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**COMMUNITY CHARTER**

**FOR**

**BUNDORAN FARM**

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# COMMUNITY CHARTER FOR BUNDORAN FARM

## PREAMBLE

*Bundoran Farm is a residential community located in the Albemarle County, Virginia, founded on the principles of sustainability and preserving the rural, agricultural character and scenic value of the land through environmentally sensitive land use and stewardship of farm lands, forest, and other natural resources. This Community Charter ("Charter") is the instrument, more commonly known as a declaration, which establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of the property within Bundoran Farm consistent with those founding principles.*

*An integral part of the plan for operation and administration of Bundoran Farm is Bundoran Farm Community Association, Inc. ("Association"), which has been incorporated pursuant to the Virginia Non-stock Corporation Act, Va. Code §13.1-801, et seq., as it may be amended, to hold and manage various common areas, easement areas, and community improvements, and to administer and enforce this Charter and the other Governing Documents referenced in this Charter in accordance with the Virginia Property Owners' Association Act, Va. Code §55-508, et seq., as it may be amended. Through the collective efforts of the Association, the Design Committee and the Farm Management Committee established pursuant to this Charter, and the Foundation referenced in Chapter 2 of this Charter, the vision and goals for Bundoran Farm can be achieved for the benefit of the property owners as well as the surrounding community.*

## DECLARATION

By executing and recording this Charter, Edge Valley Preservation, LLC, a Delaware limited liability company, its successors and assigns (the "Founder"), declares that the property described in Exhibit "A" and any additional property made subject to this Charter by supplement or amendment, shall constitute the planned community of Bundoran Farm (the "Community" or "Bundoran Farm.") This Charter shall encumber the title to such property, shall govern the development and use of such property, and shall be binding upon the Founder, the Association, and the future owners of any portion of such property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter holds any legal, equitable, or beneficial interest in any portion of such property.

## PART ONE: INTRODUCTION TO THE COMMUNITY

*Conservation means harmony between men and land. When land does well for its owner, and the owner does well by his land; when both end up better, by reason of their partnerships, we have conservation.*

*Aldo Leopold, Round River*

# Chapter 1

## Governing Documents

A community is guided and governed by certain principles that each owner and resident, by choosing to own property or reside in the community, agrees to uphold. Those principles are set forth in the community's governing documents, which bind the community together, give it structure, and provide guidance to all who participate in its growth and evolution.

### 1.1. Scope and Applicability.

The Community has been established and is administered pursuant to various documents that

have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents, referred to in this Charter as the "Governing Documents," include this Charter and the other documents described in Table 1.1, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, must comply with the Governing Documents.

GOVERNING DOCUMENTS	
<b>Community Charter:</b> (recorded)	this Community Charter for Bundoran Farm, which creates obligations that are binding upon the Association and all present and future owners of property in Bundoran Farm
<b>Supplement:</b> (recorded)	a recorded supplement to this Charter which submits additional property to this Charter, creates easements over property described in such Supplement, imposes additional obligations or restrictions on such property, designates special areas as described in Chapter 3, or any of the foregoing
<b>Articles of Incorporation:</b> (filed with Secretary of State)	the Articles of Incorporation of Bundoran Farm Community Association, Inc., as they may be amended, which establish the Association as a nonprofit, nonstock corporation under Virginia law
<b>By-Laws:</b> (initial set attached as Exhibit "D")	the By-Laws of Bundoran Farm Community Association, Inc. adopted by its Board of Directors, as they may be amended, which govern the Association's internal affairs, such as voting, elections, meetings, etc. A copy of the initial By-Laws is attached as Exhibit "D."
<b>Design Standards:</b> (Founder adopts)	the Pattern Book for Bundoran Farm and such other design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to property within the Community, including structures, landscaping, and other items
<b>Rules:</b> (initial set attached as Exhibit "C")	the rules of the Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within Bundoran Farm
<b>Board Resolutions:</b> (Board adopts)	the resolutions that the Association's Board of Directors adopts to establish rules, policies, and procedures for internal governance and Association activities and to regulate the operation and use of property the Association owns or controls

