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TONIA R HAMPTON
REGISTER OF DEEDS
BY: ERIN LOVELACE
DEPUTY REGISTER OF DEEDS

BK: CRP 1276

PG: 846-869

SASE

Please return to: Robert E. Dungan, Esq., Dungan, Kilbourne & Stahl, PA, One Rankin Ave., Third Floor, Asheville, NC 28801

References:

- Deed Book 715, Page 915
- Deed Book 727, Page 940
- Deed Book 753, Page 827
- Deed Book 816, Page 637
- Deed Book 839, Page 440
- Deed Book 914, Page 1005
- Deed Book 914, Page 1010
- Deed Book 914, Page 1013
- Deed Book 979, Page 324
- Deed Book 979, Page 189

State of North Carolina
County of McDowell

AMENDED AND RESTATED DECLARATION
OF COVENANTS AND RESTRICTIONS OF
HIDDEN LAKE SUBDIVISION

Hidden Lake POA of McDowell Co, Inc. ("Association"), by and through its owner-members, amends and restates the Declaration of Covenants and Restrictions of Hidden Lake Subdivision ("Original Declarant") on this the 31ST day of MAY, 2019.

WITNESSETH:

WHEREAS, Ball-Green Leaf Co., Inc. ("Developer") caused the Original Declaration to be recorded on January 28, 2003, in Book 715, Page 915 of the McDowell County, North Carolina Registry; and

WHEREAS, the Original Declaration has been amended in the Seven (7) supplements to the Original Declaration recorded in the office of McDowell County NC Register of Deeds; and

WHEREAS, the owners of real property located in Hidden Lake Subdivision have voted in accordance with the Original Declaration and amendments and supplements thereto.

NOW THEREFORE, the Owners of real property located in Hidden Lake Subdivision, by and through their Association, amend the Original Declaration as amended and supplemented by striking them in their entirety and replacing them with the following Amended and Restated Declaration of Covenants and Restrictions of Hidden Lake Subdivision (hereinafter "Declaration"):

IN WITNESS WHEREOF, the Association has caused this Declaration to be executed by its authorized Association.

This the 31 day of May, 2019.

Hidden Lake POA of McDowell Co, Inc.

By: Stephen Shary
President

Attest: Theresa Carr

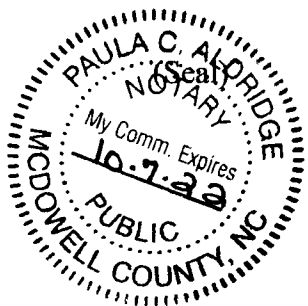
Secretary

STATE OF North Carolina

COUNTY OF McDowell

I Paula C Aldridge, Notary Public for said County and State, certify that Stephen Shary + Theresa Carr personally came before me this day and acknowledged that he/she is Secretary of Hidden Lake POA of McDowell Co, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him/herself as its Secretary.

Witness my hand and official seal, this the 31 day of May, 2019.



Paula C. Aldridge
Notary Public

My commission expires 10-07-2022

Hidden Lake POA of McDowell Co, Inc.

Covenants and Restrictions



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North Carolina

Rev 4.5 4/4/19

Covenants Content

Article 1	4
Hidden Lake Planned Community Submitted to this Amended and Restated Declaration and subject to the North Carolina Planned Community Act	4
Article 2	4
Description of Planned Community	4
Section 2.1 Name.....	4
Section 2.2 Location	4
Article 3	5
Definitions	5
Section 3.1 Allocated Interests	5
Section 3.2 Assessments	5
Section 3.3 Property Owners Association or Planned Community Association	5
Section 3.4 Board or Board of Directors	5
Section 3.5 Building	5
Section 3.7 Common Elements.....	5
Section 3.8 Common Expenses	5
Section 3.9 Common Expense Liability	6
Section 3.10 Declaration.....	6
Section 3.11 Documents	6
Section 3.12 Limited Common Element	6
Section 3.13 Lot.....	6
Section 3.14 Lot Owner	6
Section 3.15 Majority of the Total Votes in the Association	6
Section 3.16 Mortgage.....	6
Section 3.17 Notice and Opportunity to be Heard.....	6
Section 3.18 Officer.....	6
Section 3.19 Person	7
Section 3.20 Planned Community	7
Section 3.21 Private Driveway	7
Section 3.22 Private Road.....	7
Section 3.23 Reasonable Attorney's fees	7
Section 3.24 Real Estate	7
Section 3.25 Resident	7
Article 4	7
Rights of the Property Owners Association.....	7
Section 4.1 Easements Reserved by Association	7
Section 4.2 Association Exemption from Assessments.....	8
Article 5	8
Lots	8
Section 5.1 Subdividing Lots.....	8
Section 5.2 Combining Lots	8
Section 5.3 Allocated Interests	8
Section 5.4 Watershed Easements	8
Article 6	9

