To preserve the esthetic appearance of the properties, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented or installed by any Owner, other than Developer, unless and until the plans therefore have been submitted to and approved in writing by the ARC. Such plans shall include a calculation of the ratio of the area to be covered by grass lawns versus the area to be landscaped by trees and bushes, and the ARC shall be entitled to promulgate standards with respect to such ratios. No hedge or shrubbery planting or tree which obstructs sight lines of streets shall be placed or permitted to remain on any Lot where such hedge, shrubbery planting or tree interferes with traffic sight lines, including sight lines at the intersection of a driveway and a street. Unless located within ten (10) feet of a building or a recreational or park facility, no Owner, other than the Developer, shall be entitled to cut, remove, or mutilate any trees, shrubs, bushes, or other vegetation having a trunk diameter of six (6) inches or more at a point of four (4) feet above ground level, without obtaining the prior approval of the ARC, except as set forth in the preceding sentence, and provided further that the dead or diseased trees which are inspected and certified as dead or diseased by the ARC or its representatives as well as other dead or diseased shrubs, bushes, or other vegetation shall be cut and removed promptly from any Lot as the case may be. All landscaping as required on each Lot must be completed prior to occupancy.

3.12 Maintenance The Owner of any Lot shall have the duty of and responsibility for keeping the premises, improvements, appurtenances and landscaping in a well maintained, safe, clean and attractive condition at all times. The Architectural Review Committee, acting on an affirmative vote by a majority of its members, may give notice to any Owner who is not maintaining such Owner's property in accordance with this paragraph and such Owner shall within ten (10) days of such notice, undertake the care and maintenance required to restore said Lot to a safe, clean and attractive condition. Should any such Owner fail to fulfill this duty and responsibility after such notice, the ARC will have the right and power to have such care and maintenance performed, and the Owner shall be liable for the cost thereof. In the event such cost is incurred and not reimbursed to the Association, same shall be a lien against the property and collected as provided for the non-payment of Association dues under the By-laws of the Association and/or this document. The Association shall enter into a landscape maintenance agreement with an independent contractor approved by the Board for the purpose of maintaining lawns and landscaping on all Lots and Common Areas within the Subdivision. The risk of loss and cost of replacement of any dead or destroyed landscaping shall be at the sole expense of the Owner. Neither the Developer, the ARC or the Association shall be liable for any such costs irrespective of cause.

3.13 Miscellaneous Restrictions No trade or business activity or noxious or dangerous activity of any kind whatsoever shall be carried on upon any Lot or on the Common Areas, nothing shall be done thereon which may be or become an annoyance, nuisance, health hazard or safety hazard to the neighborhood, and without limiting the foregoing, no garage sales, rummage sales, or the like shall be allowed on any Lot or on the Common Area, and no hunting or firearms or explosives shall be used thereon. No camping shall be allowed on any Lot, nor in the Common Areas of Windward Lakes.

No private water wells or septic tanks or similar facilities shall be allowed.

No work shall be done on any Lot, which, in the opinion of the ARC or Developer, would jeopardize the soundness and safety of the Subdivision, reduce the value thereof, or impair any easement thereto

No athletic equipment shall be erected or situated on any Lot so that the same is visible from any street

3.14 Excavation of Site No soil, rock, gravel or clay shall be excavated or removed from any Properties for commercial purposes. No sand shall be removed from any Lot for any purpose

3.15 Walls and Fences No wooden privacy, cyclone, vinyl, chain link fence, or any other type wall or fence shall be allowed

3.16 Utility and Drainage Easements Permanent or perpetual easements are reserved, as shown on the recorded subdivision Plat, for installation and maintenance of utilities and drainage facilities and for landscaping. All landscaping on each Lot must be provided with an underground irrigation system. Each Lot shall be required to connect to the central irrigation system servicing Windward Lakes and be connected by a contractor approved by ARC or the Developer

3.17 Owner's Easement of Enjoyment There is hereby reserved, created, and granted to each Owner, the Association, and the Developer, and each one shall have and is hereby granted appurtenant to each Lot, a non exclusive easement and right of ingress, egress, use and enjoyment, in and to the Common Areas for the purpose or purposes for which it or they were intended, 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 from time to time in accordance with its By-Laws to establish, modify, amend and rescind reasonable Rules and Regulations regarding the Common Areas

(b) The right of the Association to charge an initial admission fee, an initial insurance assessment fee, initial working capital fee, general and special assessments for common expenses, special assessments for capital improvements, assessments for the payment of all dues, obligations, and responsibilities of the Association, reserve fund fee, and other fees for the maintenance of the Common Areas and for the common expenses and assessments by the master association, Mariner Lakes Association, Inc

(c) The right of the Association to designate the parking of automobiles and other vehicles in designated areas within the Common Area. No Owner shall interfere with the rights of ingress and egress of the Owner of any particular Lot

(d) The right of the Association, in addition to its other rights as hereinafter set forth, to suspend the voting rights and the right to use the Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days from any infraction of its published Rules and Regulations after a hearing by the Board of Directors of the Association, and the right of the Association to enforce said Rules and

Regulations of the Association by assessing fines and monetary penalties against those responsible for violations therefore in an assessment not to exceed one hundred dollars (\$100.00) per day per violation for each day such violation exists which said fines and monetary penalties may be collected and enforced in the same manner as assessments for Common Expenses

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility by an instrument signed by two thirds (2/3) of the Members of the Association and approved in writing on such instrument by a majority of the Board of Directors of the Windward Lakes Property Owner's Association and recorded with the Office of the Judge of Probate of Baldwin County, Alabama

3.18 Delegation of Use Any Owner may delegate in accordance with the By Laws, the right of enjoyment to the Common Area to the members of his family, his tenants and guests, or contract purchasers who reside on the property

3.19 Trash Receptacles All trash receptacles must be tightly closed and rodent proof, and must be stored in an approved enclosure, which shall be attached to the main structure and not exposed to any street view or curb. No lumber, metals, or bulk materials may be kept, stored, or allowed to accumulate on any Lot, except building materials during the course of construction. No refuse or trash shall be kept, stored, or allowed to accumulate except between scheduled pick-ups. Garbage cans/trash containers will only be displayed on the right-of-way on the assigned day for trash pickup.