Table 1.1 - Governing Documents

## Governing Documents

### 1.2. Additional Covenants and Restrictions.

The owner of any property within the Community may impose covenants on such property in addition to those set forth in the Governing Documents, with such approval as may be required pursuant to Chapter 18, provided that any such covenants shall not interfere with the exercise of any easement granted or reserved in this Charter or the use of any easement area in accordance with the terms of this Charter or any other instrument creating the easement. If the provisions of any such additional covenants are more restrictive than the provisions of this Charter, the more restrictive provisions control. The Association shall have standing and the power, but not the obligation, to enforce any such additional covenants.

### 1.3. Conflicts and Ambiguities.

If there are conflicts between any of the Governing Documents and Virginia law, Virginia law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

The Governing Documents use diagrams, tables, and keynotes to illustrate concepts and assist the reader. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

The Association's board of directors may, by resolution, resolve any ambiguities in the Governing Documents, and any reasonable interpre-

tation of an ambiguous provision shall be determinative.

### 1.4. Definitions.

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms may be found following the Table of Contents. All other terms used in the Governing Documents have their usual, commonly accepted definitions.

### 1.5. Interpretation of Certain References.

**Consent or Approval.** All references in the Governing Documents to "consent" or "approval" shall refer to permission or approval which, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

**Discretion and Determination.** All references in the Governing Documents to "discretion" or to the right to "determine" any matter shall mean the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

**Person.** References in the Governing Documents to a "Person" or "Persons" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

**Recording.** All references in the Governing Documents to a "recorded" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or recorded, or the filing or recording of a legal instrument, in the Office of the Clerk of the Circuit Court of Albemarle County, Virginia, or

## Governing Documents

such other place designated as the official location for filing documents affecting title to real estate in Albemarle County in order to make them a matter of public record.

*Community-Wide Standard.* Where the Governing Documents require compliance with the "Community-Wide Standard," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Standards, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Board or the Design Committee described in Section 2.3. The Community-Wide Standard may or may not be set out in writing. The Founder initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as Bundoran Farm matures.

\* \* \*

## Chapter 2

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### Community Administration

*Vibrant communities depend upon all of their stakeholders working together to uphold community standards and achieve the vision and goals for the community. The Founder, the Association, the owners, the builders, and others have a role in the functioning of the community and in helping to fulfill that vision. This chapter identifies these stakeholders and describes their roles in administering the Community.*

#### 2.1. The Founder.

The Founder has established the vision for the Community and, through the Governing Documents, has set forth the founding principles that will guide the Community during the initial period of development and sale and thereafter, that being the concepts of sustainability and preserving the rural, agricultural character and scenic value of the land through environmentally sensitive land use and stewardship of farm lands, forest, and other natural resources ("**Founding Principles**"). The Founder's proposed plan for development of the Community encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" of this Charter (as it may be amended, the "**Development Plan**"). However, the Founder is not obligated to submit property shown on the Development Plan to this Charter. In addition, the Founder may submit property to this Charter that is not shown on the Development Plan.

The Founder has reserved various rights in the Governing Documents with respect to development and administration of the Community. The Founder may exercise certain of these rights throughout the "**Development and Sale Period**," which is the period of time during which the Founder or any "Founder Affiliate" owns real property in the Community or has an unexpired option to expand the Community pursuant to Chapter 17. A "**Founder Affiliate**" is any Person that controls, is controlled by, or is under common control with the Founder, and any Person

that is an owner, a member, a partner, or a shareholder of the Founder.

The Founder has reserved other rights that may be exercised during the "**Founder Control Period**," which is the period of time that the Founder is entitled to appoint a majority of the members of the Association's board of directors ("**Board**"). It begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(a) when 75% of the total number of Lots (as defined in Section 3.1) permitted by applicable zoning for the property described in the Development Plan have been conveyed to persons other than a Founder Affiliate or a builder holding title for purposes of construction and resale;

(b) December 31, 2026; or

(c) when, in its discretion, the Founder voluntarily and expressly surrenders such right in a recorded instrument.