Rev 4.5 4/4/19

Common Elements.....	9
Section 6.1 Common Elements.....	9
Section 6.2 Conveyance or Encumbrance	9
Section 6.3 Use of Common Elements	9
Article 7	9
Limited Common Elements	9
Section 7.1 Limited Common Elements	9
Article 8	9
Use Restrictions and Purpose	9
Section 8.1 Residential	9
Section 8.2 Restrictions in General	9
Section 8.3 Business Activities.....	11
Section 8.4 Motor Vehicles	11
Section 8.5 Nuisances	11
Section 8.6 Rules and Regulations	11
Article 9	11
Insurance.....	11
Section 9.1 Coverage	11
Article 10	12
Assessment and Collection of Common Expenses.....	12
Section 10.1 Purpose of Assessments.....	12
Section 10.2 Apportionment of Common Expenses.....	12
Section 10.4 Lien for Assessments	12
Section 10.5 Computation of the Annual Assessment.....	13
Section 10.6 Personal Liability of Lot Owners	13
Section 10.7 Surplus Funds	14
Section 10.8 Special Assessments	14
Article 11	14
Association of Lot Owners	14
Section 11.1 Association Authority.....	14
Section 11.2 Association Membership	14
Section 11.3 Powers and Duties	14
Article 12	15
Amendments	15
Article 13	16
Architectural Control	16
Section 13.1 Architectural Committee.....	16
Section 13.2 Structures	16
Section 13.4 Construction.....	16
Section 13.5 Utility easements	16
Section 13.6 Restrictions	17
Section 13.7 Signs	17
Section 13.8 Limitation of the ARC Liability	17
Article 14	17
Private Road Maintenance Responsibility.....	17
Section 14.1 By the Association	18

Rev 4.5 4/4/19

Section 14.2 By Lot Owners.....	18
Section 14.3 Additional Private Roads.....	18
Article 15	18
Hidden Lake.....	18
Section 15.1 Hidden Lake or the Lake	18
Section 15.2 Lake Use Restrictions	18
Section 15.3 Docks	19
Section 15.4 Maintenance.....	19
Section 15.5 Rules and Regulations for the Lake.....	19
Article 16	19
Enforcement Powers.....	19
Section 16.1 Rules Making Authority	19
Article 17	20
Enforcement Procedures.....	20
Section 17.1 Notice.....	20
Section 17.2 Hearing	20

Rev 4.5 4/4/19

Article 1

Hidden Lake Planned Community Submitted to this Amended and Restated Declaration and subject to the North Carolina Planned Community Act

The real properties and improvements, which comprise Hidden Lake Subdivision, a planned Community ("Hidden Lake") located in McDowell County, North Carolina, are those real properties described in the Declaration of Covenants and Restrictions of Hidden Lake Subdivision recorded in Deed Book 715, Page 915 and as amended in the Seven (7) supplements to the Original Declaration ("Original Declaration") recorded in the office of McDowell County NC Register of Deeds as set forth below in Table 1. Hidden Lake is subject to and controlled by the provisions of the North Carolina Planned Community Act (N.C. Gen. Stat. §§ 47F-1-101 et seq.) (referred to hereafter and in the Bylaws as the "Planned Community Act") in accordance with the provisions of the Planned Community Act.

Table 1

Description	Book	Page	Date
Original Declaration	715	915	January 8 ,2003
Supplement 1	727	940	April 28, 2003
Supplement 2	753	827	October 7, 2003
Supplement 3	816	637-638	March 15, 2005
Supplement 4	839	440-441	September 15, 2005
Supplement 5	914	1005-1006	April 25,2007
Supplement 6	914	1010-1012	April 25,2007
Supplement 7	914	1013-1016	April 25,2007
Ammendment	979	324-326	November 10,2008
Ammendment	979	189-190	July 7, 2009

The Original Declaration as amended and supplemented is hereby amended by striking them in their entirety, except for and preserving all descriptions of real properties submitted to the Original Declaration, and by replacing them with this Amended and Restated Declaration.

Article 2

Description of Planned Community

Section 2.1 Name. The name of the Planned Community is Hidden Lake Subdivision (sometimes referred to herein as "Hidden Lake" or "Planned Community").

Section 2.2 Location. The Planned Community is in McDowell County, North Carolina. The Planned Community or Property is that real property submitted to and controlled by the Planned Community Act, shown in McDowell County Registry of Deeds referenced locations in Table 1.

Rev 4.5 4/4/19

Article 3 Definitions

In accordance with Section 47F-1-103 of the Planned Community Act, unless specifically provided otherwise or the context otherwise requires, the following terms as used in the Declaration and Bylaws for this Planned Community shall have the following meanings:

Section 3.1 Allocated Interests means the undivided interest in the common elements, the common expense liabilities, and votes in the Association allocated to each Lot.

Section 3.2 Assessments means all sums levied by the Association against any Lot and its Owner as common expenses or other charges to include but not be limited to common expense liabilities, special assessments, specific assessments, fines, late charges, interest and attorney's fees as set forth in the Declaration and Bylaws.

Section 3.3 Property Owners Association or Planned Community Association or Association means Hidden Lake POA of McDowell Co, Inc., a North Carolina non-profit corporation and its successors.

Section 3.4 Board or Board of Directors means the Board of Directors of Hidden Lake Property Owners Association which is the governing body on behalf of and for the Association designated the Executive Board in N. C. Gen. Stat. § 47F-1-103(13); Director or Directors means a member or members of the Board.

Section 3.5 Building. Permanent structure enclosed within exterior walls and a roof, and including all attached apparatus, equipment, and fixtures that cannot be removed without cutting into ceiling, floors, or walls.

