

**Declaration of Covenants, Conditions and Restrictions  
for  
EDGEWATER SUBDIVISION  
Benton County, Arkansas**

**SECTION ONE  
GOVERNING BODIES**

Brenda DeShields-Circuit Clerk  
Benton County, AR  
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A. GENERALLY. This Declaration and the similar Declaration of the Subdivision shall be implemented by the Board of Directors ("Board of Directors" or "the Board") of the Edgewater Subdivision Property Owners' Association, Inc. ("POA" or "the Association") and the POA's Architectural Control Committee, as established herein.

B. POA BOARD OF DIRECTORS.

1. Generally. The Board of Directors of the POA shall consist initially of three (3) directors, which shall be designated representatives of the Developer. After all three directors have served one year, they shall elect one of them to resign. The remaining directors shall thereafter appoint a successor, which shall be a property owner, to fill the remainder of the resigning director's term. The initial directors shall serve ten (10) year terms. In the event of the death or resignation of any initial director prior to the expiration of his or her term, the vacancy shall be filled by an appointment of the remaining directors. After the expiration of the terms of the initial directors, elections shall be held to fill each of the three (3) seats, which shall have staggered terms of three (3), four (4), and five (5) years, respectively. Upon the expiration of each term of these initially elected directors, elections shall be held to fill the expired position, which shall thereafter be for a term of five (5) years. These subsequent directors shall be residents of the Subdivision. These elections will be held at called meetings upon giving ten (10) days written notice to all lot owners who may cast one vote for each platted lot owned. The Board of Directors of the Association shall have the sole authority to appoint members to the Architectural Control Committee as provided for herein. Additionally, the Board of Directors of the Association shall have the power to enforce the Declaration and to review all violations of this Declaration for proper action. The Board of Directors shall elect from among themselves a President, a First Vice President in Charge of The Architectural Control Committee, a Second Vice President in Charge of The Grounds and Landscaping Committee, a Secretary, and a Treasurer and may elect such other officers as may be needed from time to time. The President, the Secretary, and the Treasurer shall have the duties that normal corporate presidents, secretaries, and treasurers have and such other duties as established by the Board of Directors. All officers shall be elected annually. A person may not be elected President for more than two consecutive years. There shall be no limitations on the terms of any other office.

C. ARCHITECTURAL CONTROL COMMITTEE

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1. Purposes and Composition. The Architectural Control Committee ("ACC") shall insure that all dwellings and accessory buildings constructed in the Subdivision have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Subdivision. The ACC shall be composed of three (3) members appointed by the Board. Members of the ACC shall serve three (3) year terms, except that the chairman of the ACC, who shall be the First Vice President in Charge of The Architectural Control Committee and who shall be elected annually by the Board. No absentee owner may serve on the ACC. In the event of the death or resignation of any member prior to the expiration of his or her term, the Board of Directors of the POA shall appoint a successor to complete the term of the deceased or resigning member.

2. Authority and Duties

a. Any property owner seeking to construct a new home or other pertinent structure, or to add or to modify any portion of the exterior of an existing home, shall submit the plans and written specifications to the ACC for review along with the completed official ACC construction request form signed by the lot owner and the builder. The written plans and specifications for the home exterior shall include, but shall not be limited to, decks, hot tubs, patios, pools, additions to or deletions of planted or landscaped areas, equipment and material storage buildings, accessory buildings, dog runs, gazebos, arbors, roofing material, exterior lighting, exterior building materials, and other similar construction, as well as the builder(s), which the property owner intends to use to erect the same.

b. No construction, change, modification or alteration shall commence until the plans and specifications detailing the nature, kind, shape, height, construction materials, and location of the improvements on the lot, and a landscaping plan for the lot, shall have been submitted to, and approved in writing by, the ACC. In the event the ACC fails to approve or disapprove said plans and specifications within thirty (30) days after written confirmation by the ACC that sufficiently complete plans and specifications have been submitted to it, approval will not be required and full compliance with this section of the Declaration will be deemed to have occurred. It shall be the responsibility of the lot owner to obtain written confirmation that sufficiently complete plans and specifications have been submitted. All construction projects shall be completed within two (2) years of the time that they are started. If a construction project is abandoned after the dirt on the lot is disturbed, the builder or lot owner shall restore the lot to its original condition with grass growing to prevent erosion.