3.20 Outdoor Equipment All swimming pool equipment and housing and sprinkler pumps and other such outdoor equipment must be underground or placed in walled-in or sight screened areas so that they shall not be readily visible from any adjacent streets or properties, or adequate landscaping shall be installed around these facilities and maintained by the Owner.

3.21 Solar Collectors Solar collectors shall only be permitted at locations and on structures as are first approved in writing by the ARC.

3.22 Other Structures No trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected on any Lot at any time, either temporarily or permanently unless authorized herein. No structure of a temporary character may be used as a residence.

3.23 No sign of any kind shall be displayed to public view on any Lot or structure, unless the placement, character, form, size, lighting and time of placement of such sign shall be first approved in writing by the ARC. All signs must also conform with governmental codes and regulations and with any master design plans for signs established by Developer. Developer reserves the right to place and maintain a sign identifying the Developer and its real estate marketing agencies.

3.24 Antennas No outside antennas, antenna poles, antenna masts, satellite dishes, electronic devices, antenna towers or citizen band (CB) or amateur band (ham) antennas shall be permitted. Satellite dishes will be allowed with special permission from the ARC, so long as said dish

is no larger than 18 inches in diameter and visually screened from all adjacent properties and all rights of way

3 25 Pets and Animals Commonly accepted household pets such as dogs, cats, and pet birds may be kept in reasonable numbers. All animals shall be contained on the Owner's Lot and shall not be permitted to roam free, provided that such domestic pets shall not be used or kept for any commercial purpose, and further that said domestic pets do not constitute a disturbance and nuisance to other Lot Owners. The Association shall have the right to designate certain areas of the Common Areas as "Pet Areas", and shall have the right to designate other areas of the Common Areas as "No Pet Areas."

No hogs, pigs, swine, goats, chickens, pigeons or any other obnoxious animal, fowl or reptile shall be kept or permitted to be kept

3 26 Nuisances Nothing may or shall be done which may be or may become an annoyance or nuisance to any person or the Subdivision. No obnoxious, unpleasant or offensive activity will be carried on, nor may anything be done, which can be reasonably construed a nuisance, public or private in nature.

3 27 Trucks, Commercial Vehicles, Recreation Vehicles, Motor Homes, boats, Campers and Trailers

(a) No commercial truck, vehicle or equipment shall be permitted to be parked or to be stored at any place on the properties. This prohibition on parking shall not apply to temporary parking of trucks and commercial vehicles used for pickup and delivery. Further provided, an automobile, van or pickup regularly used by an Owner as personal transportation to and from Owner's business and which is capable of being parked inside Owner's residential garage shall not be considered a commercial vehicle even though it may have a sign or logo on the side or rear thereof.

(b) No boat, boat trailer or other trailer of any kind, camper, motor home or disabled vehicle shall be permitted to be parked or stored unless kept fully enclosed inside a garage.

(c) None of the aforementioned vehicles shall be used as a domicile or residence, either permanent or temporary.

(d) No vehicles or equipment of any kind shall be allowed on any lawn either on Common Areas or Lots.

3 28 Docks, Piers, and Other Structures Built Over Water are not allowed.

3 29 Building Construction In General No construction whatsoever shall be commenced until the party proposing to undertake such construction shall have obtained all construction and work permits necessary from all governmental agencies having jurisdiction over any aspect of such

construction and the approval of the ARC. All construction shall be done by a licensed general contractor.

Construction sites shall be kept in an orderly and non-cluttered manner. No fires will be allowed and under no circumstances shall work crews be allowed to become a nuisance to adjoining property Owners. No construction shall take place on Sundays, nor between the hours of 9:00 p.m. to 6:00 a.m. on any other day of the week. It shall be the Owner's responsibility through his contractor to see that these restrictions are followed.

3.30 Utilities All residences on any Lot must be served by underground utilities including but not limited to, sewer, water, electricity, telephone, cable and irrigation. All Lots shall connect to the subdivision irrigation system as per 3.16 above. No individual water supply system (for human consumption) or individual septic system shall be permitted on any Lot. Each Owner may be required to pay tap fees and/or assessments associated with such services.

3.31 Mailboxes and Newspaper Boxes No mailboxes or newspaper boxes may be installed or maintained on any Lot without the prior written approval of the ARC. Each member shall install on their Lot a mailbox and newspaper box as prescribed, from time to time, by the ARC.

3.32 No Subdivision of Lots No further subdivision of Lots shall be permitted, except that the Developer may, at its option, remove property from Windward Lakes and such property may be further subdivided.

3.33 No Time Sharing No time shares will be permitted upon any Lot of Windward Lakes, except that the Developer may permit time sharing on property later added to Windward Lakes.

ARTICLE IV

ASSOCIATION AND AMENDMENTS

4.01 Property Owner's Association The Association has established the Windward Lakes Property Owner's Association, Inc., a non-profit Corporation, for the purposes stated in the Articles of Incorporation and By-Laws of the Corporation, recorded in the Office of the Judge of Probate of Baldwin County, Alabama. Each Owner should obtain and review a copy of the Articles of Incorporation for the Association, a copy of its Bylaws, and the Declaration of Covenants, Conditions and Restrictions of Windward Lakes.

4.02 Membership Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The Association shall have two classes of voting membership.