Section 3.6 Bylaws means the Bylaws of Hidden Lake POA of McDowell Co., Inc.

Section 3.7 Common Elements means all real estate within the Planned Community owned or leased by the Association. This real estate and any improvements located thereon are often referred to as common areas.

Section 3.8 Common Expenses mean expenditures made by or financial liabilities incurred for the operation of or connected in any way with the administration of the Planned Community. These include:

- a) Expenses of administration, maintenance, repair or replacement of roads;
- b) Expenses defined, referred to, or declared to be common expenses by the Documents or by the Planned Community Act;
- c) Expenses agreed upon as common expenses by the Association;
- d) Such reasonable reserves as may be established or allocated by the Association, whether held in trust or by the Association, for repair,

Rev 4.5 4/4/19

- replacement or addition to the common elements or any other real or personal property acquired or held by the Association; and
- e) Expenses levied against or which may be allocated to any Lot and Lot Owner for fines, late charges, interest, costs of collection, and attorney's fees.

Section 3.9 Common Expense Liability means the liability for common expenses allocated to each Lot as permitted by the Planned Community Act, the Declaration, Bylaws, or otherwise by law.

Section 3.10 Declaration means this Declaration of Planned Community for Hidden Lake Subdivision.

Section 3.11 Documents mean the Declaration, Plats and/or Deeds recorded and filed for real property making up the Planned Community, the Articles of Incorporation of Hidden Lake POA of McDowell Co., Inc., the Bylaws, as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is part of that Document.

Section 3.12 Limited Common Element means a portion of the common elements allocated by the Declaration for the exclusive use of one or more but fewer than all the Lots, including, but not limited to those areas so designated, if any, on any Plats filed or which may be filed regarding this Planned Community.

Section 3.13 Lot means the physical portion of the Planned Community designated for separate ownership or occupancy by a Lot Owner.

Section 3.14 Lot Owner means a person or persons or legal entity who owns a Lot but does not include a person having an interest in a lot solely as security for an obligation.

Section 3.15 Majority of the Total Votes in the Association means fifty percent (50%) of the Total Lots (one lot = 1 vote), plus one vote.

Section 3.16 Mortgage shall refer to any mortgage, deed of trust, deed to secure debt or other transfer, or conveyance for securing the performance of an obligation.

Section 3.17 Notice and Opportunity to be Heard means the right of a Lot Owner to receive notice of an action proposed to be taken by or on behalf of the Association and the right for an opportunity to be heard thereon.

Section 3.18 Officer shall mean those individuals who are elected by the Board to serve as officers of the Association to include President, Vice President, Secretary, Treasurer and such other support and offices as the Board may determine necessary.

Rev 4.5 4/4/19

Section 3.19 Person means a natural person, corporation, business, trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

Section 3.20 Planned Community means real estate with respect to which any person, by that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. "Ownership of a lot" does not include holding a leasehold interest of less than 20 years in a lot, including renewal options.

Section 3.21 Private Driveway means a non-public road, driveway or right-of-way providing access from a privately maintained road to two (2) or fewer lots, and not intended for public use. A Private Driveway shall not be required to meet the minimum construction requirements of a road, but should be sufficient to provide adequate access to those areas served, including emergency services, and minimum access requirements of lenders. Private Driveways are maintained exclusively by the Lot Owners whose Lots are accessed by use of the particular Private Driveway.

Section 3.22 Private Road means a road constructed in accordance with the provisions of article 8 paragraph 2 of the Land Subdivision Ordinance of McDowell County, North Carolina.

Section 3.23 Reasonable Attorney's fees means attorney's fees reasonably incurred without regard to any limitations on attorney's fees which otherwise may be allowed by law.

Section 3.24 Real Estate means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

Section 3.25 Resident means and includes owners, their immediate family members, tenants, and lessees.

Article 4 Rights of the Property Owners Association

Section 4.1 Easements Reserved by Association. The Association reserves easements for the installation and maintenance of roads, walkways, parking areas, water irrigation lines, telephone and electric power lines, cable television lines, and drainage

Rev 4.5 4/4/19

ditches and for other utility installations over the Properties and the Common Elements. Each owner, by his acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Elements, acknowledge such reservations and the rights of Association to transfer such easements to such utility companies as Association may chose. The easements reserved by the Association include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action reasonably necessary to provide economical utility installation and to maintain the overall appearance of the Development. Certain easements reserved by the Association are shown on the Plat Maps. Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

Section 4.2 Association Exemption from Assessments. The Association shall be exempt from the payment of any Assessments and shall have no obligation to pay Assessments on any Lot owned by the Association.

Article 5 Lots

Section 5.1 Subdividing Lots. Lots may be subdivided (with the Property Owners Association's permission); however, no Lot can be less than two (2) acres after being subdivided. If a Lot is subdivided the resulting Lots shall each pay assessments and each Lot shall have a vote in the Association.

Section 5.2 Combining Lots. There are 246 Lots in Hidden Lake Subdivision. Lots may not be combined to avoid assessments. Lots may be combined for other reasons as it may suit the lot owner; however, the Association will not recognize that the lots have been combined for assessments and voting. For example, a lot owner with 2 lots has two votes in the association. If such lot owner combines his two lots for any reason, even if the lots have been recorded with the county as combined, the owner will still get two assessments and have 2 votes in the association.