c. Without limiting the factors to be considered in the approval or disapproval of any plans and specifications submitted to it, the ACC shall apply the building restrictions set forth below under Sections Two and Three of this Declaration.

d. Notwithstanding the foregoing provisions, the ACC and the Association

shall have no affirmative obligation to be certain that all elements of the design comply with the restrictions contained in this Declaration, and no member of the ACC or the Association and its Board of Directors shall have any liability, responsibility or obligation whatsoever for any action or decision, or lack thereof. The ACC and its members shall have only advisory and approval functions, the sole responsibility for compliance with all of the terms of this declaration shall rest with the lot owner. Each lot owner agrees to save, defend, and hold harmless the ACC and the Association and its members on account of any activities of the ACC relating to such lot owner's property or buildings to be constructed.

e. Only building contractors who have been approved by the ACC in conjunction with plans submitted to it by a property owner shall be allowed to construct any improvements within the Subdivision. A clean-up deposit of \$500.00 shall be paid by the lot owner. Additionally, the ACC may require the building contractor to secure an appropriate letter of credit prior to commencing construction. Any building contractor participating in any fashion on any job in the Subdivision impliedly consents to the authority of the ACC to set forth additional requirements or restrictions as may be deemed appropriate.

## **SECTION TWO BUILDING AND USE RESTRICTIONS**

A. BUILDING SITE. A "building site" shall consist of one or more numbered lots as shown on the face of the plat of Edgewater Subdivision or any modifications or adjustments thereto. No individual lot may be split to create two or more lots. No building or structure shall be erected, constructed, maintained, or permitted on such residential lots, except on a "building site" as defined above.

B. LAND USE / BUILDING USE.

1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than a single-family dwelling not to exceed two and one-half (1/2) stories in height.
2. In no case shall any lot be altered for the purpose of placing more than one house per lot.
3. Accessory buildings or separate storage buildings shall not be used for or in connection with multi-family living, and each building site shall be used for no more than one family, together with attendants or domestic servants of that family. All such buildings shall conform to all Benton County ordinances as may apply.

C. BUILDING TYPE

1. No residence shall be constructed in Edgewater Subdivision on any lot having less than two thousand two hundred (2,200) square feet of living area for a one-story

dwelling, exclusive of porches, carports, garages, basements, and storage rooms. No dwelling shall be permitted on any lot having less than one thousand eight hundred (1,800) square feet of living area on the main floor for a dwelling of more than one-story, exclusive of porches, carports, garages, basements, and storage rooms. .

2. A minimum of one (1) two-car garage, measuring at least twenty-four feet by twenty-four feet (24' x 24') will be required for each dwelling and must be kept and maintained as part of the house. Detached garages shall require ACC approval, and shall be constructed in the same architectural style and materials as the main residence.

3. Revisions to approved architectural plans are discouraged; however, any revision to any previously approved plan should be for upgrade purposes only. All revisions must be submitted to the ACC as set forth herein prior to commencing construction.

D. BUILDING LOCATION. No building shall be located nearer than ten (10) feet to an interior lot line nor nearer the front or back lot line than the minimum building setback lines shown on the recorded plat, if any are shown thereon, EXCEPT a five (5) feet side yard shall be required for one separate storage building, not to exceed one thousand two hundred (1,200) square feet, located one hundred (100) feet or more from the minimum building setback line. Said separate storage building shall be constructed of and in keeping with like materials and design of residence. For purposes of this covenant, eaves, steps, and open porches shall not be considered part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

E. BUILDING MATERIALS. The exterior walls of each building constructed or placed on any lot in the Subdivision shall be one hundred percent (100%) masonry material. Masonry material shall include brick, stone, stucco, or other similar masonry material, unless specifically approved by the ACC. This restriction shall not apply to the eaves or fascia of any such building, or other Architectural accents. All exterior colors of any material must be compatible and approved by the ACC.

F. NEW CONSTRUCTION. All outside construction of a building must be completed within two hundred forty (240) days of first excavation of the land. Paint, stain, masonry, or other exterior finishes also must be completed in this time period. No building material of any kind or character shall be placed or stored upon any lot in the subdivision until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the street or property lines. Building contractor or property owner must keep the area neat at all times. Upon completion of the improvements requiring such materials, all remaining building materials and equipment shall be removed from the subdivision. Burning of scrap materials is prohibited.