(a) Class A Class A members shall all be Owners of Lots, with the exception of the Developer and its assigns, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be Members. The vote for each

such Lot shall be as they determine, but in no event shall more than one vote be cast with respect to each Lot of this class

(b) Class B Class B member(s) shall be the Developer and shall be entitled to four (4) votes for each Lot owned and/or 40 votes for each acre of parcels it owns. The Class B membership shall cease and be converted to Class A membership upon the happening of either of the following events, whichever comes first:

(i) When the number of total Votes outstanding in the Class A membership becomes equal to or greater than the number of total Votes outstanding in the Class B membership, or

(ii) Developer records an instrument terminating Class B membership,

(iii) On January 1, 2015

4.03 Association's Maintenance and Ad Valorem Tax Responsibility The Association shall maintain and keep in good repair the Common Areas, such maintenance to be funded as hereinafter provided. This maintenance shall include, but not be limited to, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and other flora, structures, and any improvements which may be situated upon such areas. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Areas, which shall be maintained out of regular assessment for Common Expenses. The Association shall pay all ad valorem taxes assessed against the Association assets, said payment to be maintained out of regular assessment for Common Expenses.

ARTICLE V

INSURANCE AND CASUALTY LOSSES

5.01 Owner Insurance Each Owner shall and is hereby deemed responsible for maintaining sufficient insurance upon his or her residence so as to provide full replacement value thereof if available in the event of a casualty, including, without limitation: (a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, (b) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the land including, but not limited to vandalism, malicious mischief, and windstorm, and (c) liability insurance and (d) flood insurance. Such insurance, if available, shall be sufficient to cover the full replacement value, or for necessary repair or reconstruction work. Each Owner shall provide the Association with evidence of such insurance as required by the Association. In the event an Owner of any Lot in the Properties shall fail to maintain sufficient insurance as provided for herein, the Association, after approval by a majority of the Board of Directors, shall have the right to purchase said insurance and assess the Owner with the cost thereof, which said assessment shall be enforceable the same as assessments for the Common Expense. Each Owner further covenants and agrees that in the event of a partial loss or damage and

destruction resulting in less than total destruction of structures comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that the structure is totally destroyed and the Owner determines not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction.

5.02 Association Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to, and shall obtain, all risk insurance, if reasonably available, for all insurable improvements on the Common Areas except for roads, trees, shrubs, landscaping, signs and underground utility lines. If all risk coverage is not reasonably available, then at a minimum, an insurance policy providing fire and extended coverage shall be obtained. This insurance, if reasonably available, shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board must also obtain, if reasonably available, a public liability policy covering the Common Areas, the Association and its Members for all damage or injury resulting from operation, maintenance, or use of the Common Areas, or caused by the negligence of the Association or any of its Members or Agents, and any legal liability that results from lawsuits relating to employment contracts with the Association in which the Association is a party. The public liability policy must have at least a One Million Dollar (\$1,000,000) limit per occurrence, and Two Million Dollar (\$2,000,000) general aggregate.

Premiums for all insurance on the Common Areas shall be Common Expenses of the Association. The policy may contain a reasonable deductible and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.

If the Association has employees, the Board must provide a workmen's compensation policy.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association. Such insurance shall be governed by the provisions hereinafter set forth:

(1) All policies shall be written with a company licensed to do business in Alabama and holding a rating of A-XI or better in the Financial Category as established by A.M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(2) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors, provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(3) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons

(4) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following;

(i) A waiver of subrogation by the insurer as to any claim against the Association, its Board of Directors, its manager, the Owners, and their respective tenants, servants, agents, and guests,

(ii) A waiver by the insurer of its rights to repair and reconstruct instead of paying cost,

(iii) That no policy may be canceled, invalidated, or suspended on account of any one or more individual Owner,

(iv) That no policy may be canceled, invalidated, or suspended on account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter with which the defect may be cured by the Association, its manager, any Owner, or mortgage,

(v) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration, and

(vi) That no policy may be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association. In addition to the other insurance required herein, the Board shall obtain, as a Common Expense, worker's compensation insurance, if and to the extent necessary, and a fidelity bond or bonds on Directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. The amount of fidelity coverage shall be determined in the Directors' best business judgment, but may not be less than three (3) months' assessments, plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled or substantially modified without at least ten (10) days' prior written notice to the Association.

ARTICLE VI

COVENANTS FOR ASSESSMENTS

6.01 (a) The Developer hereby covenants, and each Owner of any Lot by acceptance of a deed, whether or not it shall be so expressed in the deed, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements and maintenance, and such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the real property and improvements and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Upon recording of a notice of lien, there shall exist a perfected lien for all unpaid assessments, including special assessments, on the respective Lot prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other liens which by law would be superior thereto, and (2) the lien or charge of any first mortgage of record (meaning any recorded mortgage with first priority over other mortgages) made in good faith and for value. Such lien, when delinquent may be enforced by suit, judgment, and foreclosure. In addition to the other rights of the Association, at law or in equity, a suit to recover a money judgment for unpaid Common Expenses and attorney's fees may be maintained without foreclosing or waiving the lien securing the same.

(b) The capital improvements and maintenance assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners of the Properties and for the improvement and maintenance of the Common Areas.

(c) Annual Assessment for Capital Improvements and Maintenance

(1) Until January 1, 2002, the maximum annual assessment shall be \$2,400.00 per Lot (which includes \$120.00 per Lot for Capital Reserve Fund).

(2) From and after January 1, 2002, the maximum annual assessment may be increased each year by not more than 10% above the maximum assessment for the previous year without a majority of Votes.

(3) The Board of Directors may fix the annual assessment at any amount not in excess of the maximum.

(d) Special assessment for On-going Capital Reserves, Capital Improvements and Maintenance. In addition to the annual assessments 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 a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the Votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. The Association may also levy a special assessment applicable for that year only, for the purpose of maintaining an on-going capital reserve to maintain, improve, and expand the Common Areas.

(e) Written notice of any meeting called for the purpose of taking any action authorized under this Article VI shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or proxies entitled to cast sixty (60%) percent 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 that 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 sixty (60) days following the preceding meeting.

(f) Both annual and special assessments for capital improvements, on going capital reserves, and maintenance must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Owner's obligation for paying monthly dues begins when Owner is deeded title to a Lot. Dues are prorated at closing.