Section 5.3 Allocated Interests. Each Owner of a Lot in Hidden Lake will be a member of the Hidden Lake Property Owners Association. Each Lot will have one (1) vote in the Association regardless of the number of Owners of that Lot.

Section 5.4 Watershed Easements. Rutherford County Watershed Commission holds an easement of record in Deed Book 429, at Page 66, of the McDowell County Registry, lying on the watershed of Shoal Creek below the 1328 contour elevation together with the right of ingress and egress over and upon the lands within said easement for the sole purpose of construction, operation, maintenance, and inspection of the

Rev 4.5 4/4/19

reservoir and adjacent impoundment area, said permanent easement having a pool elevation of 1037.5 feet above sea level and a flood easement of 1328 feet above sea level, and which easements are not exclusive so as to prevent the use of the property within said easement for all purposes not inconsistent with the easement.

Article 6 Common Elements

Section 6.1 Common Elements. Common Elements include all parts of the Planned Community designated as common areas on the official Plat of the community. Roads are not common elements because they are not owned by the Association.

Section 6.2 Conveyance or Encumbrance. The Common Elements shall be neither encumbered nor conveyed except as provided in the Planned Community Act.

Section 6.3 Use of Common Elements. Each Lot Owner shall have the right to use the Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other lot owners. The Board shall, if any question arises, determine the purpose for which a part of the Common Elements is intended for use, to immediate family members living in the community, to a limited number of guests, or to tenants who reside in the community.

Article 7 Limited Common Elements

Section 7.1 Limited Common Elements. Limited Common Elements means a portion of the Common Elements allocated for the exclusive use of one or more but fewer than all the Lots. Currently, there are no limited common elements.

Article 8 Use Restrictions and Purpose

Section 8.1 Residential. Each of the Lots in the Planned Community shall be, and the same hereby are, restricted exclusively to single-family residential use and shall be occupied only by a family, its nurses, aides, servants, or caretakers, and guests.

Section 8.2 Restrictions in General.

- a) Any purchaser of any Lot within Hidden Lake may cut any pine trees on said Lot, but is required upon such cutting or clearing to remove, bury, or burn within ninety (90) days any such trees or debris from any portion of said Lot where said cut trees or debris are visible from any road right of way or other Lot. Any such

Rev 4.5 4/4/19

- portion of the Lot so affected must be landscaped, reseeded or replanted within the same ninety (90) day period.
- b) The cutting of any hardwood trees, ten (10) inches in diameter or larger, is prohibited on any Lot except within fifty (50) feet of house site including swimming pool area or other construction (such as driveway or septic tank systems) directly relating to the house. Other hardwood trees more than Fifty (50) feet from the house site may be topped (no more than 1/3 of the height of the tree) without having to obtain permission from the Property Owners Association. The cutting of any other hardwood trees more than Fifty (50) feet from the house site may be done by securing written permission from Property Owners Association. Clean up and reseeded, replanting or landscaping will be required.
 - c) Necessary precautions must be taken when any ground is disturbed to prevent erosion and sediment from reaching any stream, creek, lake, roadway, walking easement, common area or other Lot.
 - d) Any damage done to any Association roads, ditch lines, grassed or Common Areas by Lot Owners, their guest or general contractors, must be promptly repaired by said Owners, or if the repair is done by the Association, the Lot Owners will be financially responsible to reimburse the Association for said repairs.
 - e) There shall be no accumulation or burning of junk or trash allowed on any Lot in Hidden Lake Subdivision. Brush may be burned but only after the POA has been notified and the Property Owner must obtain a fire permit. The Property Owner doing the burning assumes the risk and will be held financially responsible if any damage is done to any part of the Development because of the burning. The fire permit does not relieve the Property Owner from this responsibility.
 - f) No motorized vehicle, such as motorcycles, two (2) and three (3) wheel ATVs, golf carts, side by sides, cars, or trucks may be operated on any roads or Common Areas within Hidden Lake by any underaged or unlicensed individual.
 - g) No parcel of land in Hidden Lake may be used as ingress or egress to or from other properties not originally a part of the Subdivision unless an easement already existed at the time the Developer purchased the property
 - h) Animals are allowed in the Planned Community. Grazing animals such as horses, cattle, sheep or goats may be maintained on any Lot based on one grazing animal per fenced acre. No animals may be kept or bred for any commercial purpose. All animals and pets shall have such care and restraint as is necessary to prevent them from being or becoming obnoxious or offensive because of noise, odor, unsanitary conditions, or other nuisance. No savage or dangerous animal shall be kept or permitted on the Planned Community. The Board shall have the authority to determine in its sole discretion whether an animal is savage or dangerous. No pets may be permitted to run loose inside the Hidden Lake Community and any Lot owner who causes or permits any animal to be brought or kept upon the Planned Community shall indemnify and hold the Association harmless for and from any loss, damage, or liability which it sustains because of the presence of such animal in the Planned Community, regardless of whether the Association or the Board of Directors has given its permission therefore. Whenever such pet is allowed outside the Lot, then the pet must be on a leash and any animal droppings which occur

Rev 4.5 4/4/19

during such time as the pet is outside the Lot must be immediately collected by the owner.