G. ROOFS. All roofing material shall be approved by the ACC prior to the installation of such materials. Such materials shall be limited to 40 year architectural shingles, cedar shakes, cedar shingles, slate or tile. No metal roofs shall be permitted. The roof pitch of any structure shall be an eight foot rise over a twelve foot run (8' x 12') minimum.

H. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement,

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tent, shack, garage, barn, or other out building shall be used on any lot at any time as a residence, either temporarily or permanently. No trailer shall be kept on any lot for more than two (2) days, except for use as a construction office, during the construction of a residence.

I. YARD SPACE RESTRICTIONS AND BUILDING LOCATION. All set back distances shall be set by the ACC on a lot-by-lot basis. No lot shall be subdivided into smaller lots or parcels than shown on the recorded Plats for the purpose of creating additional building sites or lots, except that a lot may be divided to combine portions of it with adjacent lots on both sides to enlarge the building sites on said adjacent lots.

EASEMENTS.

1. Generally. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on each lot as reflected on the recorded plats.

2. Private Access Easement. The community road as shown on the recorded plat is and shall remain private access easement for the sole use and benefit of lot owners within the community and their guests. This access easement shall be paramount to any liens or encumbrances which any lot owner may create so that no owner or guest may be denied access because of the actions or legal obligations of another lot owner. The access easement is not maintained by Benton County, Arkansas; accordingly, EDGEWATER PROPERTY OWNERS ASSOCIATION shall have sole responsibility of maintenance and repair of such access easement, with ease lot owner equally contributing to the expense of such maintenance and repair as determined solely by the said Association. In general, repair and maintenance shall consist of the following: (1) cleaning drainage ditches and clearing the right-of-ways adjacent to the access easement, and (2) such repairs and maintenance to the roadway as needed determined by the EDGEWATER PROPERTY OWNERS' ASSOCIATION.

K. EXTERIOR MECHANICAL DEVICES. Air conditioner units, heat pumps, solar devices, chimney flues, hot tub pumps, swimming pool pumps and filtration systems, satellite dishes, and similar mechanical equipment shall be aesthetically concealed from view on all sides and shall be shielded in such a manner as to minimize noise and safety concerns. All such devices shall be located in the rear yard area only. All such devices being installed with the initial construction of a residence shall be included in the landscaping plan for approval by the ACC.

L. YARDS AND LANDSCAPING REQUIREMENTS.

1. Landscaping Plan. All plans and specifications for new constructions submitted to the ACC shall include a landscaping plan, which plan shall include the entire lot and not just the front yard, but the plan may take into consideration ravines and other areas not suitable for grass or landscaping. No landscaping plan shall provide for leaving native grass anywhere in the yard (unless specifically approved by the ACC) but shall instead provide for planted, sodded, or hydra-mulched grass. All landscaping plans that provide for a fence shall comply with the fencing requirement below. All landscaping shall be completed within ninety (90) days of completion of construction or upon occupancy, whichever occurs first. The refund of any clean up deposit secured from the lot owner

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will not be refunded unless the conditions of this paragraph have been completed, in addition to any further clean up which may be necessary.

2. Maintenance of Grass. The grass on all vacant and built out lots shall be kept mowed so that the grass on the entire lot is no more than six inches (6") tall at any time. A brush hog may be used to mow a vacant lot but may not be used to mow a built out lot. All curbs shall be kept edged on both vacant and built out lots so that no grass grows over the curb. Both the inside and outside of all fences on a lot shall be edged. If mowing the yard on a built out lot results in clippings being blown into the street, the clippings shall on the same day be blown back into the yard or otherwise removed from the street.

3. Forced Yard Maintenance and Lien. After at least one attempt to contact the lot owner, the POA shall have the right, but not the obligation, to mow the yard of any lot that is not kept mowed as required and to charge the lot owner with the cost of the mowing plus a \$50.00 administrative fee each time that the lot has to be mowed. If the lot owner does not pay the cost of the mowing plus the \$50.00 administrative fee within thirty (30) days of being billed by the POA, the POA shall have the right to file a lien for the amount of the unpaid debt on the lot with the Benton County Circuit Clerk. As an alternative to filing a lien or in addition to filing a lien, the Board of Directors may bring an action in the District Court of Benton County, Bentonville Division to recover the cost of mowing, interest, the \$50.00 administrative fee, and, if an attorney is used, reasonable attorney fees.

