



**Official Receipt**  
**Bedford Circuit Court**  
**Judy E. Reynolds**  
**123 East Main Street, Suite 201**  
**Bedford, VA 24523**  
**(540) 586-7632**

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 Cashier : LZP

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035	VOF	1	3.00	3.00
301	Clerk 31+ Pages	1	48.50	48.50
145	VSLA	1	3.50	3.50
106	TTF	1	5.00	5.00
423	Paper Recording Fee	1	5.00	5.00
<b>Document 1</b>				<b>65.00</b>
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**Prepared by and return to:**

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**DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS**

**WESTYN VILLAGE**

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## WESTYN VILLAGE

### DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS, EASEMENTS AND RESTRICTIONS is made this 7<sup>th</sup> day of December, 2021, by WESTYN VILLAGE, LLC, a Virginia limited liability company ["Grantor" and "Grantee" for recording purposes]; and WESTYN VILLAGE OWNERS ASSOCIATION, INC., a Virginia nonstock corporation ["Grantee" for recording purposes].

#### RECITALS

Developer is the fee simple owner of certain real estate in Bedford County, Virginia, more particularly described in Exhibit A attached hereto (the "Property"). Developer intends to create a community to be generally known as "Westyn Village" on the Property. In order to provide for the preservation and enhancement of property values and the maintenance and care of certain amenities within the community, Developer desires to subject the Property to the covenants, restrictions, easements, charges and liens hereinafter set forth, all of which are for the benefit of the community and the owners within the community.

NOW, THEREFORE, Developer hereby declares that the Property, and such additions thereto as may hereafter be made pursuant to Article II (but as to such additions, subject to any additions, deletions and modifications to the provisions of this Declaration as are made pursuant to Section 2.2), is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth, as the same may be amended, modified, supplemented or restated from time to time.

#### ARTICLE I

##### DEFINITIONS

Section 1.1. "Additional Area" shall have the meaning set forth in Section 2.1 of this Declaration.

Section 1.2. "Annual Assessment" shall have the meaning set forth in Section 5.3 of this Declaration.

Section 1.3. "Architectural Review Board" shall have the meaning set forth in Section 6.1 of this Declaration.

Section 1.4. "Articles" means the Articles of Incorporation of Westyn Village Owners Association, Inc. as the same may be amended from time to time.

Section 1.5. "Association" means Westyn Village Owners Association, Inc., a Virginia nonstock corporation, its successors and assigns.

**Section 1.6.** “Bylaws” means the Bylaws of Westyn Village Owners Association, Inc. as the same may be amended from time to time, a copy of which is attached hereto as **Exhibit B**.

**Section 1.7.** “Clerk's Office” means the Clerk’s Office of the Circuit Court of Bedford County, Virginia.

**Section 1.8.** “Common Area(s)” means (i) real estate and/or easements specifically designated on recorded plats of the Property, in any Supplemental Declaration or in any amendment to this Declaration or in any other instrument executed by Developer and recorded in the Clerk's Office; (ii) the portions of the Property, if any, designated as “streets” or “roads” which are not dedicated to the public, “open spaces,” “buffer zones,” “scenic easements,” “natural open space area,” “conservation areas,” “landscape easement,” “trail easement” and “SWM” or similar purposes on recorded plats of the Property and conveyed (by deed, plat dedication or easement) to the Association, which the Association shall accept; and (iii) all other real property, easements, and improvements or facilities now or hereafter owned by the Association which are intended to be devoted to the common use and enjoyment of the Owners and such non-Owners, if any, who have been authorized to use pursuant to Sections 4.2 and/or 4.6 hereof.

**Section 1.9.** “Declaration” means this Declaration of Covenants, Easements and Restrictions, as the same may from time to time be supplemented or amended.

**Section 1.10.** “Developer” means Westyn Village, LLC, a Virginia limited liability company, and its successors as “Developer” of the Property to whom Westyn Village, LLC may assign its rights hereunder by instrument recorded in the Clerk’s Office as provided in Section 9.11.

**Section 1.11.** “Governing Documents” means the Articles, the Bylaws, this Declaration and any Supplemental Declaration, as the same may be amended or supplemented from time to time.

**Section 1.12.** “Improvement” shall have the meaning set forth in Section 6.2 of this Declaration.

**Section 1.13.** “Lot” means any lot which is shown on a recorded subdivision plat (or any subsequently recorded subdivision plat) of any portion of the Property subject to the Declaration and on which is constructed or is to be constructed a Townhouse. The term “Lot” shall not include any portion of the Property which at the time in question is not included in a recorded subdivision plat, nor shall “Lot” include Common Areas, public streets or property dedicated to and accepted by a public authority.

**Section 1.14.** “Member” means every Owner holding membership in the Association.

**Section 1.15.** “Owner” means the record holder, whether one or more Persons or entities, of fee simple title to any Lot, including contract sellers, but excluding those having such interest



merely as security for the performance of an obligation provided if more than one Person owns a Lot the record owners shall designate one Person as the Member.

Section 1.16. "Person" shall mean and refer to any individual, corporation, limited liability company, joint venture, partnership, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof or any other separate legal entity.

Section 1.17. "Property" means all property subjected to this Declaration, as more particularly described on Exhibit A.

Section 1.18. "Supplemental Declaration" shall have the meaning set forth in Section 2.3 hereof.

Section 1.19. "Townhouse" means a townhouse constructed or to be constructed on a Lot.

Section 1.20. "Virginia Code" shall mean the Code of Virginia, as in effect on the first date of recordation of this Declaration and as amended from time to time thereafter. Except as otherwise expressly permitted herein, if any sections of the Virginia Code referred to in this Declaration are hereafter repealed or recodified, each such reference shall be deemed to apply to the section of the Virginia Code that is the successor to the previous section referred to herein, or, if there is no successor section, such reference shall be interpreted as if the section had not been repealed.

Section 1.21. "Zoning Ordinance" means the zoning ordinance in effect for Bedford County, as may hereafter be amended, together with all rules and regulations adopted pursuant thereto. If any applicable ordinances, rules and regulations in effect on the first date of recordation of this Declaration are subsequently repealed, amended or supplemented in any respect or if any variances or waivers are subsequently granted with respect thereto, the term "Zoning Ordinance" when used in interpreting or applying this Declaration at any point in time shall mean such ordinances, rules and regulations as they have been repealed, amended, supplemented, varied or waived as of such point in time.

## ARTICLE II

### ADDITIONS TO THE PROPERTY

Section 2.1. Additional Area. The real estate subject to this Declaration as of the date of its recordation in the Clerk's Office is described in Exhibit A hereto. Developer may extend this Declaration to other real estate owned or subsequently acquired by Developer and/or any other entity under common control or ownership of Developer and located within a ten (10) mile radius of the real estate described in Exhibit A (collectively, the "Additional Area"). However, Developer shall not be obligated to bring all or any part of the Additional Area within the plan of development established by this Declaration, and no negative reciprocal easement shall arise out of this Declaration so as to benefit or bind any portion of the Property or the Additional Area

until such portion of the Additional Area is expressly subjected to the provisions of this Declaration in accordance with Section 2.2 below and then such portion of the Additional Area shall be subject to any additions, deletions and modifications as are made pursuant to this Article II.

**Section 2.2. Right to Subject Additional Area to Declaration.** Developer reserves the right, at its discretion, at such time or times as it shall determine on or before the tenth (10<sup>th</sup>) anniversary of this Declaration, to subject the Additional Area, or such portions thereof as Developer shall determine, together with improvements thereon and easements, rights and appurtenances thereunto belonging or appertaining, to the provisions of this Declaration in whole or in part. Any portion of the Additional Area that is not, on or before the tenth (10<sup>th</sup>) anniversary of this Declaration, subjected to the provisions of this Declaration in whole or in part pursuant to this Section 2.2 and thereby constituted a part of the "Property," shall cease to be Additional Area. Each of the additions authorized pursuant to this Section 2.2 shall be made by Developer's recordation in the Clerk's Office of an appropriate instrument describing the portion(s) of the Additional Area subjected to this Declaration. Each such instrument may contain such additions, deletions and modifications to the provisions of this Declaration as Developer may desire. However, no negative reciprocal easement shall arise out of any additions, deletions or modifications to this Declaration made in the instruments that subject the Additional Area to this Declaration except as to the real estate expressly subject to such additions, deletions and modifications. If record title to the portion of the Additional Area being subjected to this Declaration is held by any Person other than Developer, then such Person shall join in and execute such instrument.

**Section 2.3. Supplemental Declarations.** In addition to subjecting the Additional Area to this Declaration as provided in Section 2.2, Developer may, in its discretion, execute and record one or more supplemental declarations (each a "Supplemental Declaration") for the purpose of establishing certain additional or different covenants, easements and restrictions (including without limitation a different level of assessments) applicable to certain specified Lot(s). However, no negative reciprocal easement shall arise out of any Supplemental Declaration so as to bind any real property not expressly subjected thereto.

**Section 2.4. Power Not Exhausted by One Exercise, Etc.** No exercise of the power granted Developer hereunder as to any portion of the Additional Area shall be deemed to be an exhaustion of such power as to other portion(s) of the Additional Area not so subjected to the provisions hereof or to the provisions of a Supplemental Declaration. The discretionary right of Developer to subject the Additional Area to the provisions of this Declaration or a Supplemental Declaration is not conditioned upon or subject to the approval of other Owners and therefore the requirements set forth in Section 9.2 for amendments to this Declaration shall be inapplicable to this Article II. The failure of Developer to extend the provisions of this Declaration to the Additional Area or any portion(s) thereof shall not be deemed to prohibit the establishment of a separate scheme of development (including provisions substantially similar or identical to those contained herein) for such portion(s) of the Additional Area to which this Declaration is not extended.

**Section 2.5. Development of Additional Area.** The portion(s) of the Additional Area subjected to the provisions of this Declaration may contain additional Common Areas and facilities to be owned and/or maintained by the Association.

**Section 2.6. Withdrawal.** Developer shall have the right, at any time and from time to time, in Developer's sole discretion, to remove from the Property and to release from this Declaration and/or any Supplemental Declaration any portion of such Property owned by Developer by recording in the Clerk's Office an appropriate instrument describing the portion(s) to be removed from the Property and to be removed from this Declaration and/or any Supplemental Declaration; provided, however, if such Property is owned by any person or Owner other than Developer, that such person or Owner must be a party to the instrument effecting such removal.

**Section 2.7. Master Plan.** The existence of a master plan for the Property as part of the Zoning Ordinance or as used by Developer in developing and/or selling the Property and Lots therein shall not be deemed to constitute a representation by Developer that the real estate shown thereon shall be developed as depicted on the master plan, and the master plan may be amended from time to time in the sole discretion of Developer with the consent (to the extent required) of Bedford County, Virginia.

### ARTICLE III

#### OWNERS ASSOCIATION

**Section 3.1. Membership.** Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot. Upon the recordation of a deed to a Lot, the membership of the selling Owner shall cease and the purchasing Owner shall become a member of the Association.

**Section 3.2. Classes of Membership.** The Association shall have two classes of voting membership:

**Class A.** All Owners including Developer shall be Class A members.

**Class B.** Developer shall be the Class B member. The Class B membership shall terminate on the earlier of (i) two years after the date on which Developer no longer owns any Lots or Additional Area which could be subject to this Declaration; (ii) the tenth anniversary of this Declaration; or (iii) the date on which Developer executes and records in the Clerk's Office an amendment to this Declaration terminating the Class B membership.

**Section 3.3. Voting Rights.**

(a) Each Class A member, including the Developer, shall be entitled to cast one vote for each Lot owned, provided in no circumstances shall there be more than one vote cast for each Lot.

(b) The Class B member shall be entitled to a total number of votes equal to three (3) times the total number of votes of all Class A members.

**Section 3.4. Suspension of Voting Rights.** The voting rights of any Member subject to assessment under this Declaration shall be automatically suspended when any such assessment or any installment thereof shall remain unpaid for more than thirty (30) days after the date due, but upon payment in full of such assessment the voting rights of such Member shall automatically be restored.