The Founder has certain approval rights for a limited period as provided in the By-Laws after the termination of the Founder Control Period.

The Founder may assign its status and rights as the Founder under the Governing Documents to any Founder Affiliate or any person who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

#### 2.2. The Association and its Board.

The Founder has established the Association as the primary entity responsible for maintaining roads and other property within Bundoran Farm intended for the common use and benefit of the

## Community Administration

residents and for administering and enforcing the Governing Documents, subject to the rights of the Founder under the Governing Documents and the authority of the Design Committee and Farm Management Committee established pursuant to this Chapter. On most matters, the Association acts through the Board, which is selected as provided in Section 2.1 and the By-Laws. However, in some instances the Governing Documents or applicable laws limit the Board's ability to act without the approval of the Association's members. Unless the Governing Documents or Virginia law specifically provide otherwise, the Board may exercise the Association's rights and powers without a vote of the membership.

The Association may exercise all rights and powers that the Governing Documents and Virginia expressly grant to it, as well as any rights and powers that may reasonably be implied under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege

The Board may, but is not required to, institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action.

In exercising the Association's rights and powers, making decisions on the Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances), and conducting the Association's affairs, Board members and the Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

### 2.3. Design Committee.

All discretionary authority over architectural design and aesthetic matters within Bundoran

Farm shall be vested in the Bundoran Farm Design Committee ("**Design Committee**"), which is charged with reviewing and approving or disapproving applications for architectural approval pursuant to Chapter 5

(a) *Appointed by Founder.* The Founder shall appoint all members of the Design Committee until the later of (i) the expiration of the Development and Sale Period, or (ii) such time as all Lots planned for the property described in Exhibits "A" and "B" have been improved with dwellings for which a certificate of occupancy has been issued, unless it earlier elects to delegate such authority to a Board-appointed committee established pursuant to Section 2.3(b), in which case the Board-appointed committee shall be considered the Design Committee with respect to those matters which the Founder has delegated to it.

The Founder may delegate any or all of its authority as the Design Committee to a Board-appointed committee earlier than required under this subsection (a). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Founder's right to revoke such delegation at any time and reassume its prior control, and (ii) the Founder's right to veto any decision it determines, in its discretion, to be inappropriate or inadvisable. So long as the Founder has any rights under this Section, the jurisdiction of any Board-appointed Design Committee shall be limited to such matters as the Founder specifically delegates.

(b) *Appointed by Board.* Upon the Founder's delegation of authority pursuant to Section 2.3(a), or upon expiration or termination of the Founder's rights under Section 2.3(a), the Board shall establish a committee to assume jurisdiction over matters within the scope of the delegated authority or to assume the role of the Design Committee, as applicable. Such committee shall consist of three to five persons who may, but need not, be Owners or representatives of Own-

## Community Administration

ers. During the Development and Sale Period, the Founder may appoint one member of such committee and, at all times, at least one member of such committee shall be an architect, residential building designer, or other qualified design professional who may be compensated by the Association for his or her service on the committee in such amount as the Board determines appropriate.

The Board shall appoint three members of such committee for a two-year term and two members for a one-year term. Thereafter, upon expiration of the term of any member, the Board shall appoint a successor to serve a term of two years. In the event of a vacancy in any position, the Board shall appoint a successor to fill the position for the unexpired portion of the term of the person who vacated it. The Board may, in its discretion, remove and replace any member of the committee prior to expiration of such member's term.

Until expiration of the Founder's authority under subsection (a), if the Founder has delegated any authority to a Board-appointed committee under this subsection (b), such committee shall notify the Founder in writing within three business days of any action (i.e., approval, partial approval, or disapproval) it takes under the Governing Documents. A copy of the application or request for approval and any additional information the Founder may require shall accompany the notice. The Founder shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to such committee.