4. Clutter Prohibited. All toys, newspapers, tree limbs, rocks, debris, etc. shall be kept picked up so as not to accumulate in an unsightly manner in view of any street.

5. Burning Yard Waste. Burning of yard waste shall be permitted with advanced notice being given to the Benton County Office of Emergency Services and conducted in accordance with county ordinance guidelines.

M. FENCING. All proposed fences, including the material, location, height, and quality of the fence, shall be included in the landscaping plan submitted to the ACC. Fences made of wire or pipe of any kind, including chain link, chicken wire, barbed wire, or any type of wood or man-made material, including fences deemed degrading to the neighborhood by a majority of Edgewater Property Owners' Association Board of Directors, shall not be permitted in the front yards of any homes or vacant lots. No fence shall have a height in excess of eight (8) feet. Wood fences shall be of a "shadow box" construction so that the exterior and interior portions are identical, and shall have two foot by two foot (2'x2') fence pillars that must be constructed of the same material as the main house (i.e. brick, stucco, or stone) and shall be twenty-four (24) to thirty (30) feet apart. For non-wood fences, the ACC shall set the distance between pillars. The front line of any fence shall not exceed the front elevation of the residence around which it is placed, and a residence shall be deemed to have a front elevation on each side that borders a street. Any necessary alteration to fences to maintain utilities will be done at the owner's expense. Dog pens, properly screened as required by the ACC, must be in rear yard portions and kept so as not to be a nuisance or obnoxious to any adjoining lot owner. All variations from these fencing requirements shall be made in writing by the ACC. All existing fences not in



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D. SIGHT DISTANCES AT INTERSECTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevation between two (2) and six (6) feet above the roadways shall be placed or be permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines. Fences made of wire or pipe of any kind

PARKING. All residences must have off-street parking only, and shall not be permitted to park off of designated driveways, parking pads, or garages. The ACC shall have the right to have vehicles in violation of this provision towed at the owner's expense.

F. LOT AND GROUND MAINTENANCE. No lot or easement shall be used or maintained as a dumping ground. Rubbish, leaves, grass, trash, garbage and/or other wastes shall be kept in non-corrosive/non-breakable trash containers. All equipment for the storage and/or disposal of such rubbish, trash, garbage or other wastes shall be kept in a clean and sanitary condition. No garbage or trash containers are to be kept in view of the street unless it is to be picked up within (twenty-four) 24 hours. Burning of garbage is prohibited. Burning of yard waste is permitted (within county ordinance guidelines) with advance notice to the Benton County Office of Emergency Services.

G. ANIMALS. No animals, livestock, swine or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other domestic pets may be kept and maintained, provided that they are not kept or maintained for commercial purposes, and provided that they are registered with the county, if required. Household pets shall be maintained in a clean and sanitary condition and shall not be obnoxious or a nuisance to the surrounding owners. Any owners with pets are required to provide containment or backyard fencing in accordance with the ACC specified acceptable fence requirements. Pet owners shall be liable for all damages caused by their pets.

H. TEMPORARY INHABITANTS. No travel trailer, camper, travel bus, boat, boat trailer, or inoperative car or truck shall be kept on any lot for more than two (2) days unless it shall be enclosed or screened from sight. No vehicles larger than three-fourths (3/4) ton truck or semi-trailer trucks may be parked on streets or in yard of property owners for longer than four (4) hours unless performing repairs or services to a residence in the subdivision. No motor homes or travel recreation vehicles may be occupied by guests or anyone else and may not at any time be hooked to utilities of home in the Subdivision. No mechanical work may be done on vehicles on driveway or in view of street if work requires dismantling of parts from vehicle causing vehicle to be inoperative. Tires may be changed in case of flats. No inoperative vehicle may remain on property for more than forty-eight (48) hours.

I. CLOTHES LINES. Only umbrella-type clotheslines shall be permitted.

J. SATELLITE DISHES. Satellite dish antennas will be permitted if screened from sight or



less than twenty-five (25) in diameter.