(g) **General Provisions.** The first annual assessments provided for herein shall commence as to all Lots, on the first day of the month following the conveyance of the first Lot, except that the Developer shall only be liable for the payment of assessments on a particular Lot if/when an occupancy permit is issued for any residence on any such Lot. The first annual assessment for capital improvements and maintenance shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessments against each Lot, with the exception of those Lots owned by the Developer, at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on the specified Lot have been paid. A properly executed certificate of Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

(h) Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of the highest legal rate permitted under law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property, in accordance with the laws of the State of Alabama. No Owner may waive or otherwise escape liability for the assessments by nonuse of the Common Areas or abandonment of the Lot.

(i) The lien of the assessments shall only be subordinate to the lien of any first mortgage as is required by law. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall only extinguish the lien of assessment as required by law as to payments that become due prior to the sale or transfer. No sale or transfer shall relieve the Lot from liability for any assessments thereafter becoming due.

(j) **Working Capital Fund.** In order to insure that the Association will have cash available to meet start up and unforeseen expenditures or to acquire additional equipment or services deemed necessary or desirable, there shall be established a working capital fund equal to the

total amount of two (2) months' assessments not including special assessments per every Lot not then owned by the Developer. Each Lot's share of the working capital fund shall be collected and transferred to the Association general fund at the time of the closing of the initial conveyance from Developer to the first purchaser of each Lot. Amounts paid into this working capital fund shall not be considered as advance payments of regular or special assessments. Lots owned by the Developer shall be exempt from paying assessments into the working capital fund.

ARTICLE VII

MARINER LAKES ASSOCIATION, INC

7 01 Mariner Lakes Association, Inc. An umbrella association named Mariner Lakes Association, Inc was created, April 12, 1985, (an Amended and Restated Master Declaration of Covenants and Restrictions For Mariner Lakes was recorded on December 7, 1994) for the purpose of maintaining, repairing, renovating, replacing, operating, managing, and administering all aspects of the common areas of that association that are contained, located or embraced within the map attached to the Amended and Restated Master Declaration of Covenants and Restrictions For Mariner Lakes, as Exhibits "C & D", including but not limited to, all bodies of water, lakes, ponds, tennis court or courts, beach and Gulf access, television reception systems, driveways, roadways, access drives, circular drives, club house, entry wall, and monument, and other community and recreational facilities. Such association is established as a non-profit corporation.

7 02 Mariner Lakes Association, Inc. Mariner Lakes Association shall act as a Master Association such that some or all other associations or similar entities established pursuant to the various other developments within Exhibit 'B' (to Amended and Restated Master Declaration of Covenants and Restrictions For Mariner Lakes) including townhouses, condominiums, offices, apartments and other facilities, shall be members of such Master Association and shall represent each Lot Owner, unit owner, tenant and other persons within each said development. It is further contemplated that each such association and similar entity will appoint one or more persons who will represent the association or similar entity before the Master Association, however, due to the nature of the different types of developments, each said association and similar entity may share in various degrees in the use and enjoyment of the Common Areas of the Master Association, may bear different amounts of the expense of the maintenance, repair, replacement and operation of the said common areas, and may be entitled to more than one vote in the affairs of the Master Association.

7 03 Windward Lakes Membership in the Master Association. Windward Lakes Property Owners Association shall be a member of such association. The Board of Directors of Windward Lakes Property Owner's Association shall appoint one person to be that Association's representative, who shall be entitled to vote as a member of the Master Association.

7 04 Assessment of Common Expenses of Master Association. Windward Lakes Property Owner's Association (and in turn, each member thereof) shall be assessed as common expense its share of the cost and expense of maintaining, repairing, renovating, replacing, operating, managing, and administering, the said Common Areas of Mariner Lakes Association, which assessment shall be enforceable by Mariner Lakes Association against Windward Lakes Property

Owner's Association and each Lot Owner therein the same as, in the same manner, and with the same penalties for delinquent or non delinquent payment, as assessment for common expense of Windward Lakes Property Owner's Association against its members as herein expressed

7 05 Determination of Share of Common Expense The share of Windward Lakes Property Owner's Association in the said common expense shall be determined by the Board of Directors of the said Master Association at least annually by published documentation available to each Lot Owner in accordance with the actual cost and expense of said common areas as compared to the total number of owners of Lots, units and parcels within the entire Master Association

7 06 Rules and Regulations Concerning Common Areas Mariner Lakes Association, Inc , may promulgate reasonable rules and regulations concerning the use and enjoyment of the said common areas, which may be amended from time to time, including the right to enforce said rules and regulations by assessing fines and monetary penalties against those responsible for violations thereof in an assessment not to exceed one hundred dollars (\$100 00) per day per violation for each day such violation exists which said fines and monetary penalties may be collected and enforced in the same manner as assessments for common expenses Windward Lakes Property Owners Association and all Members thereof shall be subject to all Rules and Regulations regarding the Mariner Lakes common areas as are contained in the Amended and Restated Master Declaration of Covenants and Restrictions for Mariner Lakes, dated December 1, 1994, and all amendments thereto, recorded in the Office of the Judge of Probate of Baldwin County, Alabama

7 07 Merger of Associations It is further contemplated that various of the associations and other similar entities may merge together or consolidate with each other, or with the Master Association, in which case, upon merger, combination, or consolidation, the properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the surviving association as a surviving corporation pursuant to a merger, combination or consolidation The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the Property, together with the covenants and restrictions established upon any other properties as one scheme No such merger, consolidation, or combination, however, shall effect any revocation or change of, or addition to the Covenants and Restrictions established by this Declaration within the property except as herein provided