Section 8.3 Business Activities. No business activities shall be conducted on any portion of the Planned Community. However, private offices may be maintained in residences constructed on Lots so long as such use is incidental to the primary residential use of the Lot. The property shall not be used in any way or for any purpose which may endanger the health of or unreasonably disturb the Owner of any Lot or any resident thereof. The Board of Directors of the Association shall, in its sole discretion, determine what constitutes business activity, health hazard, or unreasonable disturbance. No Owner shall make any use of a Lot or store or keep anything on a Lot which will increase the insurance rates for the Association or for other Lot Owners.

Section 8.4 Motor Vehicles. No motor vehicles may be stored in or upon the Common Elements, unless placed upon a portion of the Common Elements which is designated for such purpose, or which may be designated from time to time by the Board of Directors for the storage of such items. No more than one (1) unlicensed, unregistered, uninsured vehicle may be maintained on any Lot and it must be kept under cover or out of sight to the extent possible of any roadways and homes. No tractor-trailers or large dual tandem trucks may enter the subdivision except for the purpose of delivery or pick-up, except as approved by the Association.

Section 8.5 Nuisances. No nuisances shall be allowed within the Planned Community and no person shall engage in any use, practice, or activity upon such property which is noxious, offensive, or a source of annoyance to Lot Owners or which reasonably interferes with the peaceful possession and proper use of the property by any Lot Owner. The Board of Directors, at its sole discretion, shall have the power and authority to decide what acts or actions constitute a nuisance. All parts of the Planned Community shall be kept in a clean and sanitary condition. No rubbish, refuse, or garbage shall be allowed to accumulate, and no fire hazard shall be allowed to exist. Any Lot Owner (or his family, tenants, guests or agents) who shall dump or place any trash or debris upon any portion of the Planned Community shall be liable to the Association for the actual cost of removal thereof and the same shall be added to and become a part of the assessment next coming due to which the Lot Owner is subject; or alternatively the Association may impose a fine against the Lot Owner for violation of this section.

Section 8.6 Rules and Regulations. The Board of Directors may from time to time promulgate reasonable rules and regulations respecting the Restrictive Covenants set out in this Article, but such rules and regulations shall be consistent with these restrictions and not in derogation of or intended as an amendment thereof.

Article 9 Insurance

Section 9.1 Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage, as a common expense in accordance with

Rev 4.5 4/4/19

Section 47F-3-113 of the Planned Community Act and as set forth in this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance described herein will not be maintained, the Board shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all Lot Owners at their respective last known addresses.

Article 10

Assessment and Collection of Common Expenses

Section 10.1 Purpose of Assessments. The assessments for common expenses as described in Section 47F-3-115 of the Planned Community Act and as otherwise provided for in the Documents shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of Lots in the Planned Community as may be more specifically authorized from time to time by the Board.

Section 10.2 Apportionment of Common Expenses. Except as set forth in this Article, common expenses shall be assessed against all Lots in accordance with the allocated interests in the common expenses as set forth in this Declaration.

Section 10.3 Common Expenses Attributable to Fewer than All Lots.

(a) If a common expense is caused by the misconduct of a Lot Owner, the Association may assess that expense exclusively against that Lot Owner's Lot.

(b) Any common expense associated with the maintenance of a limited common element shall be assessed against the Lots to which that limited common element is assigned, equally, or in any other proportion that the declaration provides.

(c) Any common expense or portion thereof benefiting fewer than all the lots shall be assessed exclusively against the lots benefited.

(d) Fees, charges, late charges, fines, all collection costs, including reasonable attorney's fees incurred and interest charged against a Lot Owner pursuant to the Planned Community Act, the Declaration, Bylaws and Rules and Regulations are enforceable as common expense assessments.

Section 10.4 Lien for Assessments. Any assessment levied against a Lot remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Lot when filed of record in the Office of the Clerk of Court of McDowell County in the manner provided in Section 47F-3-116. The Association may foreclose the lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. For purposes of foreclosing a lien, the Association is the "mortgagee" and "trustee", as defined by N.C. Gen. Stat. §45-21.1, of said lien with a power of sale. As the owner of the indebtedness secured by the lien, the Association, acting through the Board may, in its discretion, substitute a trustee in accordance with N.C. Gen. Stat. § 45-10, by the execution of a written instrument properly recorded pursuant to Chapter 47 of the North Carolina Statutes. Fees, charges, late charges, fines, collection costs, reasonable attorney's fees, and interest charged pursuant to Sections

Rev 4.5 4/4/19

47F-3-102(10), (11), and (12), 47F-3-107(d), 47F-3-107.1, and 47F-3-115, the Declaration, Bylaws, and Rules and Regulations, are enforceable as assessments under this Section.

Section 10.5 Computation of the Annual Assessment. The Annual Assessment is computed in two parts, the Operating Budget and Capital Expenditures. The Board shall cause the Annual Assessment to be levied against each Lot for the coming fiscal year.