K. NON-OCCUPIED RESIDENCE OR LOT. A residential property vacated for four (4) months or longer for which the exterior of the residence or grounds are not being maintained shall be deemed a non-occupied residence. A non-occupied residence shall be ordered to be maintained by a majority vote of the duly constituted Edgewater Property Owners' Association Board of Directors in existence at such time and the property owner shall be liable for all maintenance costs.

**SECTION FOUR  
COMMON PROPERTY**

A. COMMON PROPERTY. The common tracts are shown on the face of the plats of the Subdivision and identified as "common property." Such tracts shall be for the benefit of all properties in the Subdivision and shall be maintained by the Association as provided in this Declaration.

B. MAINTENANCE. Maintenance of the common property shall be at the cost and expense of the members of the Association (lot owners) within the Subdivision.

C. LAKE ACCESS. As shown on recorded plat of the community, there is a common area which abuts Beaver Lake, which allows access to the waterfront property controlled by the United States Army Corps of Engineers. The common area shall be limited to only golf cart and small all terrain vehicles (ATVs). Motor vehicles, including but not limited to, motor bikes, and cycles and all large lot owners and their guests; all users shall be responsible for keeping the common area and the abutting property free and clean of all trash and rubbish as each usage is made.

D. BOAT DOCK. Private boat docks shall not be permitted within the community. A community boat dock shall be constructed as permitted by the United States Army Corps of Engineers and governed by the POA. The said Association shall have the sole responsibility of maintenance and repair of such community boat dock, with each boat slip owner equally contributing to the expense of such maintenance and repair as determined solely by the said Association. Any activities or usage of the community boat dock shall be at the sole risk of the user and their guests.

E. COMMON AREA USE. Any activities or usage of common areas shall be at the sole risk of the user and his / her guest.

**SECTION FIVE  
GENERAL AND SPECIAL ASSESSMENTS FOR ASSOCIATION**

A. PERSONAL OBLIGATION FOR ASSESSMENTS. By acceptance of the deed or other instrument of conveyance for his or her lot within the Subdivision, each lot owner shall be deemed to covenant and agree to pay to the Association annual assessments and special

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assessments for operating expenses incurred by the Association and for maintenance and care of the common properties. Such assessments shall be fixed, established, and collected from time to time as provided in this Declaration. The annual and special assessments, together with such interest thereon and costs of collection as provided below, shall be a continuing lien on the property affected and shall also be a personal obligation of the owner of such property from the date when the assessment is due and payable until paid in full. Such personal obligation shall not pass to successors in title to the affected property unless expressly assumed by such successors.

**B. ANNUAL ASSESSMENTS.** The annual assessment shall continue from year to year, shall be due on January 1st of each year, and shall be delinquent if not paid by March 1st of each year. The Board of Directors shall have the right from time to time to propose to the members an increase in the annual assessment by calling a meeting of the members of the Association owning lots in the Subdivision. A simple majority of the votes cast at the meeting, including those cast by members present at the meeting and those cast by members by proxy, shall be required in order to increase the annual assessment.

**C. SPECIAL ASSESSMENTS FOR EMERGENCIES.** The Board of Directors may levy, in addition to annual assessments, a special assessment or assessments from time to time without a vote of the members if the Board is facing an emergency situation. An emergency situation shall be one that is unforeseen or unexpected. A new project or improvement shall not be considered an emergency situation. The cost of ordinary maintenance expenses unexpectedly exceeding available revenue may be an emergency situation if the maintenance is necessary and is likely to prevent larger expenses in the future.

**D. SPECIAL ASSESSMENTS FOR IMPROVEMENTS.** There shall be no special assessment for improvements unless the Board of Directors submits a request for such a special assessment to a meeting of the members of the Subdivision and the special assessment is approved by a two-thirds (2/3) affirmative vote of the votes cast at the meeting, including those cast by members present at the meeting and those cast by members by proxy. At the member meeting, there shall be a presentation of the pros and cons for the making of the improvements. A member meeting for the purpose of considering a special assessment for improvements may be called by the Board of Directors on its own initiative or upon the written request of the owners of ten (10) lots in the Subdivision.