7 08 Easement for Use of Common Areas of Mariner Lakes Association, Inc There is hereby reserved, created, and granted to each Lot Owner within the Plat of Windward Lakes at Mariner Lakes, a non-exclusive easement appurtenant to each said Lot, for the use, benefit, and enjoyment of the common areas of Mariner Lakes Association upon such time as each of the said various Common Areas are fully and completely developed, including specifically the access drive and the beach and Gulf access as set forth and described on Exhibit B' (to Amended and Restated Master Declaration of Covenants and Restrictions For Mariner Lakes) and incorporated herein by reference, which said easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions

(a) The right of the Master Association to charge each Owner through his association, its share of the cost and expense of maintaining, repairing, renovating, replacing, operating, managing, and administering the said common areas, which shall be assessed as a common expense and shall be enforceable against each Owner and his association the same as, in the same manner, and with the same penalties for delinquent or nonpayment, as assessments for Common Expense of Windward Lakes Property Owner's Association, Inc

(b) The right of the Master Association in addition to its other rights as hereinafter set forth, to suspend the voting rights and the right to use the common area by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations after a hearing by the Board of Directors of the Association

(c) The right of the Master Association to dedicate or transfer all or part of any part of the common area to any public agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by a majority of the Board of Directors of Windward Lakes Property Owner's Association, Inc, has been recorded with the Office of the Judge of Probate of Baldwin County, Alabama

ARTICLE VIII

AMENDMENT OF COVENANTS AND RESTRICTIONS

8.01 Procedure for Amendments This Declaration may be amended in the following manner

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of any meeting of the Association at which a proposed amendment is to be considered

(b) A resolution adopting a proposed amendment may be proposed by a majority of the Board of Directors or the Members, and after being so proposed and approved by a majority vote of either the Directors or Members, it must be then approved by a majority Vote of the other to become effective. Directors and Members not present at the meeting considering the amendment may express their approval or disapproval in writing, providing such approval or disapproval is delivered to the Secretary at or prior to the meeting. Such approval must be by not less than a majority of the Votes of the Association. If the mortgage so provides, for the purposes of this subparagraph, that a mortgagee holding a mortgage comprising a first lien upon any residence shall express its approval or disapproval of such resolution in writing, the expression of such mortgagee shall be deemed to be that of the Owner, and any contrary expression by the Owner shall be disregarded

(c) A copy of each amendment shall be certified by the President and Secretary of the Association as having been duly adopted and shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama

(d) In the alternative, an amendment may be made by an agreement signed and acknowledged by seventy percent (70%) of the record Owners in the Subdivision and all mortgagees holding mortgages upon all Lots in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Office of the Judge of Probate of Baldwin County, Alabama.

(e) Without complying with the terms of this Declaration, the Developer may make any amendment to this Declaration that may be required by federal or state law or regulations or Federal National Mortgage Association requirements.

(f) Developer, in its sole discretion, without the necessity of consent or approval by any Owner(s) or other interested parties, may, from time to time for a period of two years from the date hereof amend any or all of this Declaration provided that such amendment(s) do not materially alter the scheme of development within the Subdivision or add material burdens to Lots no longer owned by Developer unless the Owners of such Lots consent in writing.

ARTICLE IX

MORTGAGES

9 01 Notice to Mortgagees of Default by Owner In the event of default in the performance by an Owner of any of his duties or obligations under this Declaration, the By-Laws or Articles of Incorporation, or Rules and Regulations of the Association, the Association shall, if such default is not cured within sixty (60) days, upon request by the holder of a mortgage constituting a first lien on the residence of such defaulting Owner, give written notice of such default to such mortgage holder, provided, however, that if the default is a failure to pay any charges of assessments to the Association, such notice shall be given if such default is not cured within fifteen (15) days, and provided further, however, that the Association shall have no obligation to give any notices to, or to take any other actions required by this Declaration with respect to any mortgage other than those from whom the Association has received a copy of the mortgage or written notice which sets out the particular Lot or Lots, the name of the mortgagor, the name and address of the mortgagee and the date of the mortgage. The Secretary of the Association shall keep a list of mortgages, which shall contain the information set out above.

ARTICLE X

CONSOLIDATION OF OWNERS ASSOCIATION

10 01 Right of Developer to Consolidate Owners Association If in Developer's sole and absolute discretion it determines that the ease of administration of the various owners associations will be facilitated, the Developer may and shall have the right, without any consent on behalf of the Association to merge or consolidate one or more, even to the extent of all, owners associations into one or more associations.

Upon merger, combination, or consolidation of the Association with another association, the properties, rights, and obligations of the Association, may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger, combination or consolidation. The surviving or consolidated association may administer the Covenants and Restrictions established by this Declaration within the property, together with the covenants and restrictions upon any other properties as one scheme. No such merger, combination, or consolidation however, shall effect any revocation or change of, or addition to the Covenants and Restrictions established by this Declaration within the Property except as herein provided.

ARTICLE XI

ADDITIONS TO AND WITHDRAWALS FROM THE PROPERTY

11.01 Additions to the Property. Additional land may be brought within the jurisdiction and control of the Association in the manner specified in Paragraph 11.02 of this Article and made subject to all the terms of this Declaration as if part of the Properties initially included within the terms hereof, provided that such is done within ten (10) years from the date this instrument is recorded. Notwithstanding the foregoing, however, under no circumstances shall the Developer be required to make such additions, and until such time as such additions are made to the Properties in the manner hereinafter set forth, no other real property owned by the Developer or any other person or party whomever, other than the Properties, shall in any way be affected by or become subject to the Declaration. All additional land which, pursuant to this Article, is brought within the jurisdiction and control of the Association and made subject to the Declaration shall thereupon and thereafter be included within the terms "Properties" as used in this Declaration. Notwithstanding anything contained in this Paragraph 11.01, the Developer neither commits to, nor warrants or represents, that any such additional development of additional property shall occur.