The Board-appointed Committee shall conduct its activities in accordance with Sections 3.7 through 3.14 of the By-Laws relating to meetings and actions of the Board and its members shall conduct themselves in accordance with Section 7.1 of the By-Laws relating to standards of conduct for directors and officers.

Members of the Board-appointed committee shall be entitled to the benefits of Section 7.2 through 7.4 of the By-Laws relating to liability and indemnification of directors and officers in the same manner as directors and officers.

### 2.4. Farm Management Committee.

The Farm Management Committee ("Farm Management Committee or "FMC") established pursuant to this Section shall be responsible for reviewing and making recommendations to the Board regarding the lease and management of the Farmbelt and Greenbelt Easement established pursuant to Chapter 13 of this Charter ("Farmbelt and Greenbelt Easement"), including such matters as leasing of Farmbelt Zones, as defined in Section 13.9, for agricultural operations and special events, leasing of Greenbelt Zones, as defined in Section 13.9, for harvesting and sale of timber, wildlife management, and other management issues related to such Farmbelt and Greenbelt Easement. In so doing, the FMC's goal shall be to foster a healthy relationship between the residential uses of the Lots and the use of the Farmbelt and Greenbelt Easement consistent with the Founding Principles, which relationship will not necessarily result in maximum income to the Association from the leasing of such Easement. The FMC shall also make recommendations to the Board regarding the retention of a farm manager and a natural resources manager to assist the Association in managing the Farmbelt and Greenbelt Easement. Such managers shall report to the FMC.

The Board shall give the recommendations of the Farm Management Committee great weight and shall generally accept and follow such recommendations unless the Board determines by a vote of at least four directors, or by unanimous vote if there are fewer than four directors then serving, that there are liability or other overriding concerns that justify rejecting such recommendations. However, the Board shall not take any action, whether upon recommendation of the FMC or otherwise, to suspend appropriate agricultural activities within the Farmbelt and

## Community Administration

Greenbelt Easement on a permanent or indefinite basis without prior approval of at least 95% of the Owners, or on a temporary basis for a period in excess of 12 months without prior written approval of at least 75% of the Owners. Any suspension approved pursuant to this section shall be reconsidered each year after the effective date thereof and shall be lifted unless again approved by the vote of that percentage of Owners required hereunder. The Board's decision to terminate or not renew an existing agreement or to reject a proposed agreement relating to agricultural activities shall not require Owner approval hereunder provided that the Farm Management Committee and the Board thereafter continue in good faith to pursue alternative arrangements to renew, continue, or reinstate appropriate agricultural activities.

The Farm Management Committee shall consist of three to five persons who may, but need not, be Owners or representatives of Owners. However, at all times, at least one member of the Farm Management Committee shall be a trained agriculture or farm management professional and at least one member shall be a forest management professional, each of whom may be compensated by the Association for his or her service on the FMC in such amount as the Board determines appropriate.

The Founder shall have the right to appoint, remove and replace all members of the FMC until expiration of the Development and Sale Period, unless it earlier relinquishes such right by written notice to the Board signed by the Founder.

Upon expiration of the Founder's right to appoint the FMC, the term of the Founder's appointees shall end and the Board shall appoint two members of the FMC, one for a two-year term and one for a one-year term. The Foundation described in Section 2.7 ("Foundation") shall be entitled to appoint two members of the FMC, one for a two-year term and one for a one-year term. Those four members of the FMC shall

appoint a fifth member. Thereafter, upon expiration of the initial term of office of each member of the FMC so appointed, a successor shall be appointed for a term of two years in the same manner as the member whose term is expiring was appointed. If at any time the Foundation fails to appoint any director whom it is entitled to appoint hereunder within 60 days after written notice from the Board, the Board may appoint someone to fill the vacancy until such time as the Foundation makes such appointment. If at any time the Board fails to appoint any member of the FMC whom it is entitled to appoint within 60 days after written notice from the Foundation, the Foundation may appoint someone to fill the vacancy until such time as the Board makes such appointment.