1. **Operating Budget.** It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Planned Community during the coming fiscal year and amounts necessary to provide working capital, a general operating reserve, and reserves for contingencies and replacements. The Board shall cause the budget and the annual assessments to be levied against each Lot for the coming fiscal year. Within 30 days after adoption of any proposed Operating Budget for the Planned Community, the Board shall provide to all the Lot Owners a summary of the budget and a notice of the a Special Meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board shall set a date for a Special Meeting of the Lot Owners to consider ratification of the budget, such meeting to shall be held not less than ten (10) and not more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget and the assessment established therefrom is ratified unless at the meeting owners representing sixty-seven percent (67%) of all the lots in the Association vote to reject the budget. Notwithstanding the foregoing, however, if the membership rejects the proposed budget or the Board fails for any reason to so determine the budget for the succeeding year, then and until a budget shall have been determined, as provided herein, the budget in effect for the current year shall continue for the succeeding year.

2. **Capital Expenditures.** Capital expenditures are made from the Association's Capital Reserve Account. The Capital Reserve Account is replenished each year through the Annual Assessments. Capital expenditures are defined as monies spent on acquiring, improving and making life-extending repairs to the Association's capital assets during the fiscal year. Examples of capital assets are the pool, roads, gates, signs, etc.

In November each year, the Board of Directors determines the per-lot Annual Assessment by adding the approved Operating Budget to the Capital Expenditures estimate for the coming year and dividing the total by the total number of lots. Invoices for each Lot Owner's share of the Annual Assessment are sent out late in November and are due on January 1. If the Assessment is not paid by the end of January, a Late Fee is added on February 1 and each month thereafter until the Assessment is paid. (See Section 11.3.1)

Section 10.6 Personal Liability of Lot Owners. The Owner of a Lot at the time any common expense assessment or portion thereof is due and payable is personally liable for such assessment, for any interest, if applicable, and for all costs of collection

Rev 4.5 4/4/19

including, but not limited to, reasonable attorney's fees incurred. In addition to lien rights described in Section 10.4 above, the Association has the right to bring a separate collection action to enforce the personal liability of Lot Owners to pay assessments.

Section 10.7 Surplus Funds. Any surplus funds of the Association remaining after payment of or provisions for common expenses and any prepayment shall be retained in the general operating funds or long-range fund of the Association in the sole discretion of the Board, and no such surplus funds shall be paid to Lot Owners nor shall such surplus funds be used as a credit to reduce future common expense assessments.

Section 10.8 Special Assessments. The Board of Directors may levy special assessments for capital improvements upon the common elements and for such other matters as the Association shall determine; provided, however, prior to becoming effective any such special assessment shall be approved by the affirmative vote of a majority of all the Lot Owners at a special meeting of the Association duly called for that purpose.

Article 11 Association of Lot Owners

Section 11.1 Association Authority. The Association shall manage and administer the Planned Community and shall have all powers and duties granted to it in the Planned Community Act, this document, and the Bylaws.

Section 11.2 Association Membership. All Lot Owners by their ownership of a Lot in the Planned Community are members of the Property Owners Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Planned Community Act and the Documents, such Owners shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership.

Section 11.3 Powers and Duties. Acting by and through its Board of Directors and/or its membership in accordance with the provisions of the Documents, the Association shall have the powers and duties necessary for the administration of the affairs of the Planned Community which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws and Rules and Regulations;
- (b) Adopt and amend Budgets for revenues, expenditures, and reserves;
- (c) Collect assessments for common expenses for Lot Owners;
- (d) Hire and terminate managing agents and other employees, agents, and independent contractors;
- (e) Institute, defend, or intervene in its own name in litigation or administrative proceedings on matters affecting the Planned Community;
- (f) Make contracts and incur liabilities;

Rev 4.5 4/4/19

- (g) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (h) Cause additional improvements to be made as a part of the common elements;
- (i) Acquire, hold, encumber, and convey in its own name any right, title or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to Section 47F-3-112 of the Planned Community Act;
- (j) Grant easements, leases, licenses, and concessions through or over the common elements;
- (k) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than limited common elements described in Subsections 47F-3-102(2) and (4) of the Planned Community Act and for services provided to Lot Owners;
- (l) Impose charges for late payment of assessments not to exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer.
- (m) After notice and an opportunity to be heard, levy reasonable fines not to exceed One Hundred Dollars (\$100.00) per violation or per day for a continuing violation of the Declaration, Bylaws, and Rules and Regulations of the Association pursuant to Section 47F-3-107.1 of the Planned Community Act;
- (n) Impose reasonable charges for the preparation and recordation of amendments to the Declaration or Bylaws;
- (o) Provide for the indemnification of and maintain liability insurance for its officers, directors, employees and agents;
- (p) Assign its right to future income, including the right to receive common expense assessments;
- (q) Exercise all other powers that may be exercised in this State by non-profit corporations; and
- (r) Exercise any other powers necessary and proper for the governance and operation of the Association.

Article 12 Amendments

This Declaration of Planned Community may be amended only by affirmative vote in person or by proxy written agreement signed by Lot Owners of Lots to which at least Sixty Seven Percent (67%) of the votes in the Association are allocated. The procedure for amendment shall follow the procedure set forth in Section 47F-2-117 of the Planned Community Act. No amendment shall become effective until recorded in the office of the Register of Deeds of McDowell County, North Carolina.

Rev 4.5 4/4/19

Article 13 Architectural Control

Section 13.1 Architectural Committee. The Association shall appoint an Architectural Review Committee (ARC) to manage these architectural restrictions and the restrictions contained in “Architectural Guidelines for the Hidden Lake Community” This separate document will be prepared by the Architectural Review Committee; changes as well as the original document must be approved by a unanimous vote of the sitting Board of Directors. The entire Board must sign and date the cover sheet for the document to be binding.