11.02 Procedure for Making Additions to the Properties. Additions to the Properties may be made and thereby become subject to this Declaration by and only by, one of the following procedures:

(a) **Additions by Developer.** The Developer shall have the right from time to time, in its discretion and without need for consent, approval, or joinder of the Association, the Master Association, or any other owner's association, or their members, or any Individual Owner Member, to bring within the jurisdiction and control of the Association and Master Association and make subject to the schemes of this Declaration, any additional land adjoining any boundary of the Subdivision or of the Common Area of Manner Lakes Association, Inc. In the Developer's sole discretion, portions of this land may be committed or designated as Common Areas.

(b) **Mergers.** Upon a merger or consolidation of the Association with another non-profit Corporation as provided in its Articles, its property (whether real or personal or mixed), rights and obligations may, by operation of law, be transferred to the surviving or consolidated corporation or, alternatively, the property, rights and obligations of the other non-profit corporation may by

operation of law, be added to the property, rights and obligations of the Association as the surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Declaration within the Properties together with the covenants and restrictions established upon any other land as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration with the Properties.

11.03 General Provisions Regarding Additions to the Properties

(a) Property added to the Subdivision under the provisions of this Article shall not be subject to any restrictive covenants which restrict the use of such added property to a lesser standard than the standards created by this Declaration, except that such use may include single family, multi-family or duplex use compatible with the standards set forth herein.

(b) The Additions authorized under Paragraph 11.02(a) of this Article shall be made by the Developer filing of record a Supplement to the Declaration of Covenants, Conditions, and Restrictions with respect to the additional land extending the scheme of the covenants and restrictions of this Declaration to such land, except as hereinafter provided in Paragraph 11.03(c). Such Supplement need only be executed by the Developer and shall not require the joinder or consent of the Association, the Master Association, or any other owner's association, or their members, or any Individual Owner Member. Such Supplement may contain such complimentary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added land or permitted use thereof. In no event, however, shall such Supplement revoke, modify, or add to the covenants established by this Declaration, as such affect the land described herein.

Each owner's association and Individual Owner Member and Owner hereby and by these presents, and by acceptance of the deed to any Lot within said Property, and any party which accepts or acquires any interest of any kind or nature in said property, whether by deed, mortgage, judgment lien, or otherwise (except the Developer), shall leave appointed and is thereby deemed to have appointed the Developer as that party's irrevocable, true, and lawful attorney-in-fact, coupled with an interest, for that party and in that party's name, place and stead, to sign, seal, execute and deliver any and all documents, amendments, and instruments in order to effectuate and implement the Supplement to Declaration of Covenants, Conditions and Restrictions, to amend this Declaration to bring within the jurisdiction and control of the Association and to make subject to the scheme of this Declaration any additional lands contiguous to the then current borders of the Subdivision or any Common Area of Manner Lakes Master Association, Inc., and commit or designate parts or portions thereof as Common Area, to make such additions and modifications of the covenants and restrictions as Declarant deems necessary, to alter, reallocate or reduce the said assessment and charges and grant and confer voting privileges and to implement all other terms and provisions of this Declaration. This power of attorney shall be a durable power of attorney and shall not be affected by a disability, incompetency, or incapacity of the principal.

The Owner of any interest in any Lot in the Properties agrees to execute and deliver such instruments, papers and documents as are necessary or desirable to accomplish the admission of additional lands in accordance with the provisions and intent of this Declaration.

(c) Regardless of which of the foregoing methods is used to add additional land subject to the terms and provisions of this Declaration, no addition shall revoke or diminish the rights of the owner's associations and Individual Owner Members to the utilization of the Common Areas as established hereunder except to grant to the Owners of the land being added to the Properties the right to use the Common Areas according to the terms and conditions as established hereunder, and the right to Vote and be assessed as hereinafter provided.

(d) Nothing contained in this Article shall obligate the Developer to make additions to the Properties.

11.04 Voting - Rights of the Developer as to Additions to the Properties The Developer shall have no voting rights as to the land added to the Properties or any portion thereof until such land or portion thereof is actually added to the Properties in accordance with the provisions of this Article. Upon such land or portions thereof being added to the Properties, the Developer shall have the Class B voting rights as to the Lots and acreage thereof as is provided by this Declaration.

11.05 Assessment Obligations of the Developer as to Added Lots/Lands The Developer shall have no assessment obligation as to any land or any portion thereof added to the planned unit development except in accordance with the provisions of this Article, as the improvements upon each Lot embraced within the land so added and the issuance of a certificate of occupancy, the said assessment with respect to that Lot shall commence effective the first day of the month following said issuance of a certificate of occupancy. At such time, the Developer shall have, but only as to such of the additional land is added and constructed upon, the assessment obligation set forth in this Declaration.

11.06 Voting Rights of Owners Other Than the Developer as to Additions to the Property Any Lots on land added to the Properties which are embraced by owner's associations or owned by Individual Owner Members other than the Developer, or its assignees, shall be entitled to voting rights as set forth and granted by this Declaration to other Owners of Class A Lots.

11.07 Assessment Obligation of Owners Other Than the Developer as to Additions to the Properties Any Lots on land added to the Properties which are embraced by owner's associations or owned by Individual Owner Members other than the Developer shall be subject to assessments, both annual, special, and otherwise in accordance with the terms and provisions of the Declaration in the same manner as all other owner's associations or Individual Owner Members containing or owning Class A Lots within the Properties.

11.08 Withdrawals From the Property The Developer may, at any time, without the consent of any Owner, Director, or Member of the Association, withdraw any property owned by the Developer from the Windward Lakes Subdivision.

ARTICLE XII

EASEMENTS

12.01 Easement for Utilities The Developer reserves the right to grant easements, both temporary and permanent, to all public authorities, utility companies, and for drainage and television installation, service, and maintenance, over any part of any Lot and/or the Common Areas described herein.