**E. NOTICE.** It shall be the duty of the Association to notify all owners or contract purchasers of lots within the Subdivision, whose addresses shall be supplied by the owner or contract purchaser to the Association, by sending written notice to each of such owners within fifteen (15) days after the date on which the assessment has been fixed or levied, giving the amount of the charge or assessment for the current year, when the same shall be due, and the amount due for each lot. Failure of the Association to levy an assessment or charge for any one year shall not affect the right of the Association to issue and collect assessments in future years. Failure to deliver or levy an assessment due to lack of an address for the owner of any particular lot within the Subdivision or for any other reason, shall not discharge the obligation of any such owner from paying such assessment, and it shall be the obligation of any such owner to notify the Association of such owner's current address.

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F. LIEN. Any general or special assessment levied as set forth in this Declaration shall become a lien on the affected real estate as soon as such assessment is due and payable as set forth above. In the event any owner fails to pay the assessment when due, then the assessment shall bear interest at the maximum legal rate permitted by the State of Arkansas on the date when such assessment is due and shall continue to accrue at that rate, until it is paid in full. Forty-five (45) days after the date of any such assessment has been fixed and levied, the assessment, if not paid, shall become delinquent and the payment of both principal and interest may be enforced as in the case of a laborer's lien on the affected real estate, and a notice of such lien may be filed with the Circuit Clerk of Benton County, Arkansas, and venue shall be laid in the Circuit Court of Benton County, Arkansas. It shall be the duty of the Board of Directors of the Association, as provided below to bring actions to enforce such liens before they expire. For each lien so filed, the Association shall be entitled to collect from the owner or owners of the property described in such lien an administrative fee of \$50.00, and shall be collectible in the same manner as the original assessment provided for in this Declaration. Any such lien shall continue for a period of five (5) years from the date of delinquency and no longer, unless within such time period legal proceedings shall be instituted to collect such assessments, in which event, the lien shall continue until the termination of the execution of the judgment establishing the same. In the event legal proceedings are commenced to collect any such assessment, or if the services of any attorney are retained by the Association in connection therewith, the non-paying owner or owners shall be obligated to pay all costs incurred, plus reasonable attorney fees, which costs and fees shall become a portion of the lien and may be foreclosed on in the same manner as the assessment as provided above. As an alternative to filing a lien or in addition to filing a lien, the Board of Directors may bring an action in the District Court of Benton County, Bentonville Division to recover the delinquent dues, interest, the \$50.00 administrative fee, and, if an attorney is used, reasonable attorney fees.

G. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment, and welfare of the residents of the Subdivision, and, in particular, for the improvement and maintenance of property, service, and facilities devoted to the above stated purpose and related to the use and enjoyment of the common properties and of the homes situated in the Subdivision. Without limiting the generality of the foregoing statement of purpose, such assessments shall be applied by the Association to the payment of the costs of the following:

1. To enforce any and all building and land-use restrictions that exist as of the date of this Declaration or which may be lawfully imposed hereafter on or against any of the property in the Subdivision.
2. To maintain the common property and amenities and improvements thereon as provided in this Declaration.
3. To pay expenses to carry out the above, such as attorney's fees, manager's fees, expenses of liability, fire, and other insurance, bookkeeping and accounting expenses, and any and all other expenses that may from time to time be deemed necessary to carry out the intent of this Declaration by the Association.
4. To protect property values in the Subdivision by promoting pride in and

enthusiasm for it to work for improved transportation, schools, libraries, and recreation facilities within the community in which the Subdivision are located and to do all lawful things and tasks that the Association, in its discretion, may deem to be in the best interests of the Subdivision and the owners of the lots in the Subdivision.

**SECTION SIX  
MISCELLANEOUS AND GENERAL PROVISIONS**

**STATEMENT OF INTENT.** The covenants are recorded to provide protection of each lot owner to insure a desirable place for all persons to live. The ownership of and living on rural property should be a safe, quiet, attractive, and rewarding pleasure that cannot be obtained by living in a city development or on a small city lot. The room to breathe, to build, to plant, and to enjoy the land and beauty of nature is a most rewarding experience and pleasure that all people search for and desire to enjoy. To this end these covenants should be taken seriously and strictly enforced.