Section 13.2 Structures. No recorded Lot in Hidden Lake will be allowed to have more than two (2) single family residences constructed on it. Two detached out-building for each residence will be permitted if the materials used to cover the outside match the outside covering of the residence.

Section 13.3 Improvements. No building, fence, wall or other structure, may be erected, nor shall any exterior addition to or change or alteration therein, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted, in writing to and approved in writing by the ARC as to harmony of external design and location in relation to surrounding structures and topography. In passing upon such plans, the ARC may take into consideration the suitability and desirability of the proposed construction and the proposed materials to the Lot involved. Refusal to approve the proposed plans may be based by the Board of Directors/Committee on any grounds, including purely aesthetic considerations.

Section 13.4 Construction. Construction within Hidden Lake is restricted as follows:

- a) All structures built in the community shall be log or conventional construction with log siding. Other natural or natural appearing materials will be considered, on a case by case basis, by the ARC.
- b) Singlewide, doublewide, triple wide mobile homes are not allowed. Manufactured housing is not allowed.
- c) Modular homes, with log or log sided construction, may be approved, on a case by case basis, by the ARC.

Other standards for size, set back, etc. are covered in other sections that follow.

Section 13.5 Utility easements. Utility easements, road rights of way, and minimum building setbacks pertaining to any Phase of development, shall be as shown on Plats thereof of record. Unless otherwise shown on plats of record to any future development or Phases of development, the utility easements, road rights of way, and minimum set back lines shall be as follows:

Rev 4.5 4/4/19

- a) A utility easement of 30 feet is reserved along the interior Lot lines, 15 feet either side of the line. A utility easement of 15 feet on the interior side of the line is reserved on exterior lines.
- b) A right of way of all roads is 45 feet unless shown otherwise on the plat. A 30-foot right of way is reserved along all Lots fronting North Carolina State Secondary Road, No. 1775, which is also known as Cowan Loop Road, Walker Tony road, or Walker Road for use by North Carolina Department of Transportation.
- c) Unless otherwise shown on the recorded plat, building setbacks are as follows: 20 feet from all street right of way lines; 20 feet from all rear lines; 20 feet from all outside boundaries; 50 feet from all creek boundaries; and 15 feet from side lot lines that are not outside boundaries.

*Setback for building on the water shed lake lots are delineated on the plat map.

Section 13.6 Restrictions. Custom built or modular homes constructed on the property must have the exterior completed within six (6) months of the start of construction. No home shall be erected on any Lot having less than 1,200 square feet of heated floor space. The floor space required above shall not include basements, porches, verandas, breezeways, or garages. No asbestos siding shall be used and no concrete blocks shall be used unless the exterior walls are faced with brick, stucco, or covered with some other material approved by the Property Owners Association.

Section 13.7 Signs. No signs except for those permitted by paragraph 47F-3-121 of the Planned Community Act, or signs approved by the Property Owners Association will be allowed.

Section 13.8 Limitation of the ARC Liability. Neither the Board of Directors, the Association nor any representative(s) thereof, nor its or their successors or assigns, shall be liable in damages to anyone submitting specifications for approval, or to any Owner, because of any mistake in judgment, negligence or nonfeasance arising out of or relating to the approval, disapproval or failure to approve any such plans and specifications. Every person, corporation, partnership or organization which submits plans and specifications to the Board of Directors or the Association for approval agrees, by such act, and every Owner agrees by acquiring title to any Site or an interest therein, that it will not bring any action, proceeding or suit against the Board of Directors, the Association or any representative to recover any such damages. The Board of Director's and Association's approval of any plans, specifications, landscaping or elevations or any other approvals or consents are given solely to protect and preserve the appearance of the property, and shall not be deemed a warranty, representation or covenant that the proposed work complies with any applicable laws, rules or regulations or any standard of due care regarding structural design.

Article 14

Private Road Maintenance Responsibility

Rev 4.5 4/4/19

Section 14.1 By the Association. The Association shall maintain and keep in good repair, as a common expense, all the private roads shown on the official map of the community. The Association has no duty to construct private roads, nor should it become involved in such enterprise. The Association shall maintain the private roads in the condition it inherited them from the Developer. If at the time of the turnover from the Developer to the Association a private road was paved with asphalt, then it will be maintained as an asphalt road. If it was a gravel road, it will be maintained as a gravel road. If it was a dirt road, it will be maintained as a dirt road. The Association from time to time may decide to improve a road by making it wider or paving a portion of the road. The Association shall not maintain private driveways unless private driveways serve two (2) or more Lots as shown on the original plats of Hidden Lake Subdivision.

Section 14.2 By Lot Owners. Any private road construction or improvements to roads undertaken by Lot Owners shall comply with the “Land Subdivision Ordinance of McDowell County, North Carolina”. The Association Board will accept these roads for maintenance only after they have been inspected by the local fire officials.

Section 14.3 Additional Private Roads. Any additional roads created by the subdivision of a lot will not become the responsibility of the Property Owners Association.