12.02 Easements for Encroachments Each Lot, residence, structure, improvement, building and any property included in the Common Areas, shall be subject to an easement for encroachments created by construction: roof overhangs, balcony overhangs, shading, settling, patios, balconies, stair landings, and overhangs for all buildings constructed by the Developer. A valid easement for such encroachments and for the maintenance of the same, so long as such easements stand, shall and does exist. In the event that any residence, structure, or building is partially or totally damaged or destroyed and then repaired or rebuilt, minor encroachments on, over, or upon parts of the adjacent residences, structures, buildings, or Common Areas due to said repair, rebuilding or construction shall be permitted, and valid easements for said encroachments and the maintenance thereof shall exist so long as such residence, structure or building shall stand.

12.03 Other Easements There is hereby created in favor of the Developer and the Association, and their or its agents, servants, employees, successors, assigns, and parties with whom contracts or agreements have been entered for such purpose or purposes, a blanket easement upon, across, over, and under all of the Properties for ingress, egress, installation, replacement, removal, repair and maintenance of all utilities, including, but not limited to, water, sewer, gas, telephone, electricity, cable, and a master television system. By virtue of this easement, it shall be expressly permissible to erect, lay, construct, repair, replace and maintain the necessary poles, lines, cables and other equipment on the property and to affix and maintain electrical, cable, telephone, or television wires, cables and conduits, and sewer and water lines, above, on or below any residence or land of any Owner. An easement is granted to the Association, its officers, agents and employees, including employees of any management company having a contract with the Association, over all the common areas, to maintain any utilities for which an easement has been granted. An easement is hereby reserved to the Developer, or its agents, servants, employees, successors, assigns, and parties with whom contracts or agreements have been entered for such purpose or purposes, to enter the Common Areas during the period of construction and sale of the Properties, or any additions to the Properties, and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs, and model homes.

ARTICLE XIII

MISCELLANEOUS

13.01 Enforcement If the parties hereto, or any one of them, or any of their heirs, executors, successors, administrators or assigns, shall violate or attempt to violate any of the covenants, restrictions, and/or limitations herein contained, it shall be lawful for the Association, the ARC, the Developer and/or any person or persons owning any real property subject to this Declaration to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to prevent such person or persons from so doing, or to recover damages for such violations or attempted violations, and in the event that the prosecuting party prevails, the other party shall be responsible for the prevailing party's costs of litigation, including reasonable attorney's fees.

13.02 Severability Invalidity of any one of the covenants, restrictions, easements, and/or limitations, or any part thereof, by judgment, statute, or court order, shall in no wise affect any of the other provisions which shall remain in full force and effect.

13.03 Term The provisions of this Declaration shall run with the land and shall be binding on all Owners, or upon all parties and persons claiming under or through them, each of whom shall by virtue of his acceptance or acquisition of title or other interest, whether or not it be so expressed in the deeds or other instruments of conveyance, accept and agree to be bound by and to abide by all terms and provisions of this instrument, all of which shall be, and remain in full force and effect in perpetuity.

13.04 Successors Deeds of conveyance of any Lot within the Subdivision may contain the provisions, restrictions, covenants, and conditions contained herein by reference to this Declaration, however, whether or not such reference is made in any or all of said deeds, by becoming an Owner of any Lot within the Subdivision, each such Owner for himself, his heirs, personal representatives, successors, transferees and assigns, binds himself, and such heirs, personal representatives, successors, transferees and assigns, to all the provisions, restrictions, covenants and conditions now or hereafter imposed by or under the authority of this Declaration and any amendments thereof.

13.05 Captions and Headings The captions and headings in this Declaration are strictly for convenience only, and are not to be considered as defining or limiting in any way the intent of the provisions hereof or thereof.

13.06 Approval of Plans Not Binding No approval of plans, location or specification shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence or that said residence will comply with applicable federal, state or local governmental laws, regulations, and ordinances (and each Owner shall be responsible for ensuring that his plans, specifications, piers, walkovers and any other matters regulated by law, and construction pursuant thereto as well as the use of his Lot comply in all respects with all federal, state or local governmental laws, regulations and ordinances.) Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereon will be built in a good and workmanlike manner. The ARC shall not be responsible or liable for any defect in any plans or specifications submitted, revised or approved, under these covenants nor for any defects and construction pursuant to such plans and specifications. The Owner shall have the sole responsibility for compliance with approved plans and

does hereby hold the ARC and the Developer harmless for any failure thereof caused by the Owner, architect, or builder

13.07 Developer as Attorney-in-Fact Windward Lakes Property Owners Association, Inc. and each representative Member thereof, hereby and by these presents, and by acceptance of the deed to any Lot within said Property, and any party which accepts or acquires any interest of any kind or nature in said Property, whether by deed, mortgage, judgment lien, or otherwise, shall have appointed and is thereby deemed to have appointed Developer as that party's irrevocable, true, and lawful attorney-in-fact, coupled with an interest, for that party and in that party's name, place, and stead, to sign, seal, execute and deliver any and all documents and instruments in order to effectuate membership in Mariner Lakes Association, Inc., and to be bound and liable for its share of the common expense. This power of attorney shall be a durable power of attorney and shall not be affected by disability, incompetency, or incapacity of the principal.

13.08 Non-Liability of Developer Developer shall not in any way or manner be held liable or responsible for any violation of this Declaration by any person other than Developer.

13.09 Notice of Sale, Lease, or Mortgage In the event an Owner sells, leases, mortgages, or otherwise disposes of any Lot, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee, or transferee. The provisions of this Section 13.09 shall not apply to Developer.