B. **MEMBERSHIP.** Each owner, by purchasing any lot in the Subdivision, shall automatically become a member of the Association and shall be bound by the terms and conditions of this Declaration, the Articles and Bylaws of the Association, and such rules and regulations as may be promulgated and adopted by the Association under such Articles and Bylaws. An owner of a lot, by contracting to sell his lot on an installment basis, shall be deemed to have transferred his membership to the contract purchaser upon execution of the contract for sale. When an owner sells his lot by traditional offer and acceptance providing for a closing of the sale to occur at which time the purchaser will pay the purchase price to the seller or deliver to the seller a promissory note for the purchase price in exchange for a conveyance by deed of the property, the transfer of membership shall be deemed to occur upon delivery of the deed. For purposes of this Declaration, the term "owner" shall be deemed to include the purchaser under an installment contract regardless of whether a deed has been executed to be held in escrow or whether the deed will be executed and delivered upon payment in full of the installment payments. The Articles of Incorporation and Bylaws of the Association, as may be amended from time to time, are incorporated by reference to the same effect as if set forth word for word herein. Multiple owners of a single lot, either as joint tenants, tenants in common, or tenants by the entirety, shall collectively constitute one member of the Association and shall for purposes for voting at meetings of the Association or on issues submitted to the members, cast one vote collectively for each lot owned. Notwithstanding the foregoing, if a lot owner's dues are delinquent, the lot owner shall have no vote until the dues are paid current.

C. **TRANSFER OF MEMBERSHIP.** On transfer, conveyance, or sale by any owner of all of his or her or its interest in any Subdivision lot, such owner's membership in the Association shall thereon cease and terminate.

D. **MEMBER MEETINGS.** There shall be an annual meeting of the members owning lots in the Subdivision. The financial reports for the prior year and the budget for the next year shall be presented by the Board of Directors at the annual meeting. The Board of Directors may call special member meetings as needed. For special meetings, the notice of the meeting shall specify the business to be conducted at the meeting and shall be mailed at least thirty (30) days

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before the date of the special meeting. The Board of Directors shall be the sole judge of the right to participate in and vote at member meetings, and shall have the right to prescribe the procedure to be followed concerning all such meetings and votes. A form proxy shall be included in each meeting notice. All votes of the members at member meetings shall be the total of the votes cast in person and by proxy.

**E. ASSOCIATION FINANCES.** The financial information of the Association shall be compiled by a CPA at least annually and made available to all members. In addition, the CPA shall prepare an annual compilation. All single expenditures that exceed five percent (5%) of the annual operating budget of the Association shall be bid to at least three bidders, unless there are a limited number of available or qualified bidders for the particular product or service.

**F. ADDRESS OF ASSOCIATION.** The official address of the Association shall be provided to all members by the Board of Directors of the Association, and shall remain so until changed by a majority vote of the Board of Directors of the Association, at which time the Association shall notify each member thereof of the change in address.

**G. LOT OWNER ADDRESS.** Each lot owner or contract purchaser, upon purchase of such lot or upon contracting for the purchase of such lot, shall immediately notify the Association of such owner's or purchaser's name and address. Failure to provide the Association with a name and proper mailing address shall constitute a waiver of any notice otherwise required hereunder.

**H. MODIFICATION OF POWERS.** The Association may be given such additional powers and duties as may be deemed necessary and reasonable by written consent of the owners of a majority of the lots within the Subdivision.

**I. CONFLICT WITH LAWS.** The Association shall, at all times, observe all of the laws, regulations, ordinances, and the like of all governmental authorities recognized in the City of Rogers, County of Benton, State of Arkansas, and of the United States of America, and if, at any time, any of the provisions of this Declaration shall be found to be in conflict with such laws, regulations, ordinances, and the like shall become null and void, but no other part of this Declaration not in conflict therewith shall be affected thereby.

**J. RULES AND REGULATIONS.** Subject to the limitations set forth in this Declaration, the Association shall have the right to make such reasonable rules and regulations and to provide such means and to employ such agents as will enable it adequately and properly to carry out the provisions of this Declaration.

**K. TERM.** These covenants are to run with the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants will be automatically extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then lot owners has been recorded, agreeing to change said covenants in whole or in part.