Article 15 Hidden Lake

Section 15.1 Hidden Lake or the Lake is located in the southeastern portion of Hidden Lake Subdivision and is a watershed reservoir that also provides a recreational amenity to Lot Owners. The Developer of the subdivision specifically dedicated one tract of land that borders the Lake as “Common Area” (i.e. Common Elements) as shown on the Phase I plat for Hidden Lake Subdivision recorded in Plat Book 8, Page 50 of the McDowell County, N.C. Registry.

In addition to the Common Area that is lake front, there are thirteen (13) platted Lots that have some lake front as shown on Plat Book 8, Page 50 and Plat Book 8, Page 73. Those platted lots are as follows: Lot 12, Lot 13, Lot 14, Lot 19 and Lot 20 (Plat Book 8, Page 50); and Lot 23, Lot 24, Lot 40, Lot 41, Lot 42, Lot 43, Lot 44 and Lot 45 (Plat Book 8, Page 73).

The Association acquired Lot 19 (Plat Book 8, Page 50) and has designated and used it as additional Common Elements. Therefore, of the 14 tracts that have lake front, two (2) are owned by the Association.

In accordance with the plats, the property lines for the lake front tracts extend to the center of the Lake. Through the Declaration, restrictions were placed on use of the Lake. Furthermore, the Association under the Planned Community Act administers the use of the Lake.

Section 15.2 Lake Use Restrictions

Rev 4.5 4/4/19

- a) Fishing will be allowed only for Property Owners and/or their guests. The taking of fish from the lake will be administered by the board. At times the fishing may be catch and release only based on the recommendations of the North Carolina Wildlife Resource Commission. If catch and release fishing is implemented it will be clearly signposted at the lake common area. Guests of Property Owners are permitted to fish only when accompanied by the Property Owner or have the Property Owners written permission. The right for anyone to fish may be cancelled at any time by the Property Owners Association.
- b) No swimming is allowed in or on the lake, this includes tubing, and floating on the lake in anything other than a boat.
- c) Any Lot Owner in any Phase of Hidden Lake may use the entire lake. Access to the lake shall be from, i) The Common area shown on the official map of the community. ii) From a private dock with Lot Owner's permission.
- d) No gasoline powered motors are allowed; Electric trolling motors not to exceed two and one half (2 ½) horsepower, paddle boats, kayaks, canoes, and paddle boards are allowed.
- e) The Board of Directors shall have the authority to promulgate rules and regulations concerning administration and use of the Lake.

Section 15.3 Docks. The Owners of Lots which border on the water of the lake elevation as shown on the plat of record in Plat Book 8 at Page 50 of the McDowell County Registry, (referred to herein as Lake Front Lots) may build or construct a dock extending into said lake no farther than 16 feet from the edge of the water, However, any residence or other buildings must be beyond the 1328-foot flood easement elevation.

Section 15.4 Maintenance. If any maintenance, repair, or other type of work must be performed or undertaken for the preservation, protection, or betterment of the Lake, the Association will administer and undertake such work. The cost of any such work in accordance with Article 10, Section 10.3 (c) shall be borne and paid for by the owners of the lots and common area tract that border the lake. There is a total of 14 lake front parcels. The Association owns two (2) of the parcels. Thus, for the cost of any maintenance, repair or betterment, the Association as a common expense would pay for one-seventh (1/7) and each of the 12 Lot Owners would pay one-fourteenth (1/14) of the cost.

Section 15.5 Rules and Regulations for the Lake. The Board of Directors shall have the authority to promulgate the rules and regulations for the use, care, and administration of the Lake.

Article 16 Enforcement Powers

Section 16.1 Rules Making Authority. The Planned Community shall be used only for those uses and purposes set out in the Declaration and Bylaws. The Board of Directors shall have the authority to make, modify, repeal, and to enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Lots and the

Rev 4.5 4/4/19

common elements, so long as copies of all such Rules and Regulations are furnished to all Owners; provided, however, any Rule or Regulation may be repealed by the affirmative vote or written agreement of a majority of the total Association vote at an annual or special meeting. No rule or regulation shall conflict with either the Declaration or the Bylaws.

Article 17

Enforcement Procedures

In accordance with Section 47F-3-107.1 of the North Carolina Planned Community Act, the Board of Directors shall not impose a fine or charge for damages against a Lot Owner or suspend a Lot Owner's planned community privileges or services unless and until the following procedure is followed:

Section 17.1 Notice. If it appears that a Lot Owner is in violation of the Declaration, Bylaws, or Rules and Regulations, the Board shall give the violator written notice of the alleged violation. This notice shall state: (i) the nature of the alleged violation; (ii) the date, time and location that the violator will have the opportunity to be heard to explain why the lot owner is not in violation of the Declaration, Bylaws, or Rules and Regulations; (iii) that any statements, evidence and witnesses may be produced by the violator at the hearing; and (iv) that the lot owner has the right to be represented by an attorney at the hearing.

Section 17.2 Hearing. The hearing shall be held before the Board of Directors and the violator shall be given a reasonable opportunity to be heard. If it is decided that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation and without further hearing, for each day more than five days after the decision that the violation occurs. Such fines shall be assessments secured by liens under G.S. 47F-3-116. If it is decided that a suspension of Planned Community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The Board shall render its Final Decision to the Lot Owner regarding imposition of the fine or suspension of planned community privileges or services. Charges for late payments are not to be regarded as fines that warrant a hearing under this section.