IN WITNESS WHEREOF, ROMAR DEVELOPMENT CO, INC, a corporation, the Developer, has hereunto caused its corporate name to be signed by John F Morrissey and Darrell Groves, its President and Secretary respectively, both duly authorized, on this the 20th day of June, 2001

ROMAR DEVELOPMENT CO, INC,
A Corporation

AFFIX CORPORATE
SEAL

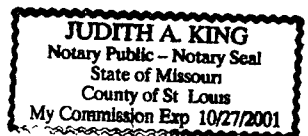
By *John F Morrissey*
Its *President*

WITNESSES
By *Darrell Groves*
Its *Secretary*

STATE OF MISSOURI
COUNTY OF ST LOUIS

I, Judith A King, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that John F Morrissey and Darrell Groves whose names as President and Secretary respectively of ROMAR DEVELOPMENT CO, INC, a corporation, are signed to the foregoing declaration and who are known to me, signed to the foregoing declaration and who are known to me, acknowledged before me on this day that being informed of the contents of said declaration, they, as such officers and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date as the act of and for the said corporation

Given under my hand and official notarial seal this the 20th day of June, 2001

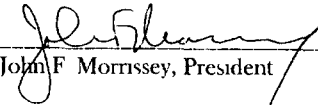


Judith A King
Notary Public
My Commission Expires 10/27/2001

EXFCUTION BY MORTGAGFE

In witness whereof, Alamo Partners, L.L.C. of St Louis COUNTY, Mortgagee of the property contained in this Declaration, hereby signs the foregoing Declaration, pursuant to Section 35-8-7, Code of Alabama 1975, this the 20th day of June, 2001

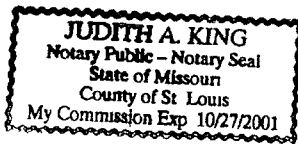
ALAMO PARTNERS L L C
By ALAMO PROPERTIES, INC ITS
MANAGING MEMBER

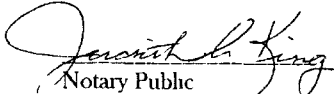

John F. Morrissey, President

STATE OF MISSOURI
COUNTY OF ST LOUIS

I, Judith A King, a Notary Public in and for said State do hereby certify that John F Morrissey, whose name as President of Alamo Properties, Inc, Mortgagee of the property contained in this Declaration, whose name is signed to the foregoing Declaration and who is known to me, on this day that being informed of the contents of this Declaration, he, as President, and with full authority, executed the same voluntarily

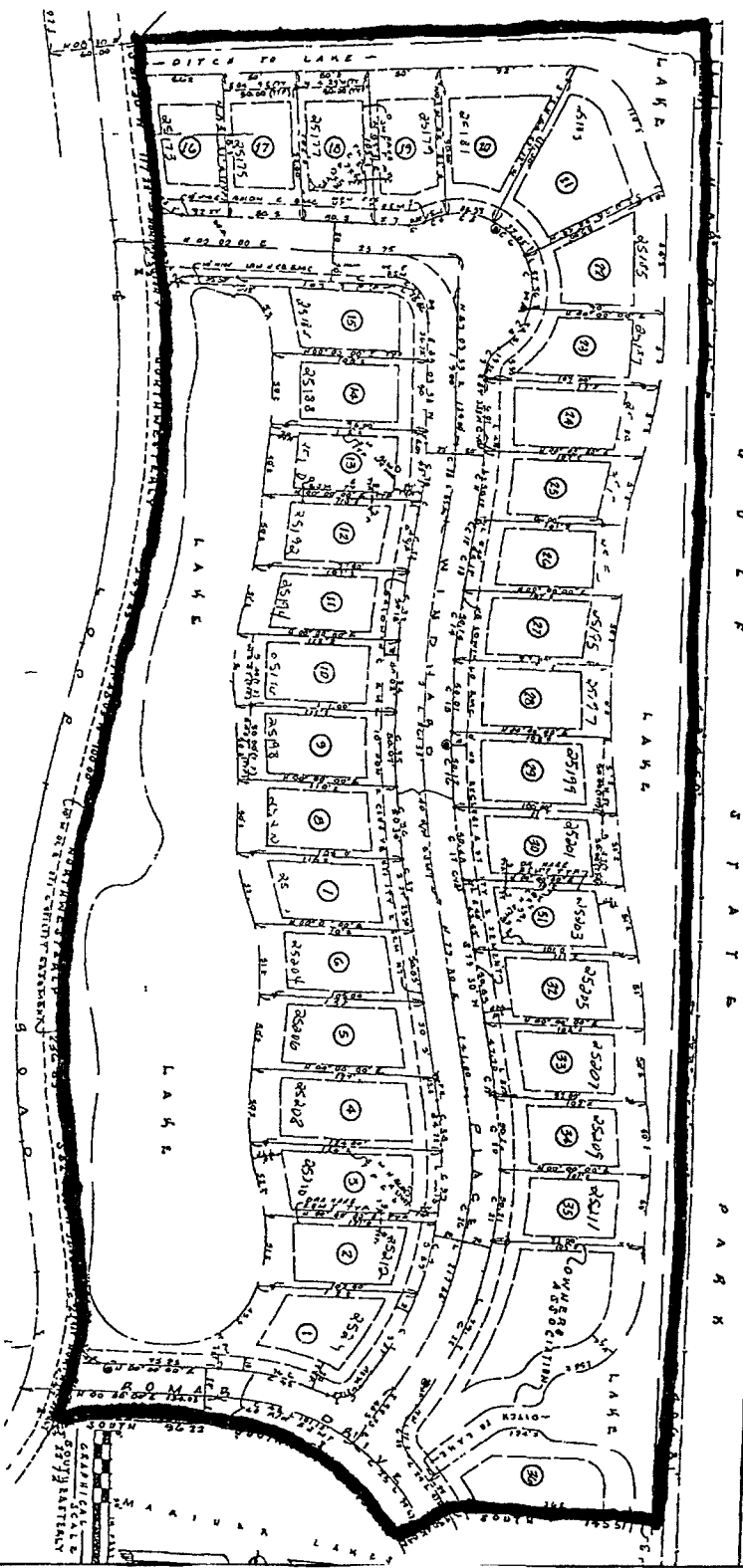
Given under my hand and official seal, this the 20th day of June, 2001




Notary Public
My Commission Expires 10/27/2001

[LS]

WINDWARD LAKES
EXHIBIT "A"
GENERAL LAND PLAN



ALL OF THE ABOVE PROPERTY IS COMMON AREA FOR
WINDWARD LAKES EXCEPT FOR THE 36 LOTS