**Section 3.5. Articles and Bylaws to Govern; Property Owners' Association Act.** Except to the extent expressly provided in this Declaration, all the rights, powers and duties of the Association and the Members, including the Members' voting rights, shall be governed by the Articles and the Bylaws. The Articles provide, among other things, that the Class B member shall appoint the members of the Board of Directors until the Class B membership terminates. However, in the event of any conflict or inconsistency between the provisions of this Declaration or any Supplemental Declaration and the provisions of the Articles or Bylaws, this Declaration and all Supplemental Declarations (to the extent applicable) shall control. In addition to all of the rights, powers and duties of the Association provided in this Declaration, the Association shall have all of the rights, powers and duties provided in the Virginia Property Owners' Association Act, as the same may be amended from time to time.

#### ARTICLE IV

#### OBLIGATIONS OF ASSOCIATION, COMMON AREAS, AND OBLIGATIONS OF OWNERS

**Section 4.1. Obligations of the Association.**

(a) The Association, subject to the rights of the Members set forth in this Declaration and subject to the rights of non-Owners, but only to the extent non-Owners are granted rights pursuant to the provisions of this Declaration, shall be responsible for the maintenance, management, operation and control, for the benefit of the Members, of the Common Area conveyed, reserved or dedicated to or for the benefit of the Association and all improvements thereon (including fixtures, personal property and equipment related thereto) and shall keep the Common Area and the improvements thereon in accordance with the requirements of the Zoning Ordinance, this Declaration and any applicable Supplemental Declaration in good, clean and attractive condition, order and repair. Without limiting the foregoing, the Common Area may include certain easements granted to or reserved for the benefit of the Association.

(b) The Association shall be responsible for the management, control and maintenance of all street intersection signs, direction signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood or masonry wall features and/or related landscaping installed or planted in the Common Areas or on the Lots by the Developer or the Association; provided such items are not maintained by the applicable municipality or the Virginia Department of Transportation at its expense and are located within:

(i) easement areas reserved for the benefit of the Association by virtue of this Declaration, any Supplemental Declaration, any recorded subdivision plat of the Property, or otherwise; or  
(ii) street right-of-ways.

(c) Without limiting the foregoing, Developer shall have the authority to enter into one or more agreements with an electric utility company for the lease of street lights and related equipment and/or the provision of electric service associated therewith. The payment of any fees payable under such agreement(s) shall be the responsibility of the Association.

(d) In addition to the Association's responsibilities regarding the Common Areas, the Association shall have the express right and authority to enter into cost sharing, shared use and cross access arrangements with any Person, including, without limitation, any other property owners association providing services and/or shared facilities in the vicinity of the Property.

(e) The Association's performance of its obligations under this Section 4.1 shall be for the benefit of its Members and such non-Owners, if any, who have been authorized to use the Common Areas pursuant to Sections 4.2 and 4.6 hereof, provided, however, that the rights of such Members and non-Owners, if any, shall be subject to the provisions of this Declaration, any applicable Supplemental Declaration, the Articles, the Bylaws and such rules and regulations as may be adopted from time to time by the Board of Directors.

(f) Each Owner of any Lot by acceptance of a deed or other instrument of conveyance therefore, including any purchaser at a judicial or trustee sale, whether or not it shall be so expressed in any such deed of other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) all painting, siding and roofing assessments, fees, and charges, necessary for the routine maintenance, repair and replacements of the exterior portions of the Townhouses and (2) all special painting, siding and roofing assessments for major and/or extraordinary repair and replacement to the exterior portions of the Townhouses, including but not limited to, painting, staining, and caulking; roofing; siding and gutter work. The annual and special painting, siding and roofing assessments, together with interest as hereinafter provided, costs of collection, and reasonable attorney's fees, shall be a charge upon the land and shall be continuing lien upon the Lot against which each such painting, siding and roofing assessment is made as hereinafter provided. No Owner subject thereto may waive or otherwise avoid liability for such painting, siding and roofing assessments by the nonuse or abandonment of his Lot. The painting, siding and roofing assessments levied by the Association shall be used for the purposes set forth above at such times and in such manner as the Board of Directors of the Association shall determine. The annual painting, siding and roofing assessments shall be part of the Annual Assessment pursuant to Article V. There shall be no annual painting, siding and roofing assessment on any unimproved Lot. In addition to the annual painting, siding and roofing assessment authorized above, the Association may levy not more than three times in any assessment year a special painting, siding and roofing assessment as provided in Section 5.4. Both annual and special painting, siding and roofing assessments must be fixed at a uniform rate for all improved Lots. Notwithstanding the foregoing, in the event maintenance, repair or replacement of any exterior portion of any Townhouse, including, but not limited to, the roof, siding and gutters, is due to a casualty that is or would be covered by the insurance policy

required to be obtained by an Owner pursuant to the Bylaws, the Association shall not be required to make such repairs or replacements to the damaged exterior portions of the Townhouse and the Owner shall be solely responsible for making such repairs and replacements as provided herein.

**Section 4.2. Owners' Rights of Enjoyment and Use of Common Areas.** Subject to the provisions of this Declaration and any applicable Supplemental Declaration and the Articles, the Bylaws and such rules and regulations as may be adopted from time to time by the Board of Directors, every Owner shall have a right of enjoyment in and to the Common Areas which right of enjoyment shall be appurtenant to and shall pass with the title to every Lot. The Common Areas shall be used by Owners only for the purpose or purposes for which the Common Areas may have been improved by Developer or the Association and subject to any applicable restrictions in the Zoning Ordinance. Any Common Area which has not been improved for a particular use is intended to remain in its natural condition until so improved, and any use thereof by an Owner shall not damage or disturb such natural condition or the enjoyment thereof by other Owners. Without limiting the generality of the foregoing, the Developer reserves, for itself for so long as the Class B membership exists, and for the Association upon the expiration or earlier termination of the Class B membership, the right to grant to any Person or Persons a license and/or similar right to make exclusive use of portions of the Common Areas; provided that any such grant is evidenced (i) in a writing executed by Developer and recorded in the Clerk's Office if granted by Developer or (ii) by duly adopted resolution of the Board of Directors of the Association if granted by the Association.

**Section 4.3. Party Walls** The rights and duties of the Owners of Lots with respect to party walls shall be governed by the following:

(a) Each wall which is constructed as a part of Townhouse and all or any part of which is placed on the dividing line between two Lots, shall constitute a party wall. Each of the adjoining Owners shall assume the burdens and be subject to an easement for that portion of a party wall on his Lot, and be entitled to the benefits of these restrictive covenants and to the extent not inconsistent herewith, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

(b) If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his agents, or family, including ordinary wear and tear and deterioration from lapse of time, then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same to as good condition as originally constructed.

(c) If any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family, whether or not such act is negligent, so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good condition as originally constructed without cost to the adjoining Owner.

(d) In addition to meeting the other requirements of these restrictive covenants, and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his Townhouse in any manner which requires the extension or other alteration of any party wall shall first obtain the written consent of the adjoining Owner and the Architectural Review Board.

(e) The right of any Owner to contribution from any other Owner under this Section 4.3 shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties.

**Section 4.4. Right to Use Road by Developer and Third Parties** The Developer reserves for itself, its successors and assigns; its tenants and their guests; and its members, owners, employees, agents, and representatives (collectively, the "Permitted Parties"), the right to use the road constructed on the Property at no cost and expense. The Association may not charge the Permitted Parties any cost or fee in connection with the use of the road. The Association shall not take any action to prohibit the Permitted Parties or any other third party from using the road.

**Section 4.5. General Limitations on Owners' Rights.** The Owners' rights of enjoyment in the Common Areas shall be subject to the following:

(a) the right of the Board of Directors to establish reasonable rules and regulations for the use of the Common Areas;

(b) the right of the Developer for so long as the Class B membership exists, and the right of the Association upon the expiration or earlier termination of the Class B membership, to grant to any Person or Persons licenses and/or similar rights to make exclusive use of such areas as more particularly set forth and described in Sections 4.2 hereof;

(c) the right of the Board of Directors to suspend the right of an Owner to use or benefit from any of the Common Areas for the period during which any assessment against his Lot is delinquent as long as access to the Lot through the Common Areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner.

(d) the right of the Board of Directors to suspend the right of an Owner to use or benefit from any of the Common Areas for any period during which any other violation by the Owner of this Declaration, a Supplemental Declaration or the rules promulgated by the Board of Directors pursuant to this Declaration remains uncorrected after the last day of a period established for correction by the Board of Directors (such period to be stated in a notice to the Owner together with a statement of the violation complained of and the manner of its correction) and for not more than sixty (60) days after such correction;

(e) subject to the Bylaws and any applicable provision of the Virginia Code, the right of the Board of Directors to mortgage any or all of the Common Areas for the purpose of making improvements or repairs thereto;

(f) subject to the Bylaws, the right of Developer or the Board of Directors to grant easements across the Common Areas as provided in Section 8.1;

(g) subject to the Bylaws and Section 13.1-899 of the Virginia Code, the right of the Board of Directors to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be desired by the Board of Directors;

(h) all of the other easements, covenants and restrictions provided for in this Declaration and any Supplemental Declaration(s) applicable to the Common Areas;

(i) rights of others, if any, in and to any existing cemeteries located within the Common Areas; and

(j) the right of the Board of Directors to permit use of any facilities situated on Common Area by use of Persons other than Owners, their families, lessees and guests.

**Section 4.6. Delegation of Use.** Any Owner may delegate his right of enjoyment to the Common Area to members of his family living on his Lot and to his guests, and he may transfer such right to his tenants, subject to such rules and regulations and fees as may be established from time to time by the Association.

**Section 4.7. Damage to or Destruction of Common Area by Owner.** In the event any Common Area or improvement thereon is damaged or destroyed by an Owner, his tenants, guests, licensees, agents or members of his family, the Association may repair such damage at the Owner's expense to the extent not covered by insurance obtained by the Association. The Association shall repair such damage in a good and workmanlike manner in conformance with the original plans and specifications of the area or improvement involved, or as the Common Area or improvement may have been theretofore modified or altered by the Association, in the discretion of the Association. To the extent not covered by insurance obtained by the Association, the cost of such repairs shall become a special assessment on the Lot of such Owner and shall constitute a lien on such Owner's Lot and be collectible in the same manner as other assessments set forth herein.

**Section 4.8. Rights in Common Areas Reserved by Developer.** In addition to the reservation set forth in Section 4.4, until such time as Developer conveys a parcel of real estate constituting Common Area to the Association, Developer shall have the right as to that parcel, but not the obligation, (i) subject to the provisions of Article VI hereof, to construct such improvements thereon as it deems appropriate for the common use and enjoyment of Owners, including, without limitation, directional signs, and recreational facilities, and (ii) to use the Common Area for other purposes not inconsistent with the provisions of this Declaration. Until



such time as Developer conveys a parcel of real estate constituting Common Area to the Association, Developer shall maintain such Common Area in neat condition and repair, including mowing and removing underbrush and weeds.

**Section 4.9. Title to Common Area.** Developer may retain legal title to the Common Areas, or portions thereof, but notwithstanding any provision herein to the contrary, Developer shall convey each Common Area to the Association, free and clear of all liens but subject to this Declaration and all other easements, conditions and restrictions of record at such time as such improvements are completed and Developer elects to convey the same provided that all the Common Areas shall be conveyed to the Association no later than the time that a certificate of occupancy has been issued for the Townhouse on every Lot. Regardless of whether the Common Areas actually have been conveyed by the Developer, Owners and the Association shall have all the rights and obligations imposed by this Declaration, any Supplemental Declaration, the Articles and Bylaws with respect to the Common Areas from and after the date such Common Areas are designated as such by recordation of an appropriate instrument in the Clerk's Office. The Association shall be liable from the date a deed or deeds to such Common Areas is/are recorded in the Clerk's Office for payment of taxes, insurance and maintenance costs with respect thereto. Until the Common Areas are conveyed to the Association, Developer shall be liable for payment of taxes, insurance and maintenance costs with respect thereto.