**L. BINDING.** All of the provisions of this Declaration shall be deemed to be covenants running with the land, and shall be binding on and inure to the benefit of the owners the lots in

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the Subdivision, their heirs, successors, and shall be taken to hold, agree, and covenant with such owners, and observe all of the terms and conditions contained in this Declaration. None of the covenants and agreements shall be personally binding on any person, persons, or corporations except with respect to the breaches committed during its, his or their holding of title to lots in the subdivision. The developer, the Subdivision, or any owner or owners of lots in this subdivision shall have the right to enforce the provisions contained in these covenants or any of their addenda or restrictions contained herein together with any other rights to which they might otherwise be entitled under the laws of the State of Arkansas.

**AMENDMENT.** This Declaration may be amended at any time with the written approval of the owners of a majority of the lots within the Subdivision. No amendment shall be allowed which would be in violation of the Benton County Standards and Regulations for the Development of Subdivision of land in effect at the time of the amendment.

N. **SEVERABILITY.** The invalidation of any one of these covenants, restrictions, or agreements herein contained by a judgment or court order shall in no way affect any of the other provisions which remain in full force and effect.

## SECTION SEVEN ENFORCEMENT OF COVENANTS AND RESTRICTIONS

A. **NOTICE OF VIOLATION.** The POA, the ACC, or any property owner within the Subdivision may enforce this Declaration by serving written notice of an alleged violation on the offending or violating property owner. If, within ten (10) days after delivery of a written notice, the violation has not been corrected or the property owner receiving such notice has not delivered written assurances to the complaining property owner that the violation will be corrected without unreasonable delay under the circumstances, the POA, the ACC, or the aggrieved property owner shall have the right to serve a written notice on the property owner in violation or alleged to be in violation of a demand for arbitration designating the name of an arbiter.

B. **ARBITRATION PROCEDURE.** The party receiving such written demand for arbitration shall act within ten (10) days from the date of such receipt to accept the designated arbiter as the sole arbiter, or to designate in writing a second arbiter. If a second arbiter is designated, the two arbiters so selected shall then agree on a third and the arbitration committee or the sole arbiter shall then proceed to receive written statements from both parties, and shall render a written decision. By purchase of a lot in the Subdivision subject to this Declaration, each lot owner agrees that the decision of the arbiter or committee of arbiters shall be final and binding. Each party to this arbitration shall bear the cost or expenses of the arbiter they have appointed and shall share equally the cost of the third arbiter. If a sole arbiter is accepted, the party appointing the arbiter shall bear the arbiter's cost and expenses. In the event the two arbiters designated by the parties to a dispute cannot agree upon a third arbiter within a reasonable amount of time, either party to the dispute may petition the Benton County Circuit Court to appoint a third arbiter, and the cost of such legal proceeding shall be borne equally by the parties to the dispute.

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C. ENFORCEMENT OF ARBITRATION DECISION. If a lot owner fails to comply with the written decision of an arbiter or arbitration committee within thirty (30) days or within the time specified in the written decision by the arbiters, the POA, the ACC, or any lot owner shall have the right to enforce the written arbitration decision in a court of competent jurisdiction, and shall be entitled to recover all costs and expenses incurred in connection with such enforcement.

D. PURPOSE OF ARBITRATION. The provision for arbitration of disputes, as well as the provision for arbitration of ACC disputes, is intended to promote a prompt, efficient and economical resolution of disputes arising within the subdivision and to prevent the delays and expense normally associates with litigation of such disputes. No court litigation may be commenced with regard to disputes arising under this Declaration, except to enforce an arbitration decision or to perfect or enforce a lien.

E. FAILURE TO ENFORCE. The failure of the POA, the ACC, or any lot owner to enforce any provision of this Declaration, or to fail to take action on any purported violation hereof, shall not constitute a waiver of the right to do so, and the POA and the ACC shall incur no liability whatsoever for such failure.

EXECUTED this 3 day of December, 2007.

Benton County, AR  
I certify this instrument was filed on  
04/14/2008 10:43:00PM  
and recorded in Book 2008  
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Darrow Garner, Inc.

By [Signature]  
RICHARD E. BUCK, President

STATE OF ARKANSAS )  
                                  ) SS  
COUNTY OF BENTON )

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public within and for the County and State aforesaid, duly commissioned and acting, Richard E. Buck, to me well known as the President of Darrow Garner, Inc., a lot owner in Edgewater Subdivision, and stated that he had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 3 day of April, 2007.

Seal & Commission Expiration:

September 23, 2015  
[Signature]