In the event of a vacancy in any position on the FMC, a successor shall be appointed, in the same manner as the member who vacated the position, to fill the position for the unexpired portion of the term of the person who vacated it. The Board or Foundation may, in its discretion, remove and replace any member of the FMC which it has appointed prior to expiration of such member's term.

After expiration of the Founder's right to appoint the members of the Farm Management Committee, the Farm Management Committee shall conduct its activities in accordance with Sections 3.7 through 3.14 of the By-Laws relating to meetings and actions of the Board and its members shall conduct themselves in accordance with Section 7.1 of the By-Laws relating to standards of conduct for directors and officers. Members of the Farm Management Committee shall be entitled to the benefits of Section 7.2 through 7.4 of the By-Laws relating to liability and indemnification of directors and officers in the same manner as directors and officers.

### 2.5. The Owners.

Each Person that holds record title to a Lot, as defined in Chapter 3, is referred to in the Governing Documents as an "Owner. However,

## Community Administration

a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Lot is subject to a life estate, the holder of the remainder interest (rather than the holder of the life estate) shall be considered the Owner for purposes of assessment under Chapter 12. If a Lot is sold under a recorded contract of sale and the contract specifically so states, the purchaser (rather than the holder of fee simple title) will be considered the Owner. If a Lot has more than one Owner, all co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Association and through service to the Community in various committee and leadership roles, as described in Chapters 3 and 4 and in the By-Laws.

### 2.6. Builders.

The Founder may sell unimproved lots within Bundoran Farm to Persons engaged in the business of developing and constructing homes for resale in the ordinary course of their business ("Builders"). The Builders have the same privileges and responsibilities as Owners during the time that they own Lots for construction and resale, including the privileges of membership in the Association.

### 2.7. Mortgagees.

If a Lot is made subject to a mortgage or other form of security instrument affecting title to a Lot ("Mortgage"), then the holder or beneficiary of that Mortgage ("Mortgagee") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 15.

### 2.8. Foundation.

The Founder has established or intends to establish a nonprofit, nonstock organization under Virginia law to engage in activities permitted of a tax-exempt entity under Section 501(c) of the Internal Revenue Code ("Foundation") and consistent with the Founding Principals for Bundoran Farm. Such activities may include, without limitation:

- Acquiring, by purchase or lease, and improving, real and personal property for use in the conduct of its activities;
- operating a community-supported agricultural cooperative;
- providing and sponsoring research and education with respect to growth management techniques, sustainability, land management and conservation practices;
- sponsoring, facilitating, and conducting educational and cultural programs and activities;
- providing other services and funding for various programs, projects, services, and activities which, in the judgment of its governing board, benefit the local community.

The Foundation may establish and maintain a base of operation in Bundoran Farm and engage in activities in Bundoran Farm which draw participants from outside Bundoran Farm.

### 2.9. Other Relationships.

The Founder may enter into and assign to the Association, and the Association may enter into and accept assignments of:

- (a) agreements to sell timber on the Common Areas;
- (b) agreements relating to use of the airstrip within the Community;

## **Community Administration**

(c) leases, licenses, use or operating agreements, management agreements, and similar agreements providing for the use of Common Areas for agricultural activities (including, without limitation, farming, raising and keeping of livestock, and stables), special events such as the county fair, wildlife management, and other activities which the Board determines to be consistent with the Founding Principles;

(d) cost sharing agreements, and other agreements establishing easements and rights of use and access, and/or covenants to share costs ("Covenant to Share Costs"); and

(e) easements in favor of nonprofit organizations dedicated to environmental education, conservancy, sustainability, or similar causes.

The Association shall assume and honor the terms of any such agreement which the Founder enters into and assigns to the Association.

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## Chapter 3

### Community Structure and Organization

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*The Community consists of parcels of property, referred to as Lots, which are intended for the exclusive use of the Owner and other occupants of such parcel, as well as property that is intended for the common use of some or all of the residents and public property. Lots may be assigned to Service Areas to permit the Association to provide special services and benefits to particular areas of the Community.*

#### 3.1. Designations of Properties Comprising the Community.

**Lots.** The Governing Documents refer to each plot of land in Bundoran Farm depicted as a separately identifiable lot on a recorded subdivision plat and intended for independent ownership by someone other than the Association, and any dwelling and other improvements on the lot, as a "**Lot.**" The subdivision and combination of Lots is subject to the provisions of Section 7.1(d).

A portion of each Lot shall be designated on the recorded subdivision plat as a "**Homesite.**" The Founder reserves the right to modify and specify, by revision, amendment, or supplement to the recorded plat, the exact location and boundaries of each Homesite in the Founder's discretion and without the approval of any Person until the Founder has conveyed the Lot, and at any time after conveyance of the Lot with the consent of the Owner of the Lot. Some Lots may contain more than one Homesite, in which case the recorded plat may designate one as the "**Primary Homesite**" and the other as a "**Dependency Homesite.**" All portions of a Lot outside of the Homesite(s) on such Lot shall be subject to the Farmbelt and Greenbelt Easement described in Chapter 13.

Prior to the sale of each Lot, the Founder may establish a lot portfolio for the Lot designating an area within the Homesite as the "**Development Zone.**" The "**Development Zone**" is the portion of the Homesite which is the preferred

area for placement of the dwelling. In addition, if the Lot has been designated on a recorded plat as an "Equestrian Lot," the lot portfolio shall establish the location and boundaries of an "**Equestrian Activity Zone**" on such Lot within which the Owner and occupants of the Lot may engage in limited equestrian activities. The boundaries of the Development Zone and any Equestrian Activity Zone need not be reflected on a recorded plat and may be modified by the Founder or the Design Committee in its discretion upon request of the Owner.

Some Lots may be designated on a recorded plat as "**Controlled Lots,**" and made subject to recorded restrictions designed to control the price at which the Lots are resold or leased in order to make available attainable housing for Association employees, persons leasing any portion of the Farmbelt and Greenbelt Easement, public service and other community workers, and others with limited housing options.

**Common Area.** Any property and facilities that the Association owns, leases, holds an easement in or license to use, or otherwise holds possessory or use rights in pursuant to this Charter for the common use or benefit of more than one Lot is referred to as "**Common Area.**" The Common Area includes the Limited Common Area and the Easement Areas described later in this Chapter. The Founder and others may establish and convey Common Area to the Association as provided in Section 9.1.

**Limited Common Area.** Certain portions of the Common Area may be designated as "**Limited Common Area**" and assigned for the exclusive use or primary benefit of less than all Lots, or Lots only in specified portions of the Community. Limited Common Areas shall include such things as secondary roadways and shared driveways which serve less than all Lots, among other things.

## Community Structure and Organization

The Founder may designate other property as Limited Common Area and assign it to particular Lots on Exhibit "A" to this Charter, in the Supplement by which the property is submitted to the terms of this Charter, or in the deed, easement, or other instrument granting an interest in such property to the Association.

**Easement Areas.** Portions of the Community, including Lots, are subject to Access Easements, Limited Access Easements, Farmbelt and Greenbelt Easements, and other easements established by the Founder pursuant to Chapter 13 of this Charter and recorded plats of the Community (collectively, "Easement Areas"). The Association shall have the right, upon recommendation of the Farm Management Committee, to transfer any such easements in favor of the Association to other nonprofit entities organized for purposes consistent with the Founding Principles, provided such entities agree to accept such easements and manage and maintain the Easement Areas in a manner consistent with this Charter.

**Area of Common Responsibility.** All of the properties and facilities for which the Association has responsibility under the Governing Documents, or for which the Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "Area of Common Responsibility," regardless of who owns them. The Area of Common Responsibility includes all of the Common Area, including Limited Common Area and Easement Areas, and may also include other portions of Lots and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in Chapter 9.

**Other Properties.** In addition to the above, Bundoran Farm may include property dedicated to