

DECLARATION OF COVENANTS
Wagner Farm Subdivision, Gorham, Maine

THIS DECLARATION dated as of June 5, 2009 is made by **RISBARA BROS. CONSTRUCTION CO., INC.**, a Maine corporation with a place of business in the Town of Scarborough, Maine, hereinafter referred to as the “Declarant.”

W I T N E S S E T H

WHEREAS, the Declarant owns certain land located in the Town of Gorham, Maine consisting of Lots #1-42 inclusive (the “Lots”) plus the Open Space land, the Common Easements and the Road as defined herein and as delineated on a plan entitled “Subdivision Plan, Wagner Farm” prepared by Northeast Civil Solutions dated October 30, 2008 as amended through April 16, 2009 and recorded in the Cumberland County Registry of Deeds in Plan Book 209, Page 162 (the “Plan”), a reduced copy of which is attached hereto as Exhibit A, thereby creating the Wagner Farm Subdivision as depicted on the Plan (collectively the “Property”), being the same property conveyed to the Declarant pursuant to a deed recorded in the Cumberland County Registry of Deeds in Book 25983, Page 267; and

WHEREAS, the Declarant desires to allow for the use, benefit and enjoyment of the Lots, the Road and Open Space in accordance with a harmonious plan, consistent with the land use and zoning ordinances of the Town of Gorham, and to this end desires that the Property shall be subjected to certain restrictions, reservations, covenants and easements as hereinafter set forth; and

NOW THEREFORE, the Declarant HEREBY COVENANTS AND AGREES that the Property and rights appurtenant thereto are and shall be held subject to the restrictions, reservations, covenants and easements set forth in this Declaration which Declaration shall inure to the benefit of and be binding upon the Declarant, its successors, and assigns, and the owners of the Property, their respective heirs, successors and assigns and which shall run with the title to the Lots and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I. DEFINITIONS

“Association” shall mean the Wagner Farm Homeowners Association, a Maine nonprofit corporation.

“Common Easements” shall have the meaning set forth in Section 3.2.

“Declarant” shall mean and refer to Risbara Bros. Construction Co., Inc., a Maine corporation, its successors and assigns, provided that in order to transfer the Declarant’s rights hereunder as a part of the transfer to such successor or assignee, (i) the Declarant must expressly transfer to such party Declarant’s rights hereunder, and (ii) such assignee signs the instrument of transfer indicating its acceptance of the Declarant’s rights.

“Declaration” shall mean and refer to this Declaration of Covenants applicable to the Property and as recorded in the Cumberland County Registry of Deeds, as the same shall be amended from time to time.

“Eligible Mortgage Holder” - see section 5.3.

“Lot” shall initially mean and refer to those lots identified in the first “Whereas” clause which are part of the Property, but the Lots do not include the Open Space.

“Open Space” shall have the meaning set forth in Subsection 2.3 (L).

“Owner” shall mean and refer to the record owner; whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property subject to this Declaration, but excluding those having such interest merely as security for the performance of an obligation.

“Plan” is as defined above in the first “Whereas” clause.

"Property" shall mean and refer to the Lots, the Common Easements, and the Open Space.

“Road” shall have the meaning set forth in Section 3.1.

“Structure” shall mean anything erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground, including without limitation, buildings, fences, pavement, lighting, mail boxes, signs or improvements.

“Town” shall mean the Town of Gorham, Maine.

Capitalized words used herein are as defined in this Declaration or if lacking specific definition, shall be defined in accordance with the Land Use and Zoning Ordinances of the Town.

ARTICLE II. GENERAL RESTRICTIONS

Each Lot shall be subject to the following covenants, obligations and restrictions, which covenants and restrictions shall run with the land:

Section 2.1 Further Alternations. No Lot may be further subdivided or converted to condominium ownership, but the common boundary lines of abutting Lots may be altered with the approval of the Planning Board if required.

Section 2.2 Improvements.

A. Single Dwelling. No Structure shall be erected on any Lot except one (1) detached, single-family, residential dwelling, hereinafter referred to as the “Dwelling”, and a maximum of two separate accessory buildings.

B. Design Approval. Prior to commencement of construction of the Dwelling or any other Structures by any person, the Declarant shall be provided with the following design materials:

Plan showing the location on the Lot, design, exterior appearance, materials and colors of all buildings and Structures, the driveway, landscaping and walks, fences, decks or patios, finish floor elevations and proposed grades to provide for adequate storm water runoff.

Declarant shall approve such plans provided that the Declarant determines in its judgment that the plans conform to this Declaration and the Declarant reasonably determines that the proposed improvements will not be detrimental to the Property. Declarant may disapprove any plans submitted to it which are not sufficient for it to exercise the judgment required under these covenants. Rejection by Declarant of plans may be based upon any grounds, including purely aesthetic conditions which in the sole and uncontrolled discretion of Declarant shall seem sufficient. Approval shall not relieve the Owner from compliance with any other review or permit requirement under applicable law. The reviewing party shall not be liable to any person for damages related to approval or rejection of such plans, even if caused by the alleged negligence or fault of the reviewing party. The plans for Dwellings and Structures constructed by the Declarant are not subject to the review procedures required under this Section. Construction of improvements shall be strictly in conformity with such approved plans.

Declarant may elect to assign its rights and responsibilities hereunder to the Association referred to in herein (hereinafter the "Association") by a written document recorded in the Cumberland County Registry of Deeds.

Approval of said plans does not relieve the homeowners and/or building contractor of their responsibility to ensure that the grading of the Lot does not cause any standing water or erosion problems on that Lot or any other Lot or other portions of the Property.

The Declarant and Association may adopt reasonable Rules and Regulations further implementing, supplementing and interpreting this Section.

C. Minimum Living Area. The total Living Area of the first and second floors of any Dwelling, exclusive of decks, unheated porches and breezeways, below grade basement space, and a garage, shall not be less than 750 square feet for Dwellings with the Living Area located only on one floor and 1,000 square feet for Dwellings with the Living Area located on two or more floors, measured from the outside of the exterior walls, unless otherwise approved in writing by the Declarant or its successors and assigns. Living Area shall be defined as all above grade interior, habitable floor area having a minimum floor-to-ceiling height of 7 feet. The following areas are expressly excluded from the calculation of Living Area:

- i) all basement space (including so-called daylight basements), with basement space being defined as space where the floor of such story is located below the grade of the exterior ground in whole or part; and
- ii) all garages, porches, decks, greenhouses and similar Structures, whether enclosed and/or heated or not.

D. Building Envelope. All buildings shall be within the applicable “building envelope” established by the setback and zoning requirements of the Town as shown on the Plan.

E. Utilities. All Dwellings shall be connected to public water and sewer. All exterior utility lines, including cable, shall be underground.

F. Roofs. The main roofs of all buildings erected on any Lot shall be pitched and a minimum roof line slope of 7/12 for ranch style homes and for two-story colonial and garrison style homes shall be used in the structural design of the buildings, unless otherwise approved in writing by the Declarant or its successors and assigns.

G. Siding. All Structures erected on any Lot shall have wood clapboards, wood shingles, shakes, masonry, architectural quality aluminum, vinyl and plastic siding, or other quality finish siding, with no T-111 or similar style plywood, tarpaper, tarred shingles or other type of tarred siding or corrugated metal or fiberglass siding. Architectural quality solid plastic or composite trim is allowed. Log homes are not allowed.

H. Foundation. Each Dwelling shall be supported by a solid perimeter masonry foundation.

I. Chimneys and Fireplaces. All exterior portions of chimneys and fireplaces shall be of brick or stone construction or a metal chimney encased with siding similar to the balance of the Dwelling with a metal cap. No cinder block or exposed metal chimneys are allowed, except for metal gas exhaust vents that directly penetrate a wall.

J. Driveways. All driveways will be surfaced with asphalt, pavers, brick, or other hard surfaced material.

K. Completion. After the construction of any improvements on the Lot is begun, work thereon must be prosecuted diligently to completion. In any event the Dwelling, landscaping, grading, seeding, driveway and other exterior work must be carried on with due diligence and completed in any event in less than one (1) year from the date the work is commenced. No building shall be occupied during construction, except in the case of an unfinished floor area to be completed at a later date.

L. Certificate of Occupancy. Prior to occupancy, each Dwelling shall receive a certificate of occupancy from the Town, and be connected to approved public water and sewer connections conforming to Town and State of Maine requirements.

M. Antennas. No antennas or towers of any type shall be erected on any Lot, except for satellite dishes no larger than 2 feet in diameter.

N. Wetlands/Drainage. For each Lot on which wetlands are located as shown on the Plan, prior to the start of construction the location of the wetlands shall be permanently marked on the ground and the deed for such lot must have attached to it a plot plan for such Lot drawn to scale that specifies the location of the wetlands.

Each Lot owner shall keep all ditches or culverts on or abutting the Lot open and clean of debris and litter. Each Lot owner shall avoid interfering with the natural course of surface water across a neighbor's parcel or any land abutting the Lot or altering its intended flow to the storm drainage, streams and ponds except as approved by the Town.

O. Restoration. Any building or other Structure on a Lot which is destroyed or damaged in whole or in part by fire, windstorm or other casualty must either be rebuilt or all debris removed and the affected portion of the Lot restored to its natural condition within a reasonable time, but, in any event, not to exceed six (6) months excluding the winter months between November 15th and April 15th.

Section 2.3 Use and Occupancy

A. Residential Uses. Except as otherwise provided herein, the Lots may be used only for private, residential purposes. No commercial, industrial, or business use, or enterprise of any nature or description shall be carried on at a Lot, except that a home office or use by an Owner only wholly within the Structures located on the Lot without any signs or identification visible from outside the Structure, with no employees other than residents of the Lot, with no outside storage, and with no customers or business invitees coming to a Lot for any business purpose. The conduct of business activity shall be carried on so that it is not apparent or detectable by sight, sound, or smell from the exterior of the buildings, the business activity conforms to all zoning requirements for the Property; and the business activity is consistent with the residential character of the Property. The utility lines may be operated for public utility purposes.

Rental of a Dwelling for a period of less than 30 days is not permitted.