**Section 4.10. Obligations of the Owners to Repair and Replace Following a Casualty.** In addition to any other obligations of the Owners provided in the Governing Documents, in the event a Townhouse is damaged or destroyed by fire, windstorm or other casualty, the Owner of such damaged or destroyed Townhouse shall be responsible for and bear the cost of rebuilding, reconstruction or restoration of the Townhouse to the same condition and appearance as existed prior to the damage or destruction. Each Owner of a damaged or destroyed Townhouse, and its contractor and architect, if any, shall coordinate with the Architectural Review Board prior to any rebuilding, reconstruction or restoration to insure that the Townhouse is constructed to the same condition and appearance as existed immediately prior to the damage. Each Owner shall cooperate and work in good faith with any Owner of an adjacent damaged or destroyed Townhouse to coordinate the rebuilding, reconstruction and restoration of each Townhouse and shall, if at all possible, engage the same contractor to rebuild, reconstruct or restore the damage. All materials used in the rebuilding, reconstruction and restoration shall be the same (or as similar as possible if the same materials no longer exist) as existed immediately prior to the casualty. Any dispute among any Owners regarding the repair, reconstruction or restoration of a Townhouse shall be decided by the Architectural Review Board, which decision shall be final. In the event any Owner rebuilds, reconstructs or restores any Townhouse to a condition different than what existed prior to such damage or destruction, the Board of Directors may require the Owner, at its sole cost and expense, to alter the changes made to the Townhouse so that it is in the same condition and appearance (or as is reasonably similar to) that existed prior to the damage. Unless the Architectural Review Board permits a longer time period, such work must be commenced within ninety (90) days after the date of the casualty and substantially completed within twelve (12) months after the date of the casualty.

## ARTICLE V

### ASSESSMENTS

**Section 5.1. Creation of the Lien, Personal Obligation for Assessments and Initial Assessment Amount.** Developer, for each Lot owned within the Property, hereby covenants (subject to Sections 5.5, 5.8 and 5.9), and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant to pay to the Association assessments as set forth in this Declaration, any Supplemental Declaration and in the Bylaws. The assessments, together with interest thereon, late charges and costs of collection including attorneys' fees, shall be a continuing lien upon the Lot against which each such assessment is made in order to secure payment thereof and shall also be the personal obligation of the party who was the Owner of the Lot at the time the assessment fell due. No Owner may waive or otherwise avoid liability for the assessments provided herein by nonuse of the Common Areas or abandonment of his Lot. Each assessment that is not paid when due shall bear interest at the rate of six percent (6%) unless changed by the Association, provided the rate shall not exceed the maximum rate permitted by applicable law. In addition to bearing interest, each assessment that is not paid within ten (10) days of its due date shall incur a late charge of twenty dollars (\$20.00) or such greater amount as may be established from time to time by resolution duly adopted by the Board of Directors of the Association. In the event an installment of the Annual Assessment is not paid within thirty (30) days of its due date, all remaining installments of such Annual Assessment shall be automatically accelerated and the entire amount of such Annual Assessment shall be due and payable in full as of the thirty-first (31<sup>st</sup>) day following the date such installment became due. The initial Annual Assessment for each Lot to be paid to the Association following the conveyance from the Developer shall be \$1,800.00, which shall be paid by each Owner to the Association in equal monthly payments of \$150.00. Notwithstanding anything herein to the contrary, the Developer shall pay to the Association on a monthly basis the lesser of: (i) \$150.00 per month for each Lot owned by the Developer after the first Lot is conveyed to a third party or (ii) the amount needed to cover any shortfall in the event the Association does not have the funds necessary to satisfy its obligations set forth in Section 5.2. The obligation of the Developer to pay the amounts provided in the preceding sentence shall terminate once ninety percent (90%) of the Lots have been conveyed by the Developer and at such time the Developer shall not be obligated to pay the Association any assessments in connection with remaining Lots owned by the Developer.

**Section 5.2. Purpose of Assessments.** The assessments levied by the Association shall be used for: the management, maintenance, improvement, care, operation, renovation, repair and replacement of the Common Areas and improvements thereon and other property owned or acquired by the Association of whatsoever nature; the periodic painting, staining, and caulking of the exterior of the Townhouses and the periodic repair and replacement of roofs, siding, gutters and other exterior portions of the Townhouses as provided in Section 4.1(f); the discharge of all taxes and other levies and assessments against the Common Areas and improvements thereon and other property owned or acquired by the Association; the procurement of insurance by the Association in accordance with the Bylaws, for the establishment of reserves with respect to the Association's obligations; the discharge of the Association's contractual and legal obligations; the performance of services by the Association, its contractors, employees, and agents, as authorized

in this Declaration and/or in the Articles or Bylaws; the discharge of such other obligations as may be imposed upon or assumed by the Association pursuant to its Articles or Bylaws or this Declaration or any Supplemental Declaration; and for such other purposes as may be authorized by or pursuant to the Articles or Bylaws. The Developer or an affiliated entity may contract with the Association to provide services on behalf of the Association so long as the fees and costs associated with such services do not exceed those charged by other parties providing similar services.

**Section 5.3. Annual Assessments.**

1. **Purpose.** “Annual Assessments” shall mean those assessments used for the general purposes set forth in Section 5.2 above.

2. **Basis.** The Annual Assessments shall be established and increased or decreased from time to time by the Board of Directors of the Association.

**Section 5.4. Special Assessments.** In addition to the Annual Assessments, the Board of Directors of the Association may levy a periodic special assessment if the purpose in doing so is found by the Board of Directors to be in the best interest of the Association and the proceeds of such assessment are used for (1) the maintenance and upkeep, including capital expenditures, of the Common Area or repairing or replacing any roof, siding or gutters of any Townhouse or landscaping on a Lot; and (2) the discharge of taxes, the procurement of insurance, the establishment of reserves, and the discharge of such services and other obligations as may be assumed by the Association pursuant to its Articles, Bylaws, the Declaration or any Supplemental Declaration or any cost sharing, use or cross easement arrangements entered into with any other Person, and for such other purposes as authorized by or pursuant to the Articles or Bylaws.

**Section 5.5. Date of Commencement of Annual Assessments.** Subject to Section 5.9, the Annual Assessments provided for herein shall commence as to each Lot on the first day of the month following the recordation of the deed to such Lot to an Owner other than Developer who purchases the same. The Annual Assessment on each Lot shall be prorated according to the number of months remaining in the calendar year. Unless the Board of Directors of the Association amends the Bylaws to provide otherwise, the Annual Assessments shall be paid in equal monthly installments.

**Section 5.6. Effect of Nonpayment of Assessments; Remedies of Association.** The lien of the assessments provided for in this Declaration may be perfected and enforced in the manner provided in the Virginia Property Owners’ Association Act. A statement from the Association showing the balance due on any assessment shall be prima facie proof of the current assessment balance and the delinquency, if any, due on a particular Lot. The Association may also bring an action at law against any Owner personally obligated to pay the same, either in the first instance or for deficiency following foreclosure, and interest, late charges and costs of collection including attorney’s fees shall be added to the amount of such assessment and secured by the assessment lien.

**Section 5.7. Subordination of Lien to Mortgages.** The lien upon each of the Lots securing the payment of the assessments shall have the priority set forth in Section 55.1-1833 of the Virginia Code.

**Section 5.8. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments and liens created herein: (i) any property owned by Developer; (ii) all Property dedicated and accepted by a public authority; and (iii) all Common Areas.

**Section 5.9. Annual Budget.** The Board of Directors shall adopt a proposed annual budget for each fiscal year, which budget shall provide for the annual level of assessments (including provision for reserves and physical damage insurance deductibles) and an allocation of expenses. There shall be no responsibility for the payment of assessments until after the Board of Directors adopts its initial annual budget. In the event a budget is not adopted by the Board of Directors for any given fiscal year, the assessments owed by each Lot owner shall remain the amount charged for the preceding fiscal year.

## ARTICLE VI

### ARCHITECTURAL CONTROL

**Section 6.1. Architectural Review Board.** There is hereby established a board (the "Architectural Review Board") for the purpose of reviewing and, as appropriate, approving or disapproving all Plans (hereinafter defined) submitted by Owners in accordance with this Article VI. The Architectural Review Board shall be composed of three persons, who need not be Members of the Association, from time to time appointed by Developer until 100% of the Property and the Additional Area has been developed and conveyed to Owners or by the Board of Directors of the Association from and after the date on which Developer delegates this responsibility to the Association by written instrument in recordable form executed by Developer. The Developer or the Board of Directors, as the case may be, may appoint one alternate member to the Architectural Review Board, which alternate member may vote only in the absence of a regular member. The members of the Architectural Review Board shall serve for such terms as may be determined by Developer or the Board of Directors of the Association, as the case may be. The Developer reserves the right (which may be exercised at any time or from time to time) to delegate certain, but less than all Architectural Review Board responsibilities to the Association, and if Developer exercises this right the Board of Directors may appoint its own review board which satisfies the same criteria as set forth herein for the Architectural Review Board. For example, by way of illustration and not limitation, the Developer may delegate to the Association the authority for reviewing and as appropriate approving or disapproving Plans submitted for modifications, alterations or additions made on or to existing structures on Lots, in which case the Board of Directors shall appoint its own architectural review board for the purpose of exercising such delegated authority. The Developer appointed Architectural Review Board and authorized architectural review board appointed by the Board of Directors shall be collectively referred to herein for ease of reference as the "Architectural Review Board." References herein to Architectural Review Board shall apply to either or both boards, as applicable.

**Section 6.2. Plans to be Submitted.** Before commencing the construction, erection or installation of any building, addition, patio, deck, screen in porch, fence, wall, window, exterior door, animal pen or shelter, exterior lighting, sign, mailbox or mailbox support, improvement or other structure (each of the foregoing being hereinafter referred to as an "Improvement") on any Lot, including any site work, in preparation therefor, and before commencing any alteration, enlargement, demolition or removal of an Improvement or any portion thereof in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot on which it is situated, each Owner shall submit to the Architectural Review Board a completed application on the form provided by the Architectural Review Board (the "Application"), a proposed construction schedule and at least three sets of plans and specifications of the proposed construction, erection, installation, alteration, enlargement, demolition or removal, which plans and specifications shall include (unless waived by the Architectural Review Board): (i) a site plan showing the size, location and configuration of all Improvements, including driveways and landscaped areas, and all setback lines, buffer areas and other features required under the Zoning Ordinance or the guidelines adopted by the Architectural Review Board, (ii) architectural plans of the Improvements showing exterior elevations, construction materials, exterior colors, driveway material, and (iii) such other information as the Architectural Review Board in its discretion shall require (collectively, the "Plans"). The Architectural Review Board may, in its sole discretion, waive the requirement that any or all of the required Plans be submitted in a particular case where it determines such Plans are not necessary to properly evaluate the Application. The Architectural Review Board shall not be required to review any Plans unless and until the Application has been submitted in completed form with the proposed construction schedule and the Plans contain all of the required items. The Application, Plans and the proposed construction schedule must be submitted to the Architectural Review Board at the address of Developer in the same manner as notices are to be sent to Developer pursuant to Article XI, for so long as all members of the Architectural Review Board are appointed by Developer, and thereafter the Application, Plans and the proposed construction schedule may be submitted to the Architectural Review Board at the address of the Association in the same manner as notices are to be sent to the Association pursuant to Article XI.

**Section 6.3. Consultation with Architects, etc.; Administrative Fee.** In connection with the discharge of its responsibilities, the Architectural Review Board may engage or consult with architects, engineers, planners, surveyors, attorneys and others. Any person seeking the approval of the Architectural Review Board agrees to pay all fees thus incurred by the Architectural Review Board and further agrees to pay an administrative fee to the Architectural Review Board in such amount as the Architectural Review Board may from time to time reasonably establish. The payment of all such fees is a condition to the approval or disapproval by the Architectural Review Board of any Plans, and the commencement of review of any Plans may be conditioned upon the payment of the Architectural Review Board's estimate of such fees.

**Section 6.4. Approval of Plans.** The Architectural Review Board shall not approve the Plans for any Improvement that would violate any of the provisions of this Declaration or of any Supplemental Declaration applicable thereto. In all other respects, the Architectural Review Board may exercise its sole discretion in determining whether to approve or disapprove any Plans, including, without limitation, the location of any Improvement on a Lot.

**Section 6.5. No Structures to be Constructed, etc. Without Approval.** No Improvement shall be constructed, erected, installed or maintained on any Lot, nor shall any Improvement be altered, enlarged, demolished or removed in a manner that alters the exterior appearance (including paint color) of the Improvement or of the Lot on which it is situated, unless the Application, Plans and construction schedule therefor have been approved by the Architectural Review Board. If written approval is not given to an Owner within thirty (30) days after being submitted, the Application and Plans shall be deemed denied. After the Application, Plans and Construction Schedule therefor have been approved, all Improvements shall be constructed, erected, installed, maintained, altered, enlarged, demolished or removed strictly in accordance with the approved Plans. Upon commencing the construction, erection, installation, alteration, enlargement, demolition or removal of an Improvement, all of the work related thereto shall be carried on with reasonable diligence and dispatch and in accordance with the construction schedule approved by the Architectural Review Board.

**Section 6.6. Guidelines May Be Established.** The Architectural Review Board may, in its discretion, establish guidelines and standards to be used in considering whether to approve or disapprove Plans. Such guidelines may include, without limitation, uniform standards for signage and mailboxes and mailbox supports. However, nothing contained in this Declaration shall require the Architectural Review Board to approve the Plans for Improvements on a Lot on the grounds that the layout, design and other aspects of such Improvements are the same or substantially the same as the layout, design and other aspects of Improvements approved by the Architectural Review Board for another Lot.

**Section 6.7. Limitation of Liability.** The approval by the Architectural Review Board of any Plans, and any requirement by the Architectural Review Board that the Plans be modified, shall not constitute a warranty or representation by the Architectural Review Board of the adequacy, technical sufficiency or safety of the Improvements described in such Plans, as the same may be modified, and the Architectural Review Board shall have no liability whatsoever for the failure of the Plans or the Improvements to comply with applicable building codes, laws and ordinances or to comply with sound engineering, architectural or construction practices. In addition, in no event shall the Architectural Review Board have any liability whatsoever to an Owner, a contractor or any other party for any costs or damages (consequential or otherwise) that may be incurred or suffered on account of the Architectural Review Board's approval, disapproval or conditional approval of any Plans.

**Section 6.8. Other Responsibilities of Architectural Review Board.** In addition to the responsibilities and authority provided in this Article VI, the Architectural Review Board shall have such other rights, authority and responsibilities as may be provided elsewhere in this Declaration, in any Supplemental Declaration and in the Bylaws.

ARTICLE VII  
USE OF PROPERTY

Section 7.1. Protective Covenants.

(a) Nuisances. No nuisance shall be permitted to exist on any Lot. Noxious, destructive, or offensive activity, or any activity constituting an unreasonable source of annoyance, shall not be conducted on any Lot or on the Common Area, or any part thereof, and the Association shall have standing to initiate legal proceedings to abate such activity. Each Owner shall refrain from any act or use of his or her Lot that could reasonably cause embarrassment, discomfort, or annoyance to other Owners, and the Board of Directors shall have the power to make and to enforce reasonable rules in furtherance of this provision.

(b) Restriction on Merger and Further Subdivision. No Lot shall be merged with another Lot by any Owner other than the Developer. No Lot shall be subdivided or separated into smaller Lots by any Owner other than the Developer. No portion of any Lot, nor any easement or other interest therein, shall be conveyed or transferred by an Owner other than the Developer, provided that this provision shall not prohibit deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments, easements to public agencies or authorities, or for utilities.

(c) Rules. From time to time the Board of Directors may adopt general rules, including but not limited to rules to regulate potential problems relating to the use of Property and the well-being of Members, such as the definition of nuisances, keeping of animals, parking, storage and use of vehicles, storage and use of machinery, use of outdoor drying lines, antennas, satellite dishes, signs, trash and trash containers, restrictions on sprinkler and irrigation systems, private irrigation wells, maintenance and removal of vegetation on the Property and the type and manner of application of fertilizers or other chemical treatments to the Property in accord with non-point source pollution control standards (collectively, the "Rules"). All such Rules and any subsequent amendments thereto shall be binding on all Members and occupants of the Property, including their tenants, guests and invitees, except where expressly provided otherwise in such Rule. Such Rules as adopted from time to time are herein incorporated by reference and shall be as binding as if set forth herein in full; provided, however, that in the event of a conflict between any provision(s) in the Rules and the Governing Documents, the provision(s) set forth in the Governing Documents shall control.

(d) Exceptions. In certain special circumstances, the Board of Directors may issue variances exempting a particular Lot from any of the provisions of this Article VII.

(e) Irrigation. No sprinkler and/or irrigation system may be installed on any Lot and this provision may not be amended without the consent of the Developer as long as the Developer owns one or more Lots.

(f) Lakes and Other Water Bodies. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized

or unauthorized use of lakes, ponds, streams, or stormwater detention areas within the Property, if any.

(g) Permitted Uses. Except as otherwise provided in the Governing Documents, no Lot shall be used for other than residential purposes, except as designated by the Developer or as set forth below. Developer reserves the right to designate Lots and/or other portions of the Property to be used for non-residential and/or commercial purposes. Nothing in the Governing Documents shall be construed to prohibit the Developer or its designees from using any Lot owned by the Developer (or any other Lot with the permission of the Owner thereof) or any portion of the Common Area for promotional, marketing, display or customer service purposes (such as a visitors' center) or for the settlement of sales of Lots. Further, the Developer specifically reserves the right to operate a construction office or a rental, brokerage and management office at any time on Lots owned or leased by the Developer (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Area, to the extent permitted by law. The Developer may assign its rights under this Section to or share such rights to one or more other persons including but not limited to builders, exclusively, simultaneously or consecutively with respect to the Common Area and Lots owned or leased by the Developer or such persons.

(h) Hazardous Uses; Waste. Nothing shall be done or kept on the Property which will increase the rate of insurance applicable for permitted uses for the Common Area or any part thereof without the prior written consent of the Board of Directors, including, without limitation, any activities which are unsafe or hazardous with respect to any person or property. No person shall permit anything to be done or kept on the Property which will result in the cancellation of any insurance on the Common Area or any part thereof or which would be in violation of any law, regulation or administrative ruling. No vehicle of any size that transports flammable or explosive cargo may be kept or driven on the Property at any time. Each Owner shall comply with all federal, state and local statutes, regulations, ordinances, or other rules intended to protect the public health and welfare as related to land, water, groundwater, air or other aspects of the natural environment (the "Environmental Laws"). Environmental Laws shall include, but are not limited to, those laws regulating the use, generation, storage or disposal of hazardous substances, toxic wastes and other environmental contaminants (collectively, the "Hazardous Materials"). No Owner shall knowingly use, generate, manufacture, store, release, dispose of or knowingly permit to exist in, on, under or about such Owner's Lot, the Common Area, or any portion of the Property, or transport to or from any portion of the Property any Hazardous Materials except in compliance with the Environmental Laws. No waste shall be committed on the Common Area.

(i) Lawful Use. No improper, offensive or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof relating to any portion of the Property shall be complied with, by and at the sole expense of the Owner, the Association, the Developer or any owners association, whichever shall have the obligation for the upkeep of such portion of the Property, and, if the Association, then the cost of such compliance shall be included in the Annual Assessment.



(j) Emissions. There shall be no emissions of dust, sweepings, dirt, cinders, odors, gases or other substances into the atmosphere except for normal residential chimney emissions, if applicable, no production, storage or discharge of Hazardous Materials on the Property or discharges of liquid, solid wastes or other environmental contaminants into the ground or any body of water, if such emission, production, storage or discharge may adversely affect the use or intended use of any portion of the Property or may adversely affect the health, safety or comfort of any person.

(k) Noise. No Person shall cause any unreasonably loud noise (except for security devices) anywhere on the Property, nor shall any Person permit or engage in any activity, practice or behavior for the purpose of causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property.

(l) Obstructions. No Person shall obstruct any of the Common Area or otherwise impede the rightful access of any other Person on any portion of the Property upon which such person has the right to enter. No Person shall place or cause or permit anything to be placed on or in any of the Common Area without the approval of the Board of Directors of the Association. Nothing shall be altered or constructed in or removed from the Common Area except with the proper written approval of the Board of Directors. No vehicles may be parked on the Common Area.

(m) Association Property. The Common Area shall be used only for the furnishing of the services and facilities for which the same is reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Area shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents, no Owner shall make any private, exclusive or proprietary use of any of the Common Area without the prior written approval of the Board of Directors and then only on a temporary basis except as provided in Section 4.2 of this Declaration.

(n) Mining. No Lot shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel or earth except with the prior written approval of the Board of Directors.

(o) Signs. Except for such signs as may be posted by the Developer for promotional or marketing purposes or by the Association, no signs of any character shall be erected, posted or displayed in a location that is visible from the Common Area or any other Lot, except as otherwise expressly permitted in the Rules and/or the guidelines adopted from time to time by the Architectural Review Board. Notwithstanding the foregoing, Owners may post a standard size "for sale" sign on their Lot.

(p) Trash. Except in connection with construction activities, no burning of any trash and no accumulation or storage of litter, refuse, bulk materials, building materials, garbage, or trash of any other kind shall be permitted on any Lot. Trash containers provided by the Developer or Association shall not be permitted to remain in public view from the Common Area or another Lot except on days of trash collection. Trash, leaves and other materials shall

not be burned. No incinerator shall be kept or maintained upon the Property without the prior written approval of the Board of Directors. All trash collection and removal shall be in accordance with the Rules.

(q) Landscaping. No tree, hedge or other landscape feature shall be planted or maintained on a Lot by an Owner. No approved water pipe, sewer pipe, gas pipe, drainage pipe, television cable, electrical wire, or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground. . Each Owner shall be permitted to plant approved annuals in the areas between the sidewalk leading to the door of the house located on a Lot and the building itself; provided that in the event an Owner fails to properly maintain any plantings within such area the Association shall have the right, at the cost and expense of such Owner, to maintain any plantings or remove the same.

(r) Fences. Except for any fence installed by the Developer or the Association, no fence shall be installed except in conformance with standards established therefor and with the written approval of the Architectural Review Board.

(s) Vehicles. Except in connection with construction activities, no trucks, trailers, campers, recreational vehicles, boats or other large vehicles, including grounds maintenance equipment, may be parked on any portion of the Common Area, or any portion of a Lot visible from the Common Area, or any other Lot or on any public right-of-way within or adjacent to the Property, unless expressly permitted by the Board of Directors and only in such parking areas or for such time periods (if any) as may be designated for such purpose. No junk or derelict vehicle or other vehicle on which current registration plates and current state inspection permits are not displayed shall be kept upon any portion of the Lots. Vehicle repairs and storage of vehicles are not permitted, except in accordance with the Rules; provided, however, that noncommercial repair of vehicles is permitted within enclosed structures. All motor vehicles including, but not limited to, trail bikes, motorcycles, all-terrain vehicles, dune buggies, and snowmobiles shall be driven only upon paved streets and parking lots. No motor vehicles shall be driven on community trails, pathways or unpaved portions of the Common Area, except such vehicles as are authorized by the Board of Directors as needed to maintain, repair, or improve the Common Area. This prohibition shall not apply to normal vehicular use of designated streets, if any, constructed on the Common Area.

(t) Intentionally Deleted.

(u) Professional Offices. No Lot shall be used for any business, commercial, manufacturing, mercantile, storing, vending or other non-residential purpose; provided, however, that an Owner may maintain a home occupation as permitted by Bedford County and may maintain an office in the Townhouse on such Owner's Lot if (i) such occupation or office generates no significant number of visits (as determined by the Board of Directors) by clients, customers or other persons related to the business, (ii) no equipment or other items related to the business are stored, parked or otherwise kept on such Owner's Lot or the Property outside of an approved enclosure, and (iii) such Owner has obtained approvals for such use as may be required by Bedford County, Virginia. As a condition to such use, the Board of Directors may require the

Owner to pay any increase in the rate of insurance or other costs for the Association that may result from such use.