The foregoing restrictions shall not apply to the construction, development and sale of Lots by the Declarant or to the construction of improvements on a Lot in accordance with the Section 2.2.

B. Animals. The keeping of poultry, swine, horses, livestock, or animals used for commercial purposes shall not be permitted on a Lot.

Only a reasonable number of dogs, cats and other ordinary household domestic pets shall be allowed on each Lot. All such pets shall be limited in number and regulated in their behavior so as to not unreasonably interfere with the ownership and enjoyment of other Lots. No boarding or breeding kennels may be kept or maintained.

Dogs shall not be permitted off the owner's Lot except on a leash attended by a responsible person.

C. Nuisances and Trash. Noxious, offensive, dangerous, or unduly noisy activities of any nature shall not be carried on upon any Lot so as to disturb the peace and occupancy of neighbors. "Offensive" or "Noxious" activity or behavior shall include but not be limited to a public nuisance or nuisance per se and shall also include any behavior which is inconsistent with both the reasonable pleasurable use of the Lots and their reasonable expectations of living free of excessively noisy behavior disrespectful of others, flashing or excessively bright lights, racing vehicles, significantly loud electronic music distractions, or other similar unreasonable behavior or

activity curtailing or likely to curtail the reasonable pleasure and use of the properties by others who are not participating in such offensive or noxious activity.

Trash, garbage, junk, debris and other waste shall be kept in sanitary containers within Structures where they are not visible from any Road or from any other Lot except when placed out for collection on the day such collection is to occur.

D. Vehicles, Etc. No unregistered or inoperable motor vehicles shall be kept on or stored on the Lot, unless stored inside a fully enclosed building. All terrain vehicles and snowmobiles may be stored on a Lot but shall be shielded from view from outside the Lot boundaries. All terrain vehicles and snowmobiles may not be operated on the Lots, the Road, the Open Space or any other portion of the Property except on trails approved by the Association and while directly in transit to and from such trails. The operation of all terrain vehicles and snowmobiles shall be subject to such reasonable rules and regulations as may be adopted by the Association.

Trailers used for camping, so-called recreational vehicles, boats, trailers are permitted on the Property, but must be stored either in the garage or screened so as to minimize their visibility to neighbors and located a minimum of 10 feet from the Lot lines.

No trailers over twenty-six feet (26') in length (other than boat trailers) or commercial trucks in excess of 10,000 pound of gross vehicle weight may be stored or parked on the Lot for more than two (2) consecutive days per month. The foregoing restrictions shall not prevent the use of trailers, vehicles or temporary Structures during the permitted period of actual construction of a residence on a Lot.

E. Mobil Homes. No mobile home shall be placed on the property at any time.

F. Fences. No fences or free-standing walls exceeding six (6) feet in height shall be erected on a Lot, and any fence shall be subject to the design review approval requirement.

G. Signs. Lot owners shall have the right to install a sign of not more than two (2) square feet showing the name of the owner or occupant and the name or number of the premises. All signs shall be compatible with the environment, and under no circumstances shall projecting signs, neon or brightly lighted or internally lighted signs be permitted on any parcel, provided however that the Declarant may install and maintain signs advertising the sale of the Lots and the Association may install lighted signs identifying the Property.

All Dwellings shall have their street number clearly visible from the Road.

H. Owner Maintenance Responsibilities. Each Lot Owner shall maintain his or her Lot, the Dwelling and other Structures, driveways, parking areas and other improvements comprising the Lot in good condition and repair, in an attractive condition and in accordance with the design approvals received under this Declaration, in a manner consistent with other Lots and all requirements of this Declaration, the Association's Bylaws and the Rules and Regulations.

If any Owner fails to perform his or her maintenance responsibilities in conformity this Declaration, then the Association may elect to perform such responsibilities and assess all costs

incurred against the Lot and the Owner thereof; provided, however, except when action is required due to an emergency situation, the Owner shall be provided with reasonable notice and an opportunity to cure such deficiencies prior to entry and assumption of such responsibilities.

I. No Unsightliness. No Unsightliness shall be permitted upon the Property. Without limiting the generality of the foregoing, (a) any unsightly structures, facilities, equipment, tools, objects or conditions shall be enclosed within an approved building or appropriately screened from view, except equipment and tools when in actual use for maintenance or repairs; (b) no motor vehicles shall be constructed, reconstructed, repaired or abandoned upon the Property except in an enclosed garage or work space; (c) no lumber, grass, shrub or tree clippings, plant waste, metals, bulk materials or scrap shall be kept, stored or allowed to accumulate on the Property; (d) refuse, garbage or trash shall be placed and kept at all times in a covered container and such container shall be kept within an enclosed structure or appropriately screened from view; and (e) garage doors shall not be left open for extended periods of time.

J. Stormwater Management. The terms and conditions of the DEP's Stormwater Management and Natural Resources Protection Act approval dated February 25, 2009 and recorded in the Cumberland County Registry of Deeds in Book 26713, Page 136 is incorporated herein by reference. Without limiting the foregoing, the standards attached hereto as Exhibit B are incorporated herein by reference (the "Stormwater Management Obligations"), which shall be initially implemented and carried out by the Declarant until the Association is formed and thereafter shall be implemented and carried out by the Association.

K. Grading and Drainage Easement Areas. The grading and drainage easement areas depicted on the Plan shall be subject to perpetual easements in favor of the Association and the Declarant for the purpose of altering, grading and maintaining the surface of the earth and installing drainage improvements, for the collection, diversion and flow of storm and surface waters by the Association, other Lot Owners, the Town and the Association and fulfilling the Stormwater Management Obligations provided for in the attached Exhibit B. No soils located therein shall be disturbed by the Lot Owner.

L. Open Space Land. The Open Space land shown on the Plan, generally being all land not forming a part of the Lots, the Road or the 50 foot wide parcel between Lots #13 and 14, shall be left in its natural, vegetated state and shall not be disturbed except for the installation, maintenance, repair and replacement of the storm water and drainage system, ponds, pipes, culverts, outlets, inlets, access Road, pedestrian and snowmobile/all terrain vehicle trails, and related improvements and Structures by the Declarant and the Association in accordance with plans now or hereafter approved by the Town if required.

The Association may grant revocable licenses to third parties for the responsible use of the trails located on the Open Space land, including without limitation use by third parties on such terms as the Association may approve. This provision does not establish any easement or other rights of third parties to use the Open Space land, which use shall occur only in accordance with the license terms approved by the Association.

M. Town Decision. The terms of Notice of Decision from the Gorham Planning Board recorded in said Registry of Deeds in Book 26980, Page 295 accompany the Plan and are incorporated herein.

N. Transfers. In any voluntary conveyance of a Lot, it shall be the duty of the then owner to furnish the buyers with a copy of this Declaration.

ARTICLE III. ROAD AND COMMON EASEMENTS

Section 3.1 Road Easements. Declarant, the Town and the owners of the Lots, their heirs, successors and assigns, are hereby granted a perpetual easement in common in the Road located on the Property shown on the Plan as Wagner Farm Road (the “Road”) for ingress and egress to and from the Lots, the Open Space land and Libby Avenue, for the maintenance, repair and replacement of pavement, street improvements and utilities, for connection to utilities, for all customary uses of and improvements accessory to a residential street and to manage and convey storm drainage as indicated on the Plan for the benefit of the Lots and all other land of the Declarant. The Declarant reserves the rights to alter the location of the Road and related easements with the approval of the Town.

The Declarant reserves the fee title to the Road as shown on the Plans and reserves the right to convey the Road and associated easements to the Town upon acceptance as public streets or in the alternative to the Association should the Town decline to accept the Road.

The 50 foot wide strip of land extending to Timber Ridge Road from Wagner Farm Road between Lots #13 and 14 not otherwise improved as a road may be improved with a sidewalk and sewer connecting to Timber Ridge Road, following which said land may be conveyed to the Town subject to acceptance by it. The Declarant reserves the fee title and the right to improve said 50 foot wide strip of land and related easements with the approval of the Town.

Section 3.2 Other Easements. The Property is subject to the following easements and all other easements, notes and conditions set forth in or referred to in the Plan, which include without limitation the following and shall be for the benefit of the Declarant, the Association and Lot Owners unless otherwise specified:

- (a) A ten (10) foot wide easement located along the Wagner Farm Road abutting various Lots as shown on the Plans for location, use, maintenance, repair, and replacement of underground electric and above ground transformers, water, sewer, fire hydrants, telephone, and cable TV service lines and appurtenances, street signs and lighting, and for grading, snowplowing, and maintenance purposes and associated drainage swales and appurtenances, for the benefit of the Declarant, all Lots, the Association and when so granted to them, for the benefit of the Town and public utilities;
- (b) A twenty (20) foot wide sewer easements located on the centerline of the boundaries between Lots 40 and 41 and Lots 32 and 33 for the installation, maintenance, repair and replacement of sewer and storm water related improvements and alternations of the surface of the earth in accordance with plans approved by the Town;
- (c) Lot #9 is subject to an easement in favor of Lot #8 for a foundation drain located in the Grading and Drainage Easement area shown on the Plan;

- (d) Lot #28 is subject to an easement within the 20 foot wide area as shown on the Plan for the benefit of the Declarant and the Association and other Lots, which may include without limitation use as a waiting area, benches, landscaping and signage;
- (e) Lot #29 is subject to an easement within the 15 foot wide area as shown on the Plan for the benefit of the Association and other Lots, which may include without limitation use as a school bus waiting area, benches and a mailbox facility; and
- (f) A general easement for the sole purpose of placing and servicing electrical transformers and service lines to the respective residences contained within the Property to the extent they are not within the utility and grading easement abutting the Road

(collectively the “Common Easements”).

Section 3.3 Declarant's Reserved Rights.

The Declarant reserves the right until the construction, marketing and sale of all Lots is completed to do or accomplish any of the matters set forth below in subparagraphs (a) through (e):

- (a) Subject to receipt of all applicable governmental approvals, to change the size, number and location of Lots, the Road, easements and other improvements and to change the size, layout and location of any Lot for which a purchase and sale agreement has not been executed by the Declarant or with respect to which the purchaser is in default. The change or changes shall be effective upon the recording of an amendment to this Declaration and/or the filing of modified subdivision plan indicating the changes made;
- (b) Locate on the Property, even though not depicted on the plan and grant and reserve easements and rights-of-way for the installation, maintenance, repair, replacement and inspection of, utility lines, wires, pipes, conduits, and facilities, including, but not limited to water, electric, telephone, and sewer;
- (c) Connect with and make use of utility lines, wires, pipes and conduits located on the Properties for construction and sales purposes, provided that the Declarant shall be responsible for the cost of service so used;
- (d) Use the Road for ingress and egress and for the storage of construction materials and equipment used in the completion of the Lots; and
- (e) If not accepted by the Town, convey title to the Road, the Open Space and the 50 foot wide extension between Lots #13 and 14 to the Association; the Declarant shall hold, and is hereby given, the power of attorney to accept delivery of the deed of the Road, the 50 foot wide parcel and Open Space on behalf of the Association, and such acceptance by the Declarant shall vest title to the property conveyed in the Association.
- (f) Convey title to the Road, the 10 foot wide Common Easements along the Road and Open Space to the Association, or with respect to the Road and the 10 foot wide

Common Easements along the Road, to convey them to the Town. The Declarant shall hold, and is hereby given, the power of attorney to accept delivery of the deed of the Road on behalf of the Association, and such acceptance by the Declarant shall vest title to the property conveyed in the Association.

This Section shall not be amended without the consent of the Declarant.

ARTICLE IV. HOMEOWNERS ASSOCIATION

Section 4.1 Creation and Purposes. Declarant has formed a Maine nonprofit corporation known as the Wagner Farm Homeowners Association (as above set forth herein referred to as the “Association”), whose purposes shall include ownership, maintenance, repair and replacement of the Road, storm water improvements, and Open Space land and the administration of this Declaration following the Declarant's assignment such responsibilities to it following the expiration of the Declarant Control Period.

Section 4.2 Membership and Voting. Declarant, its successors and assigns, and every record owner of a fee simple interest in a Lot or Lots, shall be a member of the Association, and each such member, including Declarant, shall be entitled to one vote in the Association for each Lot owned, provided, that where title to a Lot is held by more than one person, such co-owners acting jointly shall be entitled to but one vote. Each and every owner, in accepting a deed or contract for any Lot on the Property, agrees to and shall automatically become a member of and be subject to and comply with this Declaration, the Bylaws and Rules of the Association, as amended from time to time.

Provided however that during the Declarant Control Period, the Board of Directors of the Association shall be composed of three (3) natural persons appointed by the Declarant. The term “Declarant Control Period” means the period which extends from the date of the recording of this Declaration until ninety (90) days after the conveyance of seventy-five percent (75%) of the total number of Lots, excluding any conveyance to a successor Declarant, provided however that at its election the Declarant may terminate the Declarant Control Period at any time by recording a notice in the Cumberland County Registry of Deeds. The Declarant shall have the right during the Declarant Control Period to appoint, remove and replace from time to time any and all members of the Board of Directors and officers of the Association, without the necessity of obtaining resignations. The directors appointed by the Declarant need not be Lot Owners.

Section 4.3 Powers and Responsibilities of the Association. The Association shall have the following powers, rights and responsibilities:

- (a) To take title to the Road (unless accepted by the Town), Open Space land, Common Easements, and the storm water and drainage improvements and facilities when conveyed to it by Declarant;
- (b) Adopt and amend budgets for revenues, expenditures and reserves, and to collect Assessments for the maintenance, repair and replacement of and plowing and removal of snow and debris from the Road (unless accepted as public streets by the Town), Common Easements, Open Space, the administration and enforcement of

this Declaration and such other purposes as may be approved by the members or as provided herein;

- (c) To maintain Open Space and Common Easements and to take all actions required or appropriate to comply with the Stormwater Plan and the Stormwater Inspection and Maintenance Plan set forth in Exhibit B and to maintain the boardwalks and mowed trails;
- (d) To purchase and maintain liability insurance for property owned or maintained by the Association and activities conducted by the Association, and property insurance for property owned or leased by the Association;
- (e) To elect such officers, as the Association deems appropriate;
- (f) To own or lease such property as may be necessary in order to carry out the purposes of the Association and to grant easements for utilities and public access across the Open Space land;
- (g) To accept an assignment of Declarant's rights and obligations hereunder, and exercise such rights and obligations;
- (h) Adopt and amend Bylaws and Rules and Regulations, provided that any Rules and Regulations adopted by the Directors may be rejected or amended by a majority vote of all Lots subject to this Declaration;
- (i) Election of Association Directors;
- (j) Institute, defend, or intervene in litigation, arbitration, or administrative proceedings in its own name on behalf of itself or two (2) or more Lot owners on matters affecting the Property, and the Association shall be deemed to be the attorney-in-fact of each Lot owner for such purposes;
- (k) Make contracts and incur liabilities;
- (l) Impose charges and interest for late payment of Assessments and, after notice and an opportunity to be heard, impose reasonable penalties for violations of the Declaration, Bylaws, and Rules and Regulations of the Association;
- (m) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments;
- (n) Provide for the indemnification of its officers and directors and maintain directors' and officers' liability insurance;
- (o) Pledge, assign and grant a security interest covering special Assessments made for the purpose of raising funds for repairs, renovations, improvements and associated costs and expenses with respect to the Road, Open Space and other Common Easements, subject to the approval of a majority in interest vote of the Lot Owners;

- (p) Exercise any other powers conferred by Declaration or Bylaws; and
- (q) Exercise all other powers that may be exercised pursuant to the Maine Nonprofit Corporation Act.

Section 4.4 Assessments and Liens.

(a) Each owner of a Lot subject to this Declaration shall pay to the Association or its authorized representative, monthly or as otherwise required by the Association, his share of the Budget of the Association, all as determined by the Association's Board of Directors, subject to rejection by the members of the Association as set forth in the Bylaws. The expenses of the Association shall be allocated equally among all Lots subject to this Declaration, provided however that for each Lot on which the construction of a Dwelling has not commenced shall only be liable for a one half (1/2) share and lots which are not served by a passable road with the first coat of paving shall not be liable for any expenses (the "Assessments"). Open Space land is not liable for the payment of Assessments. Such charges and Assessments shall be applied by said Association in its discretion toward payment of the following costs:

- 1) To provide for the maintenance, snowplowing, sanding, repair and replacement of the Road, Open Space, Common Easements, and for the creation of reserves for the foregoing purposes until such time as the Road is accepted by the Town.
- 2) To enforce this Declaration, the Bylaws and Rules and Regulations, either in the form as originally placed thereon or as subsequently modified; provided, however, that this right of enforcement shall not serve to prevent the right of any owner or owners of any Lot, to enforce said restrictive covenants in the event they or any one of them elects to do so.
- 3) To preserve the Property and pick up and remove therefrom trash and rubbish of all kinds; and to do any and all other things necessary and desirable in the judgment of the officers of said Association to keep the Property clean and in good order.
- 4) To provide for the maintenance, repair, and replacement of the common storm water systems, recreational and all other facilities and for the creation of reserves for the foregoing purposes.
- 5) To pay real estate, income and other taxes, to establish reserves, to administer the Association and enforce this Declaration.
- 6) To administer, observe and perform the Bylaws and exercise the powers of the Association thereunder.
- 7) Such other items as the Board of Directors of the Association may determine in their discretion.
- 8) To provide any other neighborhood services not provided by local governmental authorities

- 9) To carry hazard, and general liability insurance coverage on any premises owned, maintained or repaired by the Association to provide directors and officers insurance and to indemnify the Association's officers and directors.

(b) The Board of Directors of the Association shall estimate for each year the total amount required for such purposes, which may include without limitation reasonable reserves and contingency funds, and shall levy an annual Assessment uniformly against each of the Lots. The Declarant (or the Association, at the Declarant's election) will initially determine the "Assessment year," whether calendar year or otherwise, for the purposes of such Assessments. The Board may make such supplementary Assessments as it determines necessary.

Until the later of two (2) years from the sale of the first Lot or until the owners of Lots subject to this Declaration have assumed self-government of the Association, the Declarant may elect to charge owners for their proportionate share of the Assessments and may pay the expenses of the Association directly. The Declarant may contribute goods and services in kind for the benefit of the Association, which shall be credited to its obligation to pay Assessments.

(c) In the event any owner fails to pay any Assessment within thirty (30) days following notice to such owner of such Assessment or the scheduled due date thereof if later, then such Assessment shall become delinquent and shall bear interest at the rate of eighteen percent (18%) per annum from the due date thereof to the date the payment became due.

(d) The Association shall automatically have a lien on each Lot to secure payment of Assessments and the costs and expenses of enforcing this Declaration, the Bylaws and Rules and Regulations of the Association, together with 18% per annum interest thereon and costs of collection and enforcement, including without limitation attorney's fees and expenses from the time the Assessment comes due. The recording of this Declaration constitutes record notice of the lien, which lien may be foreclosed in a like manner as a mortgage on real estate, but which lien shall be subject to any first mortgage held by an Eligible Mortgage Holder recorded before the Assessments, costs and expenses came due. Such amounts with interest and costs may also be enforced against and collected from the Lot owner(s) personally, who shall be jointly and severally liable. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof any applicable statute of limitations.

(e) The Association may in its discretion file certificates of non-payment of Assessments in the office of the Registry of Deeds whenever any such Assessments are delinquent, but such certificate shall not be required to perfect the lien established under this Declaration. For each certificate so filed, the Association shall be entitled to collect from the owner or owners of the Lot described therein a fee of \$100.00 or such other amount as the Board of Directors may establish from time to time under the Rules and Regulations which fee is hereby declared to be a lien upon the Lot. Such fee shall be collectible in the same manner as the original Assessments provided for herein and in addition to the interest and principal due thereon.

(f) The liens herein provided shall be subject and subordinate to the lien of any valid first mortgage held by an Eligible Mortgage Holder recorded before the Assessments, costs and expenses came due.

(g) Such liens shall remain in effect for a period of six (6) years from the date of delinquency and no longer, unless within such time suit shall have been filed for the collection of the Assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgment in such suit.

Section 4.5 Bylaws. The initial Bylaws of the Association are attached hereto as Exhibit C.

ARTICLE V. GENERAL PROVISIONS

Section 5.1 Binding Effect/Enforcement. The provisions of this Declaration and any permitted amendments thereto shall run with the land and bind the Declarant, its successors and assigns, and the owners of the Lots, their heirs, successors and assigns, and all parties claiming by, through, or under him/her or them.

Declarant, the Association, and each owner or owners of any of the Lots from time to time shall have the right, but not the obligation, jointly and separately to sue for and obtain a court order to prevent the breach of, or to enforce the observance of, the provisions of this Declaration, the Bylaws and Rules and Regulations, or any of them, in addition to the right to bring an ordinary legal action for damages. Only the Declarant and the Association shall have a lien on a Lot to secure the costs and expenses of enforcement including reasonable legal fees and expenses.

Whenever any Structure violates any of the provisions of this Declaration for a period of thirty (30) days after actual receipt of written notice of such violation from Declarant or the Association, then in addition to the foregoing rights such party have the right to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant, its successors or assigns, and the Association to enforce any of the provisions herein set forth as to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

Section 5.2 Amendment. The provisions set forth in this Declaration shall continue perpetually, except that all provisions hereof, may be amended or terminated by two third (2/3) votes of the owners of record of all the Lots and their mortgagees of record, provided that any provisions required by the Town or the Maine DEP may not be amended or terminated without their consent.

Any consents making changes permitted above shall be effective only if expressed in a written instrument or instruments executed by the consenting owners of record and recorded in the Registry of Deeds. Upon and after the effective date of any such changes, they shall be binding upon the Lots subject to this Declaration and all persons then owning Lots in the Property and shall run with the land and bind all persons claiming, by, through or under any one or more of them.

So long as the Declarant owns any portion of the Property, any amendments of this Declaration, the Bylaws or the Rules and Regulations shall be effective only if approved in a written instrument or instruments executed by the Declarant.

Section 5.3 Rights of Mortgage Holders. The holder of any first mortgage covering a Lot or of any other portion of the Property may file a request with the Secretary of the Association, identifying itself as a holder of a first Mortgage with the Association, delivered by United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, and shall thereby become an “Eligible Mortgage Holder”. After the filing of the request by an Eligible Mortgage Holder, the Association shall cause notice to be sent to all Eligible Mortgage Holders of any one or more of the following events, if so requested: default in the payment of any Assessments or other amounts due the Association that continues for sixty (60) days; default or violation of this Declaration, the Bylaws, Association rules or regulations, or any proceedings by the Association relating thereto; a material amendment to this Declaration requiring the consent of Eligible Mortgage Holders; Termination of this Declaration; and the conveyance or subjection to a security interest of any portion of the Common Easements.

For a material amendment to the Declaration, an Eligible Mortgage Holder may elect to exercise the vote held by any individual Lot subject to its Lot. An amendment affecting any of the following is considered material: voting rights in the Association; change in percentage liability for Assessments; responsibility for maintenance and repairs; any action to terminate this Declaration; or any provisions of this Article and any other provision of this Declaration, which expressly benefits Mortgage holders, insurers or guarantors.

Approval shall be presumed when an Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within sixty (60) days after the proposal is made.

Section 5.4 Notices. Each owner of a Lot in the Property shall file the correct mailing address of such owner with the Association and Declarant, and shall notify the Association and Declarant promptly in writing of any subsequent change of address. A written or printed notice, deposited in the United States Mail, postage prepaid, and addressed to any owner at the last address filed with the Association or Declarant shall be sufficient and proper notice to such owner wherever notices are required in this Declaration.

Section 5.5 Construction. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any provision contained in this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration, which shall remain in full force and effect.

Section 5.6 Assignment. Declarant hereby retains the right to assign to the Association all or any of the rights, privileges, easements, powers and duties herein retained or reserved by the Declarant or its successors and assigns, by written instrument or instruments in the nature of an assignment which shall be effective when recorded in the Registry of, and Declarant, its successors and assigns, shall then be relieved and discharged from every duty and obligation so assigned to the Association.

Declarant hereby reserves the right to specifically assign to any other person or entity all its rights and powers established hereunder in connection with its conveyance of the remaining land

owned by the assignor in the Property or its mortgage of land in the Property, and such assignment, other than an assignment as security, if accompanied by an assumption of Declarant's obligations hereunder by the assignee, shall when recorded in the Registry of Deeds for Cumberland County, Maine, relieve Declarant, its successors and assigns from its or their obligations hereunder.

WITNESS its hand and seal on the date set forth above.

RISBARA BROS. CONSTRUCTION CO., INC.

WITNESS:

By: _____
_____, its _____

State of Maine
County of Cumberland, ss.

_____, 2009

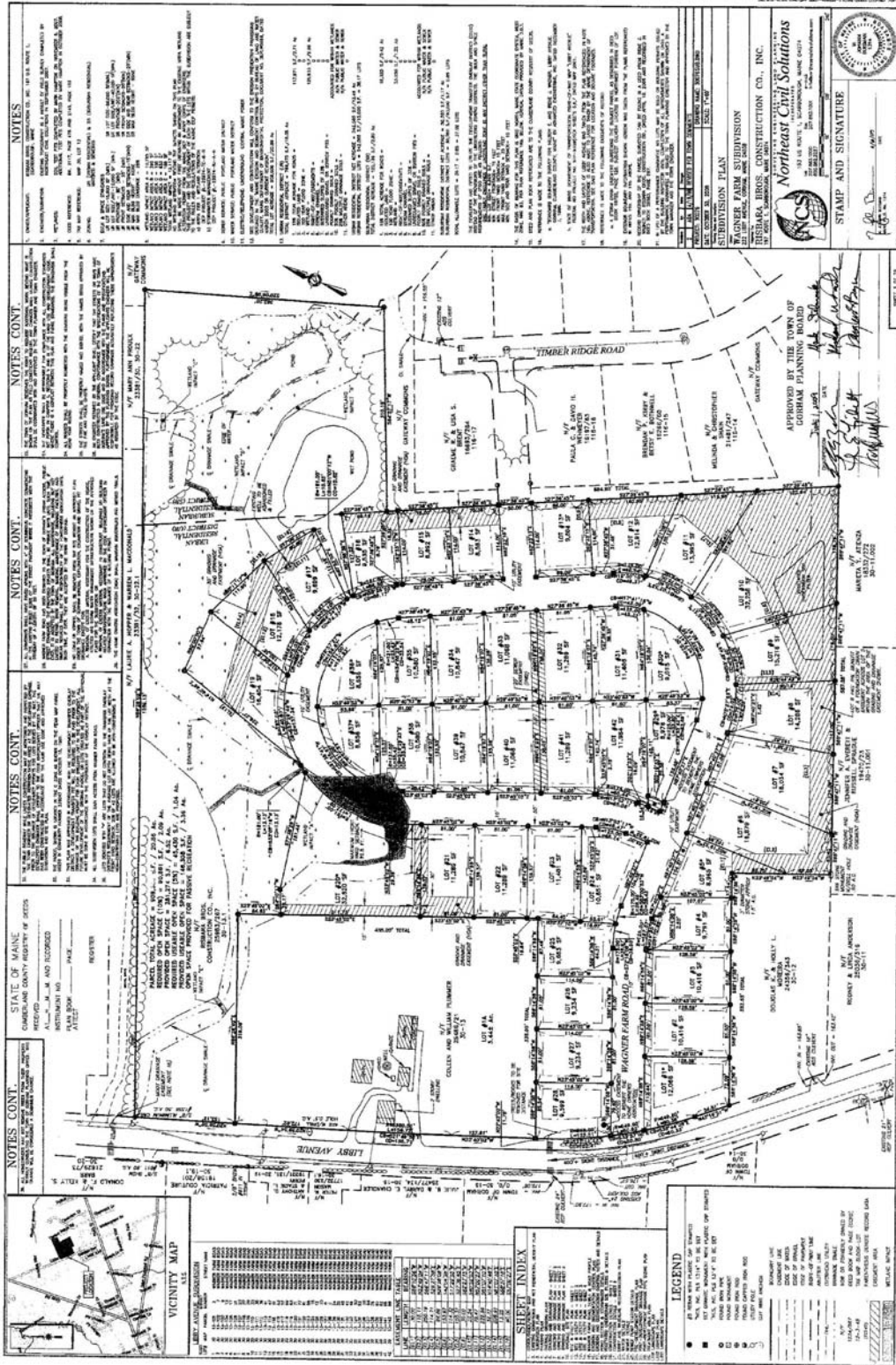
Personally appeared the above-named _____ in his said capacity and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of said corporation.

Before me,

Notary Public/Attorney-at-Law
Print Name: _____
My commission expires: _____

Decl Cov Libby Ave 6-11-09.doc
6/11/2009 12:31:00 PM

EXHIBIT A



RECEIVED 08/11/09 209/162

EXHIBIT B
Inspection and Maintenance Plan
for Stormwater Management Facilities
Wagner Farm – Gorham, Maine

The Association will be responsible for the maintenance of the stormwater infrastructure in the Open Space as well as the establishment of maintenance contracts. The Town of Gorham will accept the maintenance responsibilities within the public right-of-way. At a minimum the appropriate and relevant activities for each of the stormwater management facilities will be performed on the prescribed schedule.

A sample of the Maintenance Log is included in Appendix H. Records of all inspections and maintenance work accomplished must be kept on file and retained for a minimum 5-year time span. The maintenance logbook shall be made available to the Maine DEP upon request.

Recertification Requirement

Within three months of the expiration of each five-year interval from the date of issuance of the Stormwater Permit by the Maine DEP, the Association shall certify the following to the department.

- (a) All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
- (b) All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the facilities.
- (c) The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained.

Sweeping

Paved surfaces shall be swept or vacuumed at least twice annually in the spring to remove all winter sand, and periodically during the year on an as-needed basis to minimize transportation of sediment during rainfall events. The Town of Gorham will accept the maintenance responsibilities within the public right-of-way.

Closed Drainage Structures

If sediment in culverts or piped drainage systems exceeds 20% of the diameter of the pipe, it should be removed. This may be accomplished by hydraulic flushing or any mechanical means; however, care should be taken as to not flush the sediment into the pond or filter as it will reduce the capacity and hasten the time when it must be cleaned. All pipes should be inspected on an annual basis. Storm Drains SD-20, SD-30 and SD-31 area of highest risk and should be inspected more often.

Catch Basin sumps should be cleaned in the spring to remove the winter sand and periodically during the year and on an as-needed basis to remove sediment build up. This may be accomplished by a vacuum truck or any mechanical means; however, care should be taken as to

not flush the pond or filter as it will reduce the capacity and hasten the time when it must be cleaned. The Town of Gorham will accept the maintenance responsibilities within the public right-of-way. Catch basin CB-20 shall be the responsibility of the Homeowners Association.

Wet Pond

The inlet and outlet of the pond should be checked periodically to ensure that flow structures are not blocked by debris. All ditches or pipes connecting to pond should be checked for debris that may obstruct flow. Inspection should be conducted monthly during wet weather conditions from March to November. The gravel trench outlet should be inspected after every major storm in the first few months to ensure proper function. Thereafter, the gravel trench should be inspected at least once every six months. Inspection consists of verifying that the pond is slowly emptying through the gravel filter for a short time (12-24 hours) after a storm and that potentially clogging material such as accumulations of decaying leaves are not preventing discharge through the gravel. The top several inches of gravel in the outlet trench must be replaced with fresh material when water ponds about the permanent pool for more the 72 hours. The removed sediments should be disposed of in an acceptable manner. Wet ponds should be inspected annually for erosion, destabilization of side slopes, embankment settling and other signs of structural failure. Corrective action should be taken immediately upon identification of problems. Wet ponds lose 0.5%-1.0% of their volume annually due to sediment accumulation. Dredging is required when accumulated volume loss reaches 15%, or approximately 15-20 years. Sediment and plant debris should be removed from the pretreatment structure annually.

Level Spreader

Areas where stone is displaced should be repair to assure stability. With time, riprap may need to be added. Vegetation growing through riprap should be removed on a yearly schedule. The level spreader should be checked periodically to ensure that flow structures are not blocked by debris.

Ditches and Swales

Open swales and ditches need to be inspected on a monthly basis or after a major rainfall event to ensure that debris or sediments do not reduce the effectiveness of the system. All debris needs to be removed. Any sign of erosion or blockage shall be immediately repaired to promote a vigorous growth of vegetation. Vegetated ditches should be mowed at least monthly during the growing season. Larger brush or trees must be prevented from becoming established in the channel. Any areas where the vegetation fails will be subject to erosion and should be repaired and revegetated.

Rip Rap

Areas where stone is displaced should be repaired to assure stability. With time, riprap may need to be added. Vegetation growing through riprap should be removed on a yearly schedule.

Underdrain Soil Filters

The soil filters will be inspected after every major storm during the first few months of operation to ensure proper functioning. Thereafter, the filter will be inspected at least once every six months to ensure that it is draining in 48 hours. The top several inches of the filter shall be replaced with fresh material when the water ponds on the surface of the bed for more than 72 hours. The removed sediments should be disposed of in an acceptable manner. Sediment and

plant debris should be removed from the pretreatment structure annually. Filters with grass cover should be mowed no more than 2 times per growing season to maintain grass heights less than 12 inches. Fertilization of the underdrain soil filter area should be avoided unless absolutely necessary to establish vegetation. Pruning and weeding of excessive growth or unwanted plant life will be performed on an as needed basis.

Appendix H

DEP Project # L-23974-NJ-A-N
 DEP Project # L-23974-TC-8-N

Wagner Subdivision
 BMP MAINTENANCE LOG

PAGE ____

BMP STRUCTURE	INSPECTOR (NAME)	WORK PERFORMED	DATE PERFORMED	COMMENTS
Wet Pond				
Underdrain Soil Filter 1				
Grassed Swales				
Inlets (CB20, SD 30, SD31)				
Rip Rap				
Level Spreader				
Down Stream Defender				
Other				
Additional Comments:				

EXHIBIT C
Bylaws

BYLAWS OF WAGNER FARM HOMEOWNERS ASSOCIATION

ARTICLE I.
CREATION AND APPLICATION

Section 1.01 Creation. This corporation is organized under the Maine Nonprofit Corporation Act in connection with the submission of Property known as the “Wagner Farm Subdivision” located in the Town of Gorham, Maine (the “Property”) to the Wagner Farm Declaration of Covenants (the “Declaration”) as recorded in the Cumberland County Registry of Deeds. The name of the corporation is the Wagner Farm Homeowners Association (the “Association”).

The term “Property” as used herein shall have the meaning set forth in the Declaration and shall include the land, the building and all other improvements thereon (including the Lots, the Roads, the Open Space Lot, Common Easements and all easements, rights and appurtenances belong thereto) and all other property intended for use in connection therewith now or hereafter submitted to or governed by the Declaration.

Capitalized terms not otherwise defined in these Bylaws shall have the meanings as specified in the Declaration.

Section 1.02 Application. All present and future Lot Owners, mortgagees, lessees, licensees and occupants of the Lots, their employees, agents and customers, and any other persons who may enter upon the Property in any manner are subject to these Bylaws and to the Rules and Regulations, all as adopted, amended or altered from time to time by the Board of Directors of the Association (the “Board of Directors”).

Section 1.03 Office. The principal office of the Association shall be located at the Property.

Section 1.04 Interpretation. In the event of any conflict or discrepancy between this Declaration, the Bylaws, the Rules and Regulations, and the Plan, the provisions of the Plan and the Declaration shall govern.

ARTICLE II.
PURPOSES AND POWERS OF THE ASSOCIATION

Section 2.1 Purposes. The purposes of the Association are to establish an association of Lot owners as a mutual benefit corporation pursuant to the Maine Non-Profit Corporation Act for the government, operation and maintenance of the Property under the Declaration; and

Section 2.2 Powers. In addition to all the powers, authority and responsibilities granted to or imposed upon this Association by the laws of the State of Maine, specifically including those set forth or referred to in the Maine Non-Profit Corporation Act all of which the Association shall have to the extent permitted by law and by the Declaration, the Association shall have the specific powers to:

- A. Adopt and amend Bylaws and Rules and Regulations;
- B. Adopt and amend budgets for revenues, expenditures and reserves, and to collect Assessments from Lot owners;

- C. Hire and terminate managers and other employees, agents, and independent contractors;
- D. Institute, defend, or intervene in litigation, arbitration, or administrative proceedings in its own name on behalf of itself or two (2) or more Lot owners on matters affecting the Property, and the Association shall be deemed to be the attorney-in-fact of each Lot owner for such purposes;
- E. Make contracts and incur liabilities;
- F. Regulate the use, maintenance, repair, replacement and modification of common portions of the Property, including the Declaration following the Declarant's assignment of such rights to the Association;
- G. Cause additional improvements to be made as a part of the common portions of the Property, subject to the restrictions set forth herein;
- H. Perform the Stormwater Maintenance Responsibilities set forth in the Declaration, maintain the Common Easements and Open Space, and until the Road is accepted by the Town, maintain, repair and provide snow and ice removal for the Roads;
- I. Acquire, hold, encumber and convey in its own name any right, title, or interest to real or personal property;
- J. Grant easements, leases, concessions, and licenses for public utilities servicing or benefiting the Property;
- K. Impose and receive payments, fees, or charges for the use, rental, or operation of facilities located on the common portions of the Property;
- L. Impose charges and interest for late payment of assessments and, after notice and an opportunity to be heard, impose reasonable penalties for violations of the Declaration, Bylaws, and Rules and Regulations of the Association;
- M. Impose reasonable charges for the preparation and recordation of amendments to the Declaration or statements of unpaid Assessments and assessments or resale certificates;
- N. Provide for the indemnification of its officers and directors and maintain directors' and officers' liability insurance;
- O. Pledge, assign and grant a security interest covering special Assessments made for the purpose of raising funds for repairs, renovations, improvements and associated costs and expenses with respect to the Property, subject to the approval of a majority in interest vote of the Lot Owners;
- P. Exercise any other powers conferred by Declaration or Bylaws;
- Q. Exercise all other powers that may be exercised pursuant to the Maine Nonprofit Corporation Act.

The Board of Directors of the Association shall manage the Property and exercise all such powers on behalf of the Association, subject to the terms of these Bylaws, the Declaration and the Maine Non-Profit Corporation Act.

Section 2.3 Non-Profit Status. The Association is not organized for profit and no property or profit thereof shall inure to the benefit of any person except in furtherance of the nonprofit-making purposes of the Association or in the course of acquiring, constructing or providing management, maintenance and care of the common portions of the Property, or by virtue of a rebate of excess membership dues, fees, and Assessments.

ARTICLE III. ASSOCIATION OF OWNERS.

Section 3.1 Membership. The members shall consist exclusively of all owners of Lots in the Property created in accordance with the Declaration. Membership is transferable only as provided in the Declaration or these Bylaws. The membership of a Lot owner shall terminate upon the conveyance, transfer or other disposition of his interest in the Lot, whereupon his membership and any interest in the assets of the Association shall automatically transfer to and be vested in the successor in ownership. Membership is otherwise non-transferable. A mortgage of a Lot or the grant of a security interest therein as security for an obligation shall not operate to transfer membership until a foreclosure of the mortgage or security agreement. The Association may but is not required to issue certificates of membership.

Section 3.2 Annual Meeting. Meetings of the members shall be held annually each successive year on the second Tuesday in May, or in the event that day is a legal holiday, then on the first day thereafter which is not a holiday, provided that the Board of Directors shall have the authority to alter the annual meeting date in its discretion from time to time if it determines that another meeting date is more convenient or appropriate. The annual meeting and any special meetings shall be held at the Property or such other place as may be designated in the Notice of Meeting.

Section 3.3 Special Meetings. Special meetings of the members may be held at any time upon the call of the Board of Directors, or upon the call of Twenty percent (20%) or more in interest of the Lot owners, which call shall state the purpose of the meeting. Upon receipt of such call, the Secretary shall promptly send out notices of the meeting to all members of the Association.

Section 3.4 Notice of Meetings. A written notice of each meeting of the Association, stating whether it is an annual meeting or special meeting, the authority for the call of the meeting, the place and time of the meeting, and the items on the agenda (including the general nature of the proposed declaration or bylaw amendment, any budget charges and any proposal to remove an officer or director) shall be sent by the President or Secretary or Assistant Secretary, if any, at least Ten (10) days, but not more than Sixty (60) days, before the date set for the meeting. Such notice shall be given to each member listed with the records of the Association as set forth below and to each Eligible Mortgage Holders if and as required by the Declaration:

- A. By hand delivering it to him, or
- B. By mailing it, postage prepaid, addressed to the member at the address of the Lot or any other address designated in writing by that member with the records of the Association.

The notice of any meeting shall state the time and place of the meeting, and the items on the agenda, including the general nature of any proposed Declaration or Bylaw amendments, any budget changes and any proposal to remove an officer or director. If notice is given pursuant to the provisions

of this section, the failure of any member to receive actual notice of the meeting shall not invalidate the meeting.

Section 3.5 Waiver of Notice. The presence of all the members in person or by proxy, at any meeting shall conclusively establish the meeting's validity, unless any member shall object at the meeting to the noncompliance with this Article. Any meeting so held without objection shall be valid for all purposes, and at any annual meeting any general business may be transacted and any action may be taken.

Section 3.6 Order of Business. The order of business at all meetings of the members shall be generally as follows, if applicable:

- A. Roll call.
- B. Proof of notice of meeting or waiver of notice.
- C. Reading of minutes of preceding meeting.
- D. Reports of Officers.
- E. Report of Board of Directors.
- F. Report of committees.
- G. Election of the Board of Directors.
- H. Unfinished business.
- I. New business.
- J. Adjournment.

Section 3.7 Parliamentary Procedure. At all meetings of the members or of the Board of Directors, Robert's Rules of Order as then amended shall be followed, except in the event of conflict the terms of these Bylaws or the Declaration as the case may be shall prevail.

Section 3.8 Quorum. The presence at the beginning of any meeting of the Association, in person or by proxy of Lot owners whose aggregate voting interest constitutes more than fifty percent (50%) of the total interest therein shall constitute a quorum for the transaction of all business.

Section 3.9 Voting.

A. Voting rights, if any, of each Lot are set forth in the Declaration. Any person, partnership, limited liability company, corporation, trust, or other legal entity or a combination thereof, owning any Lot (other than an interest held as security for an obligation) duly recorded in his or its name, which ownership shall be determined from the records of said Registry of Deeds, shall be a member of the Association, and either, in person or by proxy, shall be entitled to vote for each Lot so owned at all meetings of the Association.

B. Multiple owners of a Lot shall be deemed one owner. If only one of the multiple owners of a Lot is present in person or by proxy at a meeting of the Association, he is entitled to cast all the votes allocated to that Lot. If more than one of the multiple owners is present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the owners. There is presumed to be a majority agreement if any one of the multiple owners present casts the votes allocated to that Lot unless any of the other owners of the Lot promptly protests to the person presiding over the meeting.

C. Votes allocated to a Lot may be cast pursuant to a written and dated proxy duly executed by a Lot owner and filed with the Secretary. If a Lot is owned by more than one person, each owner of the

Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed written proxy. A Lot owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is not valid if it is not dated or purports to be revocable without notice as determined by the Secretary of the Association. A proxy shall automatically terminate eleven (11) months after its date, unless it specifies a shorter term.

D. An executor, administrator, personal representative, guardian, or trustee may vote in person or by proxy at any meeting of the Association with respect to any Lot owned or held by him in such a capacity, whether or not the same shall have been transferred of record by a duly recorded conveyance. If the Lot has not been so transferred, he shall satisfy the secretary that he so holds the Lot.

E. The Developer may exercise the voting rights pertaining to any Lot to which it retains title. No vote pertaining to a Lot owned by the Association may be cast, and the voting interest of such a Lot shall not be deemed to be outstanding in determining the presence of a quorum or the percentage of approval needed to act.

F. Each Lot shall have the percentage vote in the Association as specified in the Declaration. Any specified percentage vote refers to the aggregate percentage of such votes.

G. At any meeting at which a quorum is present, the affirmative vote of a majority of the voting interest of those present shall determine any question except the election of Directors, unless a greater percentage vote is required by law, by the Declaration or by these Bylaws. In the election of Directors, those receiving the greatest number of votes, though less than a majority, shall be elected. To the extent required by the Act, for the purposes of amending the Declaration or these Bylaws, the percentage in interest shall be measured against the total voting interest regardless of whether or not such Lot owners are present.

H. Upon reasonable advance notice, Members may attend any meeting of the Association via a telephonic speakerphone at which they may hear and be heard by other members, but members wishing to attend in this manner shall be responsible for the costs of providing speakerphone services. The Association shall provide reasonable cooperation in arranging such services. The President's decision as to such matters shall be binding.

Section 3.10 Adjournment. Any meeting of the Association may be adjourned from time to time to such place and time as may be determined by majority vote of the members present, whether a quorum be present or not, without further notice of the time and place of adjournment beyond that given at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

Section 3.11 Unanimous Action by Members Without a Meeting. Any action required or permitted to be taken at a meeting of the members (to the extent not otherwise precluded by law) may be taken without a meeting if written consents, setting forth the action so taken, are signed by all the members entitled to vote on such action and are filed with the Secretary of the Association as part of the corporate records. Such written consents shall have the same effect as a unanimous vote of the members.

ARTICLE IV.
BOARD OF DIRECTORS.

Section 4.1 Number and Qualifications. The affairs of the Association shall be governed by a Board of Directors initially composed of three (3) directors initially appointed by the Developer. Upon the transfer of 75% of all Lots (the “Developer Control Period” as defined in the Declaration, the members shall elect three (3) directors, 2 for a term of two years and the balance for a term of one year, after which all directors shall be elected for a term of two years; a majority of such directors shall be an occupant of a Lot, or the owner or the spouse of an owner of a Lot, or if a Lot owner is a corporation, limited liability company, partnership, trust or estate, then an officer, director, member, manager, partner, trustee, beneficiary or appointed personal representative thereof.

Section 4.2 Election and Term of Office. At the expiration of the initial term of office of each director, his successor shall be elected to serve a term of two (2) years; provided, however, that a director shall hold office until his successor has been elected.

Section 4.3 Powers and Duties. The Board of Directors shall generally act on behalf of the Association, shall have all powers and duties necessary or appropriate for the administration of the affairs of the Association, and shall have all powers referred to in the Declaration, the Bylaws or otherwise provided under the Maine Homeowners Act or the Maine Nonprofit Corporation Act, as either may be amended from time to time, except those matters which by law, by the Declaration or by these Bylaws specifically reserved to the members.

Section 4.4 Other Duties. In addition to other duties imposed by these Bylaws or by duly adopted resolutions of the members of the Association, the Board of Directors shall be responsible for the following:

- A. Election of the officers of the Association;
- B. Management and administration of the Homeowners, the Association's property and the common portions of the Property, including the maintenance, repair and replacement thereof;
- C. Determination and collection of assessments for Common Expenses, from the owners and the regulation of its fiscal affairs;
- D. Establishment of reserves for the maintenance, repair and replacement of common portions of the Property and for contingencies;
- E. Appointment and dismissal of the personnel and agents for the maintenance and operation of the common portions of the Property, and to fix the terms of their engagement and their compensation and authority; and
- F. Designation of executive and other committees.

Section 4.5 Manager or Management Agent, Employees, Generally. The Board of Directors may employ on behalf of the Association a management agent or manager at a compensation established by the Board to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in Sections 4.4 and 6.2 of these Bylaws. All management contracts entered into during the Developer Control Period shall permit termination without a penalty on thirty days notice at any time with or without cause after the expiration of such period. .

Section 4.6 Appointment and Vacancies. Until the expiration of the Developer Control Period, the Developer shall appoint replacement directors in the event of vacancies in the Board of Directors. Thereafter, a vacancy caused by the expiration of a Director's term, the removal of a Director by a vote of the members, or by the expiration of the Developer Control Period shall be filled by vote of the vote

of the remaining directors. Vacancies in the Board of Directors prior to the expiration of the term of a director shall be filled by vote of the vote of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 4.7 Removal of Directors. At any regular meeting or special meeting duly called, any one or more of the Directors may be removed with or without cause by two-thirds (2/3) vote of the members, with or without cause. Any director whose removal has been proposed shall be given an opportunity to be heard at the meeting, but the members' decision shall be final.

Section 4.8 Compensation. No compensation shall be paid to Directors for their services as Directors or in any other capacity, unless a resolution authorizing such remuneration shall have been adopted by the members before or after the services are undertaken.

Section 4.9 Annual Meeting. The annual meeting of the Board of Directors shall be held immediately following the annual meeting of the Association and at the same place; no further notice shall be necessary in order legally to constitute such meeting.

Section 4.10 Regular Meetings. Regular meetings of the Board of Directors (other than the annual meeting) may be held at such time and place as shall be determined, from time to time, by the Board. Notice of regular meetings of the Board of Directors shall be given to each Director, personally or by delivery to his Lot, or by telephone, at least Ten (10) days prior to the day named for such meeting.

Section 4.11 Special Meetings. Special meetings of the Board of Directors may be called by the President on ten (10) days' notice to each Director, given personally or by delivery to his Lot, or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice upon the written request of Two (2) or more Directors.

Section 4.12 Waiver of Notice. Before or after any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.13 Board of Directors' Quorum. At all meetings of the Board of Directors, at the presence at the beginning of a meeting of at least three directors or of the majority of directors then in office, whichever is less, shall constitute a quorum for the transaction of business. The acts of the majority of the Directors present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, a quorum is not present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 4.14 Unanimous Action. Unless otherwise expressly provided by law, any action which may be taken at a meeting of the Directors may be taken without a meeting if all of the Directors sign written consents, setting forth the action taken or to be taken, at any time before or after the intended effective date of such action. Such consents shall be filed with the minutes of Directors' meetings and shall have the same effect as a unanimous vote.

ARTICLE V. OFFICERS.

Section 5.1 Designation. The principal officers of the Association shall be a President, a Secretary and a Treasurer, of whom only the President need be elected from among the Directors. The Directors may in their discretion appoint a Vice President, Assistant Treasurer, and an Assistant Secretary, and such other officers, none of whom need be Directors, as in their judgment may be appropriate.

Section 5.2 Election of Officers. The principal officers of the Association shall be elected annually by the Board of Directors at the annual meeting and shall hold office at the pleasure of the Board.

Section 5.3 Removal of Officers. Upon a majority vote of the Board of Directors present at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose, any officer may be removed, either with or without cause, and his successor elected. Any officer whose removal has been proposed shall be given an opportunity to be heard at the meeting, but the Board's decision shall be final.

Section 5.4 President. The President shall be the chief executive officer of the Association and shall be a Director. He shall preside at all meetings of the Association and of the Board of Directors.

Section 5.5 Treasurer. The Treasurer shall be responsible for keeping financial records and accounts of all receipts and disbursements in books belonging to the Association. The Treasurer shall also, in the absence of the President, exercise the powers and perform the duties of the President. He shall be responsible, subject to the direction of the Board of Directors, for the preparation and dissemination to the members of all financial reports, budgets and notices required, and for the preparation and signing, if necessary, of all financial reports or tax returns required to be filed by the Association.

Section 5.6 Secretary. The Secretary shall keep and certify the minutes of all meetings of the Board of Directors or of the Association, shall give all notices as provided by these Bylaws, and shall have other powers and duties as may be incidental to the offices of Secretary, given him by these Bylaws or assigned to him from time to time by the Directors. If the Secretary or any assistant secretary shall not be present at any meeting, the presiding officer shall appoint a secretary pro tempore who shall keep the minutes of such meeting and record them in the books provided for that purpose. The Secretary shall be responsible for the filing of all reports and documents required to be filed by the Association with any governmental agency.

Section 5.7 Auditor. The Board of Directors, may from time to time at any scheduled meeting appoint some person, firm or corporation engaged in the business of auditing to act as auditor of the Association and to perform such audits and fiscal duties as may be requested by the Association.

Section 5.8 Amendments to Declaration. The Secretary shall prepare amendments to the Declaration and the President and Secretary shall execute the certificate for recording on behalf of the Association.

ARTICLE VI. FISCAL AFFAIRS AND ADMINISTRATION.

Section 6.1 Accounting. Books and accounts of the Association shall be kept under the direction of the Treasurer and in accordance with customary accounting principles and practices. Within ninety (90) days after the close of each fiscal year, the Association shall furnish its Members with a statement of the income and disbursements for such prior fiscal year and a balance sheet as of the close of that year.

Generally, the Association shall keep minutes of the proceedings of its Members, Board of Directors and committees having any of the authority of the Board of Directors and shall keep at its registered office or principal office in this State a record of the names and addresses of its Members entitled to vote.

In accordance with the Maine Nonprofit Corporation Act, all books and records of the Association may be inspected by any officer, Director or Member or by an officer's, Director's or Member's agent or attorney, for any proper purpose at any reasonable time, as long as the officer, Director or Member or the officer's, director's or Member's agent or attorney gives the Association written notice at least 5 business days before the date on which they wish to inspect and copy any books or records. The Association's financial records shall also be available for examination by Unit Owners, their mortgagees and their duly authorized agents and accountants at reasonable times on at least 5 days written notice. The only proper purpose for which a Member may inspect and copy books or records under this section is the purpose of enabling the Member to fulfill duties and responsibilities conferred upon Members by the Association's Articles of Incorporation or these Bylaws of the Association or by law. The Association may require the Officer, Director or Member or the officer's, director's or member's agent or attorney to pay the reasonable cost of the copies made and may impose reasonable restrictions on the use or distribution of the records by such a person.

Section 6.2 Budget and Assessments.

A. Until the later of two (2) years from the sale of the first Lot or until the owners of Lots subject to this Declaration have assumed self-government of the Association, the Declarant may elect to charge owners for their proportionate share of the Assessments and may pay the expenses of the Association directly. Once the Association has assumed liability for expenses, the Board shall cause a proposed annual budget to be prepared based on its estimate of annual income and expenses. Within thirty (30) days of the adoption of the proposed budget, the Board shall send a summary of such budget to each member. The Board shall call a meeting of the members to review the budget; unless at that meeting the budget is rejected by Sixty-Seven percent (67%) in interest of all members, the budget shall be deemed to have been ratified. Unless the budget is rejected, the members shall pay the amounts specified in the proposed budget adopted by the Board.

B. The Association's budget shall include the amount required by the Association to meet its expenses for each fiscal year or such other fiscal period as it deems appropriate, including but not limited to the following items as further set forth in the Declaration:

- i. Management and administration expenses;
- ii. The cost of operation, repairs, maintenance, replacement, and improvements of the common portions of the Property and such parts of the Roads, Open Space Lands and Common Easements which the Association is responsible for the maintenance repair and replacement of;
- iii. The cost of such insurance, bonds, services and utilities as may be furnished by the Association, other than such items for which a service charge is assessed;
- iv. The establishment and maintenance of adequate working capital and reserves including general operating reserves, reserves for contingencies, for losses not covered due to insurance deductibles for which the Association is responsible, and reserves for periodic maintenance, repair and replacement of the Property the Association is obligated to maintain, all to be held in a segregated fund in a Maine financial institution; and
- v. Such other expenses of the Association as may be approved by the Board of Directors including operating deficiencies, if any, for prior periods.

C. Until an annual budget is adopted by the Board, the members shall continue to pay that monthly amount of Assessments which had been previously established; any delay or failure to estimate, to deliver or to adopt such budget shall not waive or release such obligation. The Association may send periodic statements to members showing the amount of assessments due, but each member shall pay his Assessments promptly when due regardless of whether such a statement is sent.

D. Each member shall pay his share of Assessments and assessments without setoff or deduction, which shall be an amount equal to the total Association budget, net of other income as defined herein, multiplied by his respective common expense liability as set forth in the Declaration. The expenses of the Association shall be allocated equally among all Lots subject to the Declaration, provided however that for each Lot on which the construction of a Dwelling has not commenced shall only be liable for a one half (1/2) share and Lots which are not served by a passable road with the first coat of paving shall not be liable for any expenses. The Open Space land is not liable for the payment of Assessments. Each member shall become liable to the Association, and a lien shall arise against his Lot for his entire fractional share of the assessments at the commencement of the pertinent fiscal period. Each member may pay his share of the Assessments in monthly installments on or before the first day of each and every month during such period, provided, however, that if any such installment is not paid when due, then if not paid upon Twenty (20) days written notice of default, the entire remaining balance thereof shall immediately become due and payable in full.

The Declarant may contribute goods and services in kind for the benefit of the Association, which shall be credited to its obligation to pay Assessments.

E. If any member shall fail or refuse to pay to the Association when due his share of the assessments, user fees and penalties, thereafter the amount thereof shall bear interest at the rate of Eighteen percent (18%) per annum or such other rate as may be set by vote of the Board prior to the date on which the payment came due. Such Assessments with such late charges as may be determined by the Board of Directors, interest and all costs of collection, including reasonable attorneys' fees, shall constitute a lien on the Lot of such member. Recording of the Declaration constitutes record notice and perfection of the lien for Assessments, including penalties, late charges, interest and costs of collection. The Association may record a notice from time to time stating the amount and nature of the lien signed by an officer or director of the Association or by an agent authorized by the Board of Directors but such recorded notice is not necessary to establish or perfect the lien.

F. If such payments are not received within thirty (30) days after they become due, the Board shall exercise and enforce any and all rights and remedies provided in the Declaration or these Bylaws or otherwise available at law or in equity for the collection of all unpaid amounts. In any action to foreclose the lien for Assessments, late charges, penalties, interest, and costs of collection including reasonable attorneys' fees against any owner of a Lot, the Association may act through its manager or Board of Directors in the same manner as any mortgagee of real property. The manager or Board of Directors acting on behalf of the Lot owners shall have the power to bid and acquire such Lot at a foreclosure sale and to lease, mortgage, convey, or otherwise deal with the Lot. Suit to recover a money judgment for unpaid Assessments and penalties due to the Association, with interest and all costs and reasonable attorneys' fees, may be maintained without foreclosing upon or waiving the lien securing the same.

The lien is extinguished unless action to enforce the lien is started within Six (6) years after the full amount of the Assessment becomes due.

Section 6.3 Revised and Special Assessments. If at any time the Board shall determine the amount of the Assessments to be inadequate, whether by reason of a revision in its estimate of expenses or income, the Board may adopt and deliver to the members at least thirty days prior to the date on which it

becomes effective, a revised estimated annual budget for the balance of such fiscal year and thereafter monthly Assessments shall be determined and paid on the basis of such revision, subject to the rights of the Lot Owners to reject such amendment by a two thirds (2/3) in interest vote at a meeting of the members called within such 30 day period at the request of 20% in interest request of the Lot Owners.

The Board may, upon determining that circumstances exist which requires immediate assessment of the members, make special assessments, not to exceed an amount equal to one current monthly Assessment for each Lot unless approved by the members, which shall be due and payable when delivered to the members.

Section 6.4 Fiscal Year. The fiscal year of the Association shall be such as may from time to time be established by the Board of Directors.

Section 6.5 Capital Improvements. The approval of a majority in interest of all the members shall be required to make a capital improvement to the Property in an amount in excess of Thirty-five percent (35%) of the aggregate Assessments against all the members over the prior fiscal year, and in such event the cost thereof shall be assessed to all Lot owners as an Assessment.

Section 6.6 Use of Lots. All Lots shall be utilized in accordance with the provisions of the Bylaws, Declaration, and Rules and Regulations.

Section 6.7 Enforcement of Declaration and Bylaws. Every Lot owner shall pay to the Association promptly on demand all costs and expenses, including reasonable attorneys' fees and expenses incurred by or on behalf of the Association, in collecting any delinquent Assessments, damages or fees due from such Lot, foreclosing its lien for assessments, collecting any penalties imposed hereunder, or enforcing any provisions of the Declaration, these Bylaws, or the Rules and Regulations against such owner or any occupant of such Lot.

Section 6.8 Rules and Regulations. In order to assist the peaceful and orderly use and enjoyment of the buildings and Property of the Homeowners, the Board of Directors may from time to time adopt, modify, and revoke, in whole or in part, such further reasonable rules and regulations governing the Homeowners as it may deem necessary, including, but not limited to, methods and procedures for enforcing compliance with the Declaration and Bylaws. Such Rules and Regulations upon adoption, and every amendment, modification, and revocation thereof, shall be sent promptly to each Lot and shall be binding upon all members of the Association and all persons present on the Homeowners.

The members may reject or amend Rules and Regulations by majority vote of all Lot Owners at any time, and such decision shall be binding on the Board of Directors.

Section 6.9 Right of Entry. Upon such prior notice as is possible under the circumstances, the manager and any person authorized by the Board of Directors shall have the right to enter any Lot in case of any emergency originating in or threatening such Lot or adjoining common portions of the Property whether or not the owner or occupant is present at the time, and upon prior notice to enter any Lot at reasonable times for the purpose of performing authorized installations, alterations, or repairs to the common portions of the Property thereon or accessible therefrom.

Section 6.10 Title. Every Lot owner shall promptly record in the Registry of Deeds the deed, assignment, or other conveyance to him of his Lot or other evidence of his title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the records of the Association.

ARTICLE VII
SALE, LEASE, RENTAL OR OTHER TRANSFER OF A LOT

Section 7.1 Binding Effect. All subsequent sales, leases or other transfers of a Lot by a Lot owner shall be subject in all respects to the Declaration, Bylaws, and Rules and Regulations of the Homeowners.

Section 7.2 Leasing Restrictions.

A. No Lot owner shall rent or lease a Lot other than in accordance with a written form of lease which contains the following provisions:

- (i) requiring the tenant to comply with the Declaration, these Bylaws, and Rules and Regulations;
- (ii) providing that failure to comply constitutes a default under the lease;
- (iii) providing that the Board of Directors has the power to terminate the lease or to bring summary proceedings to evict the tenant in the name of the Lot owner after Thirty (30) days' prior written notice to the Lot owner, in the event of a default by the lessee in the performance of the lease, and
- (iv) in the event that the payment of Assessments and/or other amounts due to the Association becomes more than 30 days past due, the Association may require the Tenant to pay directly to the Association the rent on the Lot in an amount of up to the balance of current and delinquent Assessments and other unpaid amounts outstanding, subject to the rights of any recorded first mortgage or Eligible Mortgage Holder which has exercised an assignment of rents. The Association's notice to the Tenant shall be conclusive and binding on the Tenant as to the Tenant's obligation to pay the rent directly to the Association and as to the amount of Assessments and other fees due. The Lot owner shall have ten days after such notice is sent to file any objection with the Board of Directors, which objection must be in writing and signed under oath under the pains and penalties of perjury, must contain a short and plain statement of any alleged errors by the Association, and shall include copies of cancelled checks or other written evidence of objection or miscalculation of the amounts due. The Lot owner must state what amounts, if any, which the owner admits is owed to the Association.

Any lease or tenancy shall be in writing. The foregoing provisions shall be deemed to be automatically incorporated into any lease and into the terms of any tenancy or other agreement for the occupancy of a Lot.

Each Lot owner of a Lot shall, promptly following the execution of any written lease of a Lot, forward a true copy thereof to the Board of Directors.

The foregoing provisions of this paragraph shall not apply to an institutional lender in possession of a Lot as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

B. In the event a guest or tenant of a Lot fails to comply with the provisions of this Declaration, the Bylaws, Rules and Regulations or the lease, then, in addition to all other remedies which it may have, the Association may notify the Owner of such violation(s) and demand that the same be remedied through the Owner's efforts within a reasonable time after such notice in the judgment of the Directors.

If such violation(s) is(are) not remedied within said period, then the Owner shall thereafter, at his own cost and expense, immediately institute and diligently evict his tenant or guest on account of

such violation(s). In the event the Owner fails to so act promptly, then the Board shall have the right, but not the duty, to institute and prosecute such election as attorney-in-fact for the Owners and at the Owner's sole cost and expense, including all legal fees incurred. Said costs and expenses shall be due and payable upon demand by the Association and shall be deemed to constitute a lien on the particular Lot involved, and collection thereof may be enforced by the Board of Directors in the same manner as the Board is entitled to enforce collection of Assessments.

Section 7.3 Liability for Assessments, Etc. In the transfer of a Lot, the grantee of the Lot shall be jointly and severally liable with the grantor for all unpaid Assessments, penalties, fees, interest and costs of collection outstanding at the time of the grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee or proposed purchaser under a purchase and sale contract upon written request and upon payment of such fee as may be set by the Directors may obtain a statement from the Board of Directors setting forth the amount of unpaid Assessments against the Lot, and the grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for any Assessments arising before the statement date in excess of the amount therein set forth.

ARTICLE VIII. EXECUTION OF INSTRUMENTS.

Section 8.1 Instruments Generally. All checks, drafts, notes, vouchers, bonds, acceptances, contracts, deeds, lien notices, certificates, and all other instruments shall be signed or approved by the President or the Secretary or Treasurer, and in addition by any one or more officer(s), agent(s) or employee(s), all as the Board of Directors may designate, unless otherwise unanimously voted by the Board of Directors.

ARTICLE IX. GENERAL ADMINISTRATION

Section 9.1 Easements, Etc. The Association is authorized and empowered to grant such easements, rights-of-way, leases and licenses for sewer lines and sewage disposal facilities, water lines, electrical cables, telephone cables, television cables and antennas, gas lines, storm drains, underground conduits, fire escapes and alarms, such other purposes related to the provision of public services, and utilities to the Homeowners and for recreational purposes as may be considered desirable, necessary or appropriate by the Board of Directors for the orderly maintenance, improvement and preservation and enjoyment of the Property or for the preservation of the health, safety, convenience and welfare of the owners of the individual Lots upon at least 'Thirty (30) days' notice to the members unless a special meeting of the members is called within such period and the members vote to reject such grant. No such rights may be created through any Lot other than the Common Easement areas without the written consent of the owners thereof and that no such easement shall materially impair the use and enjoyment of the Homeowners.

Section 9.2 Utility Services/Limitation of Liability. The Association shall not be liable for the failure of water supply, sewage disposal systems, stormwater systems, roads, electricity, telephone, or other services to be obtained by the Association or paid for out of the common expense or service charge funds, or for injury or damages to persons or property caused by the elements or by the owner of any Lot or by any other person, or resulting from electricity, water, snow or ice which may leak, fall or flow from or settle on any portion of the Property or from any roof, wire, pipe, drain, conduit, stormwater facility, or any other appliance or equipment. The Association shall not be liable to the owner of any Lot for loss or damage, by theft, or otherwise, of property which may be stored upon or in

any individual Lot or in any other portion of the Property. No set-off, diminution or abatement of Assessments shall be claimed or allowed for the expense, damage or discomfort arising from the making of repairs or improvements to the Property or to any Lot, or from any action taken by the Association to comply with any law, ordinance, or order of any other governmental authority.

ARTICLE X.
LIABILITY OF DIRECTORS AND OFFICERS.

Section 10.1 Exculpation. No director or officer of the Association shall be liable for acts or defaults of himself or any other officer or member, or for any loss sustained by the Association or any member thereof, unless the same has resulted from his own willful misconduct or gross negligence.

Section 10.2 Indemnification. The Association shall indemnify any person who was or is threatened to be made a party against any actual, threatened, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact he is or was an officer, director, agent or employee of the Association against all expenses including reasonable counsel fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection therewith, excepting, however, such matters in which such person is finally adjudged by a court of competent jurisdiction to have acted with willful misconduct or gross negligence towards the Association or absent a final adjudication thereof, excepting such matters in which the Board of Directors (excluding any interested Director) determines any such person acted with willful misconduct or gross negligence. This right to indemnification shall be in addition to any other power of the Association to indemnify as permitted by law. The Association may also maintain insurance on behalf of any person who is or was a director, officer, agent or employee of the Association against any liability asserted against him and incurred by him in such capacity or arising out of his status as such, whether or not the Association would otherwise have the power or duty to indemnify him.

Section 10.3 Claims. Claims against the Association, the Board of Directors or the officers, employees or agents thereof in their respective capacities as such, or the Lot Owners as a whole, shall be directed to the Board of Directors of the Association, which shall promptly give written notice thereof to the Lot Owners and the Eligible Mortgage Holders, and such complaints shall be defended by the Association. The Lot Owners shall have no right to participate in such defense other than through the Association.

ARTICLE XI.
BY-LAWS.

Section 11.1 Amendment. These Bylaws may be amended, modified, or revoked in any respect from time to time by vote of Sixty-Seven percent (67%) or more of the members of the Association at a meeting duly called for the purpose, PROVIDED, HOWEVER, that these Bylaws shall always contain those particulars which are required by the Town of Gorham or the Maine Department of Environmental Protection, as amended from time to time to the extent applicable by law to this Association; and PROVIDED, FURTHER, that no modification of or amendment to the Bylaws shall be valid, until a certificate of the amendment is executed to evidence the propriety of such amendment or modification by the Secretary and President of the Association. Such certificate shall be recorded in the Registry of Deeds.

So long as the Declarant owns any portion of the Property, any amendments of these Bylaws or the Rules and Regulations shall be effective only if approved in a written instrument or instruments executed by the Declarant, his/her heirs, successors or assigns.

Section 11.2 Conflict. In the event of any conflict between these Bylaws and the provisions of the Declaration, the latter shall govern and apply.

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