(v) Animals. The maintenance, keeping, boarding or raising of animals, livestock, poultry or reptiles of any kind, regardless of number, is prohibited on any Lot or upon the Common Area, except that the keeping of guide animals and orderly domestic pets (e.g., dogs, cats, caged birds or small fish) without the approval of the Board of Directors, is permitted, subject to the Rules; provided, however, that such pets are not kept or maintained for commercial purposes or for breeding and that any such pet causing or creating a nuisance or unreasonable disturbance or noise may be permanently removed from the Property upon ten (10) days written notice from the Board of Directors. Pets shall not be permitted upon the Common Area or any Lot, unless accompanied by someone who can control the pet and unless carried or leashed. Pet droppings shall be promptly removed by the Owner or person in control of the pet. Any Owner who keeps or maintains any pet upon any portion of the Property agrees to indemnify and hold the Association, each Owner and the Developer free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Property. All pets shall be registered and inoculated as required by law. No dog or other animal shall be left outside on a chain or other similar restraint.

(w) Clothes Drying Equipment. No clotheslines or other clothes drying apparatus shall be permitted on any Lot. No portion of a Lot shall be used for the drying or hanging of laundry.

(x) Mailboxes and Newspaper Tubes. Only mailboxes approved by the Architectural Review Board shall be permitted. The Architectural Review Board may adopt specific criteria applicable to mailboxes.

(y) Lighting. All exterior lighting shall have a shield on top directing light downward. Dusk-to-dawn lighting is not permitted on any Lot. No exterior lighting on a Lot shall exceed 100 watts. No changes shall be made to any lighting without prior approval of the Architectural Review Board.

(z) Pools. No above-ground swimming pool shall be erected or maintained on any Lot. No inground swimming pool shall be erected or maintained on any Lot.

(aa) Construction Activities. This section shall not be construed as forbidding any work involved in the construction or maintenance of any portion of the Property so long as such work is undertaken and carried out (i) with the minimum practical disturbance to persons occupying other portions of the Property; (ii) in such a way as does not violate the rights of any person under other provisions of this Declaration; and (iii) in accordance with all applicable restrictions in the Rules, any architectural guidelines, the resolutions of the Board of Directors and the other provisions of this Declaration. The Architectural Review Board may approve temporary structures for construction purposes that may otherwise be in violation of the Governing Documents or the Rules.

(bb) Intentionally Deleted.

(cc) Antennas and Similar Devices. Only those antennas expressly permitted under the Federal Communications Commission's Over-the-Air Reception Devices (OTARD) Rule implementing Section 706 of the Telecommunications Act of 1996, as amended from time to time, are allowed. All others are expressly prohibited. As of the date of the recording of this instrument, the following are permitted under OTARD: (a) direct broadcast satellite (DBS) antenna one (1) meter or less in diameter or diagonal measurement; (b) antennas designed to receive Multipoint Distribution Services (MDS) that are 39.4 inches (one (1) meter) or less in diameter; (c) antennas designed to receive television broadcast signals of any size; (d) transmission-only antennas if they are necessary for the use of a covered reception antenna and are one (1) meter or less in diameter; and (e) masts used in conjunction with any of these antennas (collectively, the foregoing are referred to as "Covered Antennas"). The foregoing list is subject to change pursuant to changes in OTARD and/or any other applicable laws. Covered Antennas shall be located in accordance with Architectural Guidelines adopted by the Architectural Review Board, to the extent such restrictions are not prohibited by the OTARD Rule, and an application for Architectural Review Board approval must be submitted for any device deviating from the following:

- (i) Television broadcast Covered Antennas must be installed inside a dwelling unit whenever possible;
- (ii) No roof antenna shall extend more than ten (10) feet above the highest point on the roof;
- (iii) Satellite dish antenna if eighteen inches or less, shall be located on the rear of the house either just below the roof ridge or the fascia board below the roof eaves, or if larger than eighteen inches, be located behind the rear foundation of the house.
- (iv) Any cable associated with satellite dish or other antenna shall be buried or shall not be visible on the structure to which it is attached or extended.

(dd) Solar Panels. No solar panels may be installed on any Lot or the exterior of any Townhouse.

#### Section 7.2. Maintenance of Property.

(a) Owner Obligation. In addition to the obligations set forth in the Governing Documents, specifically including, but not limited to, Section 4.10 hereinabove, each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, free of debris, all in a manner and with such frequency as is acceptable to the Association and consistent with a first-quality development, any Rules adopted by the Association, and the Architectural Guidelines adopted by the Association.

(b) Failure to Maintain. In the event an Owner shall fail to maintain his Lot and the improvements situated thereon as provided herein, the Association, after notice to the Owner and approval of the Board of Directors shall have the right to enter upon such Lot to correct such failure. All costs related to such correction shall become a special assessment upon such Lot and as such shall be regarded as any other assessment with respect to lien rights of the Association and remedies provided herein for non-payment.

Section 7.3. Security. Neither the Association nor Developer shall be held liable for any loss or damage by reason of failure to provide security or ineffectiveness of security measures undertaken. All Owners, tenants, guests, and invitees of any Owner, as applicable, acknowledge that the Association and Developer are not insurers and that each Owner, tenant, guest, and invitee assumes all risk or loss or damage to persons, to structures or other improvements situated on Lots, and to the contents of any Improvements situated on Lots and further acknowledge that Developer has made no representations or warranties, nor has any Owner, tenant, guest, or invitee relied upon any representations or warranties, expressed or implied, including any warranty or merchantability or fitness for any particular purpose relative to any security measures recommended or undertaken.

## ARTICLE VIII

### EASEMENTS

In addition to any easements reserved elsewhere in this Declaration or by separate plats or instruments of record, the following easements may apply to the Property (including but not limited to Lots and Common Areas).

Section 8.1. Utility Easements. Developer reserves perpetual easements, rights and privileges to install, maintain, repair, replace and remove poles, wires, cables, conduits, pipes, mains, pumping stations, siltation basins, tanks and other facilities, systems and equipment for the conveyance and use of electricity, telephone service, sanitary and storm sewer, roof drains connected directly to storm sewer, water, gas, cable television, drainage and other public conveniences or utilities, upon, in or over those portions of the Property (including Lots and Common Areas) as Developer, its successors or assigns may consider to be reasonably necessary (the "Utility Easements"). The Utility Easements shall include the right to cut trees, bushes or shrubbery and such other rights as Developer or the applicable governmental authority or utility company providing the utilities may require. The utility lines installed pursuant to the Utility Easements may be installed above or below ground. Developer shall have the right to convey Utility Easements to other Owners, to governmental authorities or utility companies, to the Association and to any other party or parties.

Section 8.2. Erosion Control. Developer reserves a perpetual easement, right and privilege to enter upon any Lot or Common Area, and the Association is granted a perpetual easement, right and privilege to enter upon any Lot either before or after a building has been constructed thereon or during such construction, for the purpose of taking such erosion control measures as Developer or the Association deems necessary to prevent or correct soil erosion or

siltation thereon; provided, however, that Developer or the Association shall not exercise such right unless it has given the Owner of the Lot or the Association (as to the Common Area) at least ten days' prior notice thereof and the Owner or the Association, as the case may be, has failed to take appropriate action to correct or prevent the erosion or siltation problem. The cost incurred by the Association or by Developer in undertaking such erosion control measures on any Lot shall become a special assessment on such Lot and shall constitute a lien against such Lot and shall be collectible in the manner provided herein for the payment of assessments; provided however, the Developer or the Association, as the case may be, shall not have such right, if the Developer or the Association was directly responsible for creating the soil erosion or siltation problem. This Section shall not apply to Lots owned by Developer.

**Section 8.3. Maintenance of Lots.** Developer reserves the perpetual easement, right and privilege, and the Association is granted the perpetual easement, right and privilege, to enter on any Lot for the purpose of mowing grass, removing, clearing, cutting or pruning underbrush, weeds or other growth, dispensing pesticides, herbicides and fertilizer and grass seed, dredging and/or cleaning out drainage ditches, removing trash and taking such other action as the Developer or the Association may consider necessary to maintain the overall beauty of the Lots.

**Section 8.4. Construction Easements and Rights.** Notwithstanding any provision of this Declaration or of any Supplemental Declaration, so long as Developer is engaged in developing or improving any portion of the Property or the Additional Area, Developer shall have an easement of ingress, egress and use over any lands not conveyed to an Owner for (i) movement and storage of building materials and equipment, (ii) erection and maintenance of directional and promotional signs, and (iii) conduct of sales activities, including maintenance of model residences.

**Section 8.5. Right of Entry for Governmental Personnel.** A right of entry on any Common Area is hereby granted to personnel of Bedford County in the lawful performance of their official duties, including but not limited to: law enforcement officers and fire and rescue personnel as needed to lawfully carry out their duties, including but not limited to enforcement of cleared emergency vehicle access; public utility and public works vehicles in the performance of their installation, maintenance and repair duties; and inspections personnel for the purpose of reviewing the Association's proper maintenance of the Common Area.

**Section 8.6. Easement for Landscaping, Signs and Related Purposes.** There shall be and is hereby reserved to Developer, for so long as it retains its rights as Developer, and to the Association, a non-exclusive easement over all Lots and Common Area, in locations specified on recorded plats of the Property or, if no location is specified, for a distance of twenty (20) feet behind any boundary line which parallels, and is adjacent to, a street, and for a distance of forty (40) feet behind any boundary line of portions of the Property where line of sight easements are necessary for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry wall features and/or related landscaping.

**Section 8.7. Blanket Easement.** An easement is hereby retained in favor of Developer, and the Association and their respective contractors and employees, over the Lots and any area

owned or to be owned by the Developer or the Association for the installation of landscaping or construction of signage, a common cable television system, sprinkler system(s), or any other item installed for the enjoyment and/or benefit of some or all of the Owners. An easement is further granted for the purpose of the repair and maintenance of any of the foregoing items so constructed. Any entry upon any Lot or any area owned or to be owned by the Developer or the Association to effectuate the foregoing purposes shall not be deemed trespass. Each Owner covenants not to damage or destroy any portion of an item so constructed and shall hold the Association and/or Developer harmless from the cost of repairing or replacing any portion damaged or destroyed by such Owner, his family, his guests or invitees.

**Section 8.8. Easement for Encroachment.** Each Lot and the Common Areas are hereby declared to have an easement over all adjoining Lots and the Common Areas for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of a building, or any other similar cause, and any encroachment due to building overhang or projection. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts with full knowledge of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor unintentional encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

**Section 8.9. Easements to Serve Additional Area.** The Developer hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of any Additional Area. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Developer agrees that it and its successors and assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Developer further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Developer, its successors and assigns shall enter into a reasonable easement agreement with the Association to share the cost of maintenance, if any, of any access roadway serving such property.

**Section 8.10. Drainage Easement.** Each Owner of a Lot on which a storm drainage or storm water management easement exists shall keep such area free of debris so as not to impede drainage. Each Owner covenants to provide such additional easements for drainage and water flow as the contours of the Property and the arrangement of buildings by Developer thereon requires; provided, however that such easements shall not have a material adverse affect upon any Lot on which said easements are utilized. Developer reserves an easement over all Lots and the Common Area for the purpose of correcting any drainage deficiency, whether such deficiency is located on such Lot or Common Area or on adjoining property which right shall include but

not be limited to the right to re-grade and/or alter the existing grade of Lots and the Common Area.

**Section 8.11. Easement to Access Road on Adjacent Property.** Developer hereby grants to each Lot Owner, their family members, guests, agents, and any other person delivering or providing services to any Lot Owner and the Association an easement across the road located on the adjacent property owned by the Developer, its successors or assigns, as described on Exhibit B attached hereto and incorporated herein (the "Adjacent Road"). The Lot Owners and the Association shall not be responsible for any costs or expense related to the maintenance, repair and replacement of the Adjacent Road.

## ARTICLE IX

### GENERAL PROVISIONS

**Section 9.1. Duration.** The covenants and restrictions of this Declaration shall run with and bind the Property for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of twenty-five (25) years, unless at the expiration of any such period the covenants and restrictions are expressly terminated by an instrument signed by Owners of at least 80% of the Lots. Notwithstanding the foregoing, the provisions of Section 4.2 and Article VIII shall be perpetual.

**Section 9.2. Amendments.** Except as otherwise set forth in this Declaration, this Declaration may be amended either (i) by Developer without the consent of any other Owners in order to correct typographical errors, inconsistent references, scrivener's errors, grammatical mistakes, and incorrect or ambiguous punctuation, for so long as Developer's Class B membership continues or (ii) by a vote of two-thirds of the sum of: (A) the Class A votes (including Developer as to Class A votes held by Developer), **plus** (B) the Class B votes (if any). Notwithstanding the foregoing, the provisions of Articles II and VIII and Sections 3.2, 4.7, 5.8, and this Section 9.2 may not be amended in any event without the written consent of Developer regardless of whether the Class B membership has terminated, and the provisions of Section 8.5 may not be amended without the consent of the Board of Supervisors of Bedford County, Virginia. In addition, Developer shall have the right without the consent of any other Owners to amend this Declaration in any respect as may be necessary or appropriate in order for this Declaration or the Property to comply with applicable laws now or hereafter enacted or to satisfy the requirements of any Federal Mortgage Agency, with respect to their purchase or guaranty of mortgage loans secured by Lots.

**Section 9.3. Enforcement.** Developer or the Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, easements, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration or any Supplemental Declaration. Without limiting the generality of the foregoing, if any Owner fails to comply with any of the provisions of this Declaration and such failure continues for at least five (5) days after notice thereof is given to the Owner, then either Developer or the Association may, but without any obligation to do so, take such action as either of them considers necessary or appropriate (including, without limitation, entering the Owner's Lot) to



correct the noncompliance; provided, however, that judicial proceedings are instituted before any Improvements are subsequently altered or demolished. The cost incurred in taking such action shall constitute a special assessment upon the Owner's Lot(s) and shall be collectible in the manner provided herein for the payment of assessments. Any amounts collected by the Association attributable to costs incurred by the Developer shall be promptly transferred to the Developer. Failure by the Developer or the Association to enforce any provision of this Declaration or any Supplemental Declaration shall in no event be deemed a waiver of the right to do so thereafter.

**Section 9.4. Limitations.** As long as the Developer has an interest in developing the Property and/or the Additional Area, the Association may not use its financial resources to defray any costs of opposing the development activities so long as they remain consistent with the general intent of this Declaration.

**Section 9.5. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

**Section 9.6. Conflict.** In the event of conflict among the Governing Documents, this Declaration shall control, then applicable Supplemental Declarations, then the Articles, then the Bylaws except that in all cases where the Governing Documents may be found to be in conflict with statute, the statute shall control.

**Section 9.7. Interpretation.** Unless the context otherwise requires, the use of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the term "including" shall mean "including, without limitation." The headings used herein are for indexing purposes only and shall not be used as a means of interpreting or construing the substantive provisions hereof.

**Section 9.8. Use of the Words "Westyn Village" or "Westyn Village Owners Association, Inc."** No Person shall use the words "Westyn Village" or "Westyn Village Owners Association, Inc." or any derivative thereof in any printed or promotional material without the prior written consent of Developer.

**Section 9.9. Reserved.**

**Section 9.10. Approvals and Consents.** All approvals and consents required or permitted by this Declaration (other than approvals or consents given by Members in a vote conducted in accordance with the Bylaws) shall be in writing, shall be signed by the party from whom the consent or approval is sought and, unless otherwise provided herein, may be withheld by such party in its sole discretion.

**Section 9.11. Assignment of Developer's Rights.** Any and all rights, powers, easements and reservations of Developer set forth herein may be assigned in whole or in part, at any time or from time to time, to the Association, to another Owner, or to any other party in Developer's sole

discretion. Each such assignment shall be evidenced by an instrument which shall be signed by Developer and its assignee and recorded in the Clerk's Office.

Section 9.12. Successors and Assigns. The provisions hereof shall be binding upon and shall inure to the benefit of Developer, the Association and (subject to Article II hereof) the Owners and their respective heirs, legal representatives, successors and assigns.

Section 9.13. Compliance with Virginia Property Owners' Association Act. The Association shall be subject to and comply with the Virginia Property Owners' Association Act in the Virginia Code, as amended.

Section 9.14. Attorneys' Fees. In the event legal action is brought by the Developer and/or the Association to enforce provisions of this Declaration and/or the Articles, Bylaws or duly adopted rules and regulations, the court shall award reasonable attorneys' fees to the prevailing party.

## ARTICLE X

### DISSOLUTION OF THE ASSOCIATION

The Association may be dissolved at a duly held meeting at which a quorum is present upon the vote of more than two-thirds (2/3) of the votes, in person or by proxy, of the Class A Members and by the vote of Class B Member if the Class B Member exists. Prior to dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be offered for dedication to the locality in which they are situated. In the event that such dedication is refused upon dissolution, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to similar purposes.

## ARTICLE XI

### NOTICES

Notices. All notices, demands, requests and other communications required or permitted hereunder shall be in writing and shall either be delivered in person or sent by overnight express courier or by U.S. first class mail, postage prepaid, or in any other manner permitted by law and agreed to in advance in writing by the party to whom such notice is sent. Notices to the Developer shall be sent to Westyn Village, LLC, 1230 Cottontown Drive, Forest, VA 24556; with an information copy to C. Cooper Youell, IV, Esq., Whitlow & Youell, 28A W. Kirk Avenue (24011), P.O. Box 779, Roanoke, VA (24004); or to such other address as the Developer shall specify by executing and recording an amendment to this Declaration, which amendment shall not require the approval of any other parties as provided in Section 9.2. Notices to the Association or to Owners (other than Developer) may be sent to the address that the Bylaws provide shall be used for them. All such notices, demands, requests and other communications shall be deemed to have been given when sent to the appropriate address specified above.

Rejection or other refusal to accept shall not invalidate the effectiveness of any notice, demand, request or other communication.

[REMAINDER OF PAGE LEFT BLANK – SIGNATURE PAGE FOLLOWS]

WITNESS the following signatures and seals as of the date first above written.

Westyn Village, LLC

By: *Thomas P. Bell* (Seal)  
Thomas P. Bell, Manager

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF BEDFORD to-wit:

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of December, 2021, by Thomas P. Bell, Manager of Westyn Village, LLC, on behalf of the Company.

*Kathryn Cyrus Hudson*  
Notary Public

My Commission Expires: November 30, 2022

My Registration No.: 7794262



[Affix Notary Seal]

Exhibit A

Lots 1-97 and the Open Space containing 8.562 acres as shown on that certain subdivision plat prepared by Perkins & Orrison, signed by Russell H. Orrison on October 28, 2021, entitled PLAT SHOWING SUBDIVISION FOR WESTYN VILLAGE, LLC, and recorded November 16, 2021 in the Clerk's Office of the Circuit Court of Bedford County in Plat Book 63, Pages 323 and 324, and as Instrument No. 210016269.

**Exhibit B**

**Attach Bylaws of Westyn Village Owners Association, Inc.**

**BYLAWS**  
**OF**  
**WESTYN VILLAGE OWNERS ASSOCIATION, INC.**

**DATED DECEMBER 7, 2021**

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## ARTICLE I

### GENERAL PROVISIONS AND DEFINITIONS

**Section 1.**     **Applicability.** These Bylaws provide for the governance of Westyn Village, a planned subdivision development, located in County of Bedford, Virginia.

**Section 2.**     **Office.** The office of the Association shall be located at the Property or at such other place as may be designated from time to time by the Board of Directors. The initial office shall be located at 1230 Cottontown Drive, Forest, VA 24556.

**Section 3.**     **Definitions.** Terms used herein without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions of Walnut Creek, as amended from time to time.

(a)     "Association" or "Corporation" shall mean and refer to Westyn Village Owners Association, Inc., its successors and assigns.

(b)     "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association, its successors and assigns.

(c)     "Developer" shall mean and refer to Westyn Village, LLC, its successors and assigns.

(d)     "Declaration" shall mean Declaration of Covenants and Restrictions recorded by the Developer in the Clerk's Office of the Circuit Court of Bedford County, as the same may be amended from time to time.

(e)     "Lot" shall mean and refer to any designated and numbered parcel contained within the Property.

(f)     "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities (including the Developer), of the fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired a title pursuant to foreclosure or any proceedings in lieu of foreclosure.

(g)     "Property" shall mean and refer to the property described on Exhibit A attached to Declaration, as may be increased as provided in Declaration.

## ARTICLE II

### MEMBERS' MEETINGS AND PRIVILEGES

**Section 1.**     **Annual Meeting:** The first Annual Meeting of the members of the Association shall be held within twelve (12) months from the date the first Lot is conveyed by Developer, and each subsequent Annual Meeting of the members shall be held in the same month of each year thereafter. If the day for the Annual Meeting of the members is a legal holiday, the meeting shall be held on the next succeeding day not a legal holiday.

**Section 2.**     **Other Meetings:** A special meeting of the members of the Association shall be held on the call of the President or the Board of Directors. In addition, the holders of at least twenty-five percent (25%) percent of all votes entitled to be cast on any issue proposed to be considered at the special meeting may call a special meeting of the members by signing, dating, and delivering to the Secretary of the Corporation one or more written demands for the meeting and describing the purpose or purposes for which such meeting is to be held.

**Section 3.**     **Notice of Meeting:** All meetings of the members shall be held at the times and places as determined by the President or the Board of Directors of the Association. Written notice stating the place, day and hour of each meeting of the members, and in case of a special meeting the purpose or purposes for which the meeting is called, shall be given either personally or by mail, to each member of record entitled to vote at such meeting. Such notice shall be given no less than ten (10) nor more than sixty (60) days before the date of such meeting, except that notice of a members' meeting to act on an amendment to the Articles of Incorporation, a plan of merger, a proposed sale of assets pursuant to § 13.1-900 of the Code of Virginia (1950), as amended, or the dissolution of the Corporation, shall be given no less than twenty-five (25) nor more than sixty (60) days before the date of such meeting. Any such notice shall contain or be accompanied by a copy of the proposed amendment, plan of merger, or dissolution.

If an annual or special meeting is adjourned to a different date, time, or place, notice need not be given if the new date, time, or place is announced at the meeting before adjournment, provided, however, that if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting, notice of the adjourned meeting shall be given under this Section 3 of this Article to all persons who are members as of the applicable record date.

**Section 4.**     **Membership.** Every Owner shall be a member in the Association pursuant to the terms of Section 5 of this Article.

**Section 5.**     **Classes of Members.** The Association shall have two classes of members: Class A and Class B. Class A members shall be every Owner of a Lot other than Developer. The sole Class B member shall be the Developer.

**Section 6.**     **Voting Rights; Quorum Defined:** Each individual Class A member shall be entitled to one vote for each Lot owned by such member, provided that if a Lot is owned by two or more parties the owners of such Lot shall designate and notify the Association the one owner entitled to cast the vote for the Lot. Any Person owning a Lot, other than an individual, shall provide the

Association with the name or names of the individuals that may act on behalf of such Person. The Class B member shall be entitled to three (3) times the number of votes held by Class A members. Forty percent (40%) of the votes entitled to be cast on any matter constitutes a quorum. Once a member is represented for any purpose at a meeting, he is deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or shall be set for that adjourned meeting as provided in Section 7 of this Article.

Less than a quorum may adjourn a meeting to a fixed time and place, and further notice shall be given if required by Section 3 of this Article.

**Section 7. Record Date:** The Board may fix in advance the record date for any proper purpose, including, but not limited to, a determination of members entitled to notice or to vote at any meeting of members or any adjournment thereof. A record date fixed under this Section may not be more than seventy (70) days before the meeting or action requiring a determination of members.

A determination of members entitled to notice of or to vote at any meeting of members shall be effective for any adjournment of the meeting unless the Board fixes a new record date. The Board shall fix a new record date if the meeting is adjourned to a date more than one hundred twenty (120) days after the date fixed for the original meeting.

**Section 8. Conduct of Meetings:** The President shall preside over all meetings of the members. If the President be absent, the Vice-President shall preside. If no such officer be present, a Chairman shall be elected by the meeting. The Secretary of the Corporation shall act as Secretary of all the meetings if he or she is present. If the Secretary is absent, the Chairman shall appoint a Secretary of the meeting. The Chairman of the meeting may appoint one or more inspectors of election to determine the qualification of voters, the validity of proxies, and the results of ballots.

**Section 9. Proxies.** A vote may be cast in person or by proxy. Such proxy may be granted by any Owner in favor of only another Owner, the Secretary of the Association, the Developer or his Mortgagee. Proxies shall be duly executed in writing, shall be witnessed, shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the meeting. Such proxy shall be deemed revoked only upon actual receipt by the person presiding over the meeting of notice of revocation from any of the persons owning such Lot.

## ARTICLE III

### BOARD OF DIRECTORS AND INSURANCE OBLIGATIONS

**Section 1. Number, Election and Term:** The Board of Directors (the "Board") shall be elected at the Annual Meeting of the members or at any special meeting held in lieu thereof. No individual shall be named or elected as a Director without his prior consent. The number of initial Directors shall be three (3). The members of the Association may, by majority of all votes entitled to be cast, increase or decrease the number of Directors, provided that the Board shall be composed of no fewer than three (3) and no more than seven (7) Directors. No reduction in the number of Directors shall have the effect of shortening the term of any incumbent Director. Directors need not be members or residents of the Commonwealth of Virginia. Unless otherwise removed by the members pursuant to Section 3 of this Article III, Directors shall hold office for one (1) year terms. Any Director may be removed from office at any time as permitted in the Articles of Incorporation and these Bylaws.

**Section 2. Terms:** Except as provided in Section 3 below, the members of the Board of Directors shall serve one (1) year terms. As long as there is a Class B member, the Developer shall appoint all the members of the Board of Directors. At the time there is no longer a Class B member, the members of the Association shall appoint the members of the Board of Directors at the next annual meeting of the of the members of the Association.

**Section 3. Removal and Vacancies:** The members may remove one (1) or more Directors with or without cause. A Director may be removed by the members only at a meeting called for the purpose of removing him, and the notice of the meeting must state that the purpose, or one of the purposes of the meeting, is removal of the Director. Unless a greater number of votes is required by the Articles of Incorporation, a Director may be removed if the number of votes cast to remove him constitutes a majority of the votes entitled to be cast at an election of Directors.

Any vacancy on the Board of Directors, including a vacancy resulting from an increase in the number of Directors, may be filled either by a majority of the Board or by a majority of those members present at a meeting of members at which a quorum has been established, provided, however, if the vacant office was held by a Director elected by a voting group of members, only the members of that voting group are entitled to vote to fill the vacancy if it is filled by the members. If the Directors remaining in office constitute fewer than a quorum of the Board of Directors, they may fill the vacancy by the affirmative vote of a majority of the Directors remaining in office. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date or otherwise, may be filled before the vacancy occurs, but the new Director may not take office until the vacancy occurs.

**Section 4. Meetings and Notices:** The Annual Meeting of the Board shall be held, without notice, immediately following the Annual Meeting of the members. Other meetings of the Board shall be held at times fixed by resolution of the Board, or upon the call of the President or a majority of the members of the Board. Notice of any meeting not held at a time fixed herein or by resolution of the Board shall be given to each Director at his residence or business address by delivering such notice to him or by telephoning or telegraphing it to him at least twenty-four (24) hours before the

meeting. Any such notice need not set forth the purpose of the meeting. Meetings may be held without notice if all the Directors are present or those not present waive notice before or after the meeting.

A Director may waive any notice required by law, the Articles of Incorporation, or these Bylaws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as hereinafter provided, the waiver shall be in writing, signed by the Director entitled to the notice, and shall be filed with the minutes or corporate records. A Director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the Director at the beginning of the meeting or promptly upon his arrival objects to the holding of the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

The Board of Directors may permit any or all Directors to participate in a regular or special meeting of the Board by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting, provided that the Secretary of the meeting shall maintain complete and accurate minutes of all such meetings.

**Section 5. Quorum and Voting.** Except as otherwise provided in the Articles of Incorporation or these Bylaws, a quorum of the Board of Directors consists of a majority of the Directors elected and serving as of the time of the meeting in question, provided, however, that in no event shall a quorum be deemed to consist of fewer than two-thirds of the number of Directors fixed under Section 1 of this Article. If a quorum is present when a vote is taken, the affirmative vote of a majority of Directors present is the act of the Board of Directors.

A Director who is present at a meeting of the Board of Directors or a Committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless (1) he objects at the beginning of the meeting or promptly upon his arrival to holding the meeting or transacting specified business at the meeting; or (2) he votes against, or abstains from, the action taken.

Whenever the Board is required by law to recommend or approve any proposed corporate act, such recommendation or approval shall not be required if the proposed corporate act is adopted by the unanimous consent of the members.

**Section 6. Conduct of Meetings.** The Board shall appoint one of its members to serve as Chairman of the Board. The Chairman of the Board shall serve at the pleasure of the Board, and shall preside over all meetings of the Board at which he is present. If the Chairman be absent at any meeting of the Board or if no Chairman has been appointed, a Chairman of the meeting shall be appointed unless the president of the Corporation is also a member of the Board and is present, in which event the president shall act as Chairman of the meeting.

**Section 7. Insurance Requirements:** The Board of Directors and each Lot Owner shall purchase and maintain the insurance in accordance with the terms and conditions set forth on **Exhibit A** attached to the Bylaws and incorporated herein by reference. The Association is not

providing any insurance coverage for any Townhouse or other improvements on any Lot and each Lot Owner shall be solely responsible such coverage as provided on Exhibit A.

**Section 8. Powers and Duties.** The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association. The Board of Directors shall have the power from time to time to adopt any Rules and Regulations, as may be amended from time to time. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall on behalf of the Association:

- (a) Prepare and adopt an annual budget which sets forth the annual assessment.
- (b) Establish the means and methods of collecting the annual assessments and any special assessments from the Owners and establish the period of the installment payment, if any, of the annual assessment.
- (c) Provide for the operation, care, upkeep and maintenance of all of the Common Areas.
- (d) Designate, hire and dismiss the personnel necessary for the maintenance, operation, repair and replacement of the Common Areas and for providing services for the Property and, where appropriate, provide for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties, which supplies and equipment shall be deemed part of the property of the Association.
- (e) Collect the assessments against the Owners, deposit the proceeds thereof in bank depositories designated by the Board of Directors and use the proceeds to carry out the administration of the Association.
- (f) Make and amend the Rules and Regulations.
- (g) Open bank accounts on behalf of the Association and designate the signatories thereon.
- (h) Make, or contract for the making of, repairs, additions and improvements to or alterations of the Property, and repairs to and restoration of the Property, in accordance with these Bylaws, after damage or destruction by fire or other casualty, or as a result or condemnation or eminent domain proceedings.
- (i) Enforce by legal means the provisions of the Declaration, these Bylaws and the Rules and Regulations.
- (j) Act on behalf of the Owners with respect to all matters arising out of any eminent domain proceeding, and notify the Owners of any litigation against the Association involving a claim in excess of \$25,000.

(k) Obtain and carry insurance against casualties and liabilities as may be deemed appropriate by the Board of Directors, pay the premiums therefor and adjust and settle any claims thereunder.

(l) Keep books and detailed accounts of the receipts and expenditures affecting the Property, and the administration of the Association. Such books and vouchers accrediting the entries therein shall be available for examination by the Owners, their attorneys, accountants and authorized agents during general business hours on business days at the times and in the manner set and announced by the Board of Directors for the general knowledge of the Owners. All books and records shall be kept in accordance with generally accepted accounting principles, and the same may be audited by an independent auditor retained by the Board of Directors.

(m) Borrow money on behalf of the Association when required in connection with any instance relating to the operation, care, upkeep and maintenance of the Property or property owned or leased by the Association; provided, however, that the consent of at least two thirds of all, obtained either in writing or at a meeting duly called and held for such purpose in accordance with the provisions of these Bylaws, shall be required to borrow any sum in excess of \$25,000.

(n) Acquire, hold, lease and dispose of any interest in any real property and mortgage the same if such expenditures and hypothecations are included in the budget adopted by the Association.

(o) Employ or dismiss a Managing Agent in accordance with the terms and conditions set forth in Section 9 of this Article III.

(p) Enter into a lease for the use of the pool and clubhouse to be constructed and located on the adjacent property on terms and conditions acceptable to the Board of Directors which shall provide each Owner, their families and guests, access to the pool and clubhouse and any other areas designated in the Lease, which may include access to and the use of playground equipment. Use of the pool and clubhouse and other areas designated in the Lease shall be subject to the rules established by the owner of the pool and clubhouse and other areas subject to the lease from time to time.

(q) Do such other things and acts not inconsistent with law, the Declaration, or these Bylaws.

Section 9. Managing Agent. The Board of Directors may employ for the Property a "Managing Agent" at a compensation to be established by the Board of Directors.

(a) Requirements. The Managing Agent if employed shall be a bona fide business enterprise, which may manage common interest residential communities. Such firm shall have adequate experience in real estate community management and shall employ persons possessing a high level of competence in the technical skills necessary to proper management of the Property. The Managing Agent must be able to advise the Board of Directors regarding the administrative operation of the Property.



(b) Duties. The Managing Agent shall perform such duties and services as the Board of Directors shall direct. The Board of Directors may delegate to the Managing Agent all of the powers granted to the Board of Directors by these Bylaws other than the powers set forth in subsections (b), (f), (g), (n), (o), (p) and (q) of Section 8 of this Article. The Managing Agent shall perform the obligations, duties and services relating to the management of the Property, the rights of Mortgagees and the maintenance of reserve funds in compliance with the provisions of these Bylaws.

(c) Standards. The Board of Directors shall impose appropriate standards of performance upon the Managing Agent. Unless the Managing Agent is instructed otherwise by the Board of Directors:

(1) the cash method of accounting shall be employed and expenses required by these Bylaws to be charged to more than one but less than all Owners shall be accounted for separately;

(2) two or more persons shall be responsible for handling cash to maintain adequate financial control procedures;

(3) cash accounts of the Association shall not be commingled with any other accounts;

(4) no remuneration shall be accepted by the Managing Agent from vendors, independent contractors or others providing goods or services to the Association whether in the form of commissions, finders fees, service fees or otherwise; any discounts received shall benefit solely the Association;

(5) any financial or other interest which the Managing Agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors; and

(6) a financial report shall be prepared at least quarterly for the Association containing;

(A) an income statement reflecting all income and expense activity for the preceding month on an accrual basis;

(B) a statement reflecting all receipt and disbursement activity for the preceding month on a cash basis;

(C) an account status report reflecting the status of all accounts in an "actual" versus "projected" (budget) format;

(D) a balance sheet reflecting the financial condition of the Association on an unaudited basis; and

(F) a delinquency report listing all Owners who are delinquent in paying assessments or accounts due the Association and describing the status of any actions to collect such assessments.

(d) Limitations. The Board of Directors may employ a Managing Agent for a term not to exceed one year. Any contract with the Managing Agent must provide that it may be terminated, without payment of a termination fee, without cause on no less than thirty days' written notice; or in the case of termination for cause, without prior written notice.

## ARTICLE IV

### OFFICERS

Section 1. Number, Election, and Term: The Board of Directors, promptly after its election each year, shall elect a President, a Secretary and a Treasurer, and may elect or appoint one (1) or more Vice Presidents and such other officers as it may deem proper. Any person may simultaneously hold more than one (1) office. All officers shall serve for a term of one (1) year or until their respective successors are elected, but any officer may be removed summarily with or without cause and at any time by the Board of Directors.

Section 2. Duties of President: The President shall be the chief executive officer of the Corporation, and when present, shall preside at all meetings of the members. Unless a Chairman of the Board of Directors has been elected and is present, the President, when present, shall also preside at meetings of the Board of Directors, provided that he is a member of the Board of Directors. The President shall have the power and authority to sign all certificates of membership, bonds, deeds, mortgages, extension agreements, leases, and contracts of the Corporation. The President shall further perform all of the duties commonly incident to his office along with such other duties as the Board shall designate from time to time.

Section 3. Duties of Vice President: Except as specifically limited by resolution of the Board of Directors, the Vice President shall perform the duties and have the powers of the President during the absence or disability of the President, and shall further have the power and authority to sign all bonds, deeds, and contracts of the Corporation. The Vice President shall further perform all duties commonly incident to his office, and shall perform such other duties and have such other powers as the Board shall designate from time to time.

In the event that more than one Vice President shall be elected or appointed to office at any one time, the power and authority of each of the respective Vice Presidents shall be determined by resolution of the Board.

Section 4. Duties of Secretary: The Secretary shall keep accurate minutes of all meetings of the members and the Board, and shall be authorized to affix the seal of the Corporation to any and all documents and instruments duly executed on behalf of the Corporation by any of its officers. In the absence of the Secretary at any meeting, an assistant secretary or a secretary pro tempore shall

perform the duties of the Secretary at such meeting. The Secretary shall further perform all the duties commonly incident to the office of Secretary, and shall perform such other duties and have such other powers as the Board shall designate from time to time.

**Section 5.** **Duties of Treasurer:** The Treasurer, subject to an order of the Board of Directors, shall have the care and custody of the money, funds, valuable papers, and documents of the Corporation (other than his own bond, if any, which shall be in the custody of the President). The Treasurer shall further keep accurate books of account of the Corporation's transactions, which books shall be and remain the sole property of the Corporation and, together with all its property in his possession, shall be subject at all times to the inspection and control of the President and the Board. The Treasurer shall further have and exercise all of the powers and duties commonly incident to his office, and shall have and exercise such other duties and powers as the Board shall from time to time designate.

## ARTICLE V

### LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

**Section 1.** **Liability:** Pursuant to Va. Code § 13.1-870.1(E), no officer or director of the Corporation shall be liable for damages arising out of a single transaction, occurrence, or course of conduct in excess of any compensation received by the director or officer from the Corporation in the twelve months immediately preceding the act or omission for which liability was imposed. An officer or director who serves the Corporation without compensation shall not be liable for damages in any such proceeding.

**Section 2.** **Indemnification:** To the full extent permitted under Article 9, Chapter 10 of Title 13.1 of the Code of Virginia, the Corporation shall indemnify any officer or director for any liability accruing to him or her because he or she was an officer or director of the Corporation.

## ARTICLE VI

### ASSESSMENT OF MEMBERS

As more particularly described in the Declaration, the Board of Directors shall have the power to fix, levy, collect, and enforce payment of, by any lawful means, annual and special assessments. The amount of assessments shall be determined from time to time by the Board of Directors. Assessments shall be levied in an equitable manner as determined by the Board of Directors in its reasonable discretion, provided, that all Lots shall be assessed at an equal rate, without consideration of the value of any improvements on individual Lots. All assessments shall be in accordance with the Declaration and shall be used primarily for the purpose of providing for management, maintenance, preservation and architectural control of the Lots and the Common Areas and the operational and administrative costs of Association.

ARTICLE VII

SEAL

The seal of the Corporation shall be a flat-faced circular die with the word "SEAL" and the name of the Corporation engraved thereon.

ARTICLE VIII

VOTING OF OTHER STOCK HELD

Unless otherwise provided by the Board of the Corporation, the President may either appoint agents or attorneys to vote any stock of any other corporation owned by this Corporation or may attend any meeting of the holders of stock of such other corporation and vote such shares in person.

ARTICLE IX

CHECKS, NOTES AND DRAFTS

Checks, notes, drafts and other orders for the payment of money shall be signed by the President or the Treasurer of the Corporation, or such other person or persons as the Board may authorize from time to time. The signature of any such person may be a facsimile when authorized by the Board.

ARTICLE X

FISCAL YEAR

The fiscal year of the Corporation shall begin on January 1 and end on December 31 of each year.

ARTICLE XI

AMENDMENT OF BYLAWS

A proposed amendment to these Bylaws shall be adopted upon the vote of two-thirds of all votes entitled to be cast, by members present or represented by proxy at the meeting at which such proposed amendment is considered. In the event of a conflict between the terms and conditions set forth in these Bylaws and the Declaration, the provisions of the Declaration shall control.

Exhibit A to Bylaws

INSURANCE PROVISIONS

Section 1. Association.

(a) The Board of Directors of the Association shall maintain and annually review insurance coverages including the following: general liability insurance in a minimum amount of at least \$1,000,000 per occurrence and \$2,000,000 aggregate to cover the Association, Declarant and the Owners as a group and hazard insurance coverage on all Common Area and improvements on the Common Area, including personal property owned by the Association, in an amount equal to the full replacement value of such improvements and personal property owned by the Association. All insurance policies purchased by the Association shall be for the benefit of the Association, the Declarant, the Owners and their mortgagees as their interests may appear. The Board of Directors shall maintain appropriate directors and officers legal liability insurance in the amounts determine by the Board of Directors

(b) Developer, so long as Developer shall own any Lot, shall be protected by all such policies as a Lot Owner.

(c) All policies of insurance shall be written by reputable companies licensed to do business in the Commonwealth of Virginia.

(d) The deductible amount, if any, on any insurance policy purchased by the Board of Directors shall be paid from the annual or special assessments paid to the Association by the Lot Owners.

Section 2. Other Association Insurance. The Board of Directors shall obtain and maintain, unless such insurance is not obtainable or otherwise deemed cost prohibitive:

(a) Adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all others who handle, or are responsible for handling, funds of the Association, including the Managing Agent. Such fidelity bonds shall: (i) name the Association as an obligee; (ii) be written in an amount not less than one-half the total annual assessments for the year or the amount required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, whichever is greatest; and (iii) contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression;

(b) Workmen's compensation insurance if and to the extent necessary to meet the requirements of law;

(c) Such other insurance as the Board of Directors may determine or as may be requested from time to time by a majority of the Lot Owners.

Section 3. Owner's Insurance. Each Lot Owner shall obtain a Homeowners Policy Special

Form 3 ("HO 3"), or such comparable policy if the HO 3 is no longer available, insuring the Townhouse on an all risks basis and insuring that all loss shall be paid on a replacement cost basis, with no deduction for depreciation if available.

ARTICLES OF INCORPORATION  
OF  
WESTYN VILLAGE OWNERS ASSOCIATION, INC.

We hereby associate to form a corporation under the provisions of Title 13.1, Code of Virginia, and to that end set forth the following:

ARTICLE I  
NAME

The name of the corporation is Westyn Village Owners Association, Inc. (the "Association").

ARTICLE II  
REGISTERED AGENT

The address of the initial registered office of the Association is 28A Kirk Avenue, SW, Roanoke, VA 24011, located in the City of Roanoke. The name of its initial registered agent is C. Cooper Youell, IV, who is a resident of Virginia and a member of the Virginia State Bar, whose business address is the same as the address of the initial registered office of the Association and who meets the requirements of Section 13.1-634 of the Code of Virginia.

ARTICLE III  
INITIAL BOARD OF DIRECTORS

The number of directors constituting the initial Board of Directors is three (3) and the names and addresses of the persons to serve as the initial Directors are:

<u>Name</u>	<u>Address</u>
Thomas P. Bell	P.O. Box 148 Forest, VA 24551
Sherry Bell	190 Dayspring Road Rustburg, VA 24588
Theodore Bell	190 Dayspring Road Rustburg, VA 24588

At the first annual meeting after Westyn Village, LLC (the "Declarant"), or its assigns, is no longer the Class B Member of the Association, the Members of the Association shall elect the directors for one year terms as provided in the Bylaws of Westyn Village Owners Association, Inc. attached to the Declaration of Covenants, Easements and Restrictions (the "Declaration") to be recorded in the Clerk's Office of the Circuit Court of Bedford County (the "Clerk's Office").

**ARTICLE IV**  
**PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and control of that certain tract of property described in the Declaration (the "Property") to promote the health, safety and welfare of the residents within the Property and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration, including the Bylaws, as the same may be amended from time to time as therein provided, said Declaration and all exhibits being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, mortgage, pledge, deed in trust, or hypothecate any or all of the Association's real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area, as defined in the Declaration, which it may own to any public agency, authority, or utility. No such dedication or transfer shall be effective unless an instrument has been signed by the Declarant as identified in the Declaration or approved by the Membership and then signed by all Members of the Board, agreeing to such dedication, sale or transfer.

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property provided that any such merger, consolidation or annexation shall be in accordance with the provisions of the Declaration and the By-Laws;

(g) have and to exercise any and all other powers, rights and privileges permitted by a non-stock corporation under Virginia law.



**ARTICLE V**  
**MEMBERSHIP**

The Declarant and every person or entity who is a record owner of a fee or undivided fee interest in any Lot, as defined in the Declaration, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

**ARTICLE VI**  
**VOTING MEMBERSHIP**

The Association shall have two (2) classes of voting Membership:

**Class A.** Class A Members shall be all Lot Owners, including the Declarant, and shall be entitled to one (1) vote for each Lot. When more than one person holds an interest in any Lot, all persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class B.** The Class B Member shall be the Declarant, or its assignee, and shall be entitled to three (3) times the total number of Class A votes. The Class B Membership shall cease and terminate at the earlier of two years after the date when the Declarant no longer owns any Lot; the tenth (10<sup>th</sup>) anniversary of the date Declaration is recorded in the Clerk's Office; or the date the Declarant executes and records an instrument in the Clerk's Office terminating the Class B Membership.

**ARTICLE VII**  
**AMENDMENTS**

Amendments to these Articles of Incorporation may be adopted in the same manner as is provided for the amendment of the Declaration. Said amendment(s) shall be effective when a copy thereof, together with an attached certificate, signed by the Secretary, and executed and acknowledged by the President, has been filed with the State Corporation Commission and all filing fees paid. Notwithstanding any provision of this Article VII to the contrary, these Articles of Incorporation shall not be amended in any manner which shall abridge, amend or alter the rights of the Declarant as set forth in the Declaration or the Bylaws attached thereto, without the prior written consent to such amendment by the Declarant.

**ARTICLE VIII**  
**DISSOLUTION**

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds of the Members *provided that* upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused, the assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization devoted to such similar purposes.

**ARTICLES IX**  
**DURATION**

The corporation shall exist perpetually.

IN WITNESS WHEREOF, the incorporator has signed these Articles of Incorporation this 1<sup>st</sup> day of December, 2021.

By: C. Cooper Youell, IV  
C. Cooper Youell, IV, Incorporator

# Commonwealth of Virginia



## STATE CORPORATION COMMISSION

Richmond, December 2, 2021

This is to certify that the certificate of incorporation of

### **Westyn Village Owners Association, Inc.**

was this day issued and admitted to record in this office and that the said corporation is authorized to transact its business subject to all Virginia laws applicable to the corporation and its business.

Effective date: December 2, 2021



STATE CORPORATION COMMISSION

Attest:

A handwritten signature in cursive script, appearing to read "Bernard J. Stoy".

Clerk of the Commission

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

**AT RICHMOND, DECEMBER 2, 2021**

The State Corporation Commission has found the accompanying articles of incorporation submitted on behalf of

**Westyn Village Owners Association, Inc.**

to comply with the requirements of law, and confirms payment of all required fees. Therefore, it is ORDERED that this

**CERTIFICATE OF INCORPORATION**

be issued and admitted to record with the articles of incorporation in the Office of the Clerk of the Commission, effective December 2, 2021.

The corporation is granted the authority conferred on it by law in accordance with the articles of incorporation, subject to the conditions and restrictions imposed by law.

**STATE CORPORATION COMMISSION**

By

A handwritten signature in black ink that reads "Angela Navarro". The signature is written in a cursive style with a long horizontal stroke at the end.

**Angela L. Navarro  
Commissioner**



COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

Office of the Clerk

December 2, 2021

Leigh G Holland  
28A Kirk Avenue SW  
Roanoke, VA, 24011

RECEIPT

RE: Westyn Village Owners Association, Inc.  
ID: 11313036  
FILING NO: 2112023925621  
WORK ORDER NO: 202112012210578

Dear Customer:

This is your receipt for \$75.00 to cover the fees for filing articles of incorporation with this office.

This is also your receipt for \$200.00 to cover the fee for expedited service.

The effective date of the certificate of incorporation is December 2, 2021.

If you have any questions, please call (804) 371-9733 or toll-free 1-866-722-2551.

Sincerely,

Bernard J. Logan  
Clerk of the Commission

RETURNED  
 MAILED

Sherry Bell  
\$65.00

INSTRUMENT #210017318  
RECORDED BEDFORD CO CIRCUIT COURT CLERK'S OFFICE  
Dec 08, 2021 AT 11:19 am  
JUDY E. REYNOLDS, CLERK by LZP

Delivery Method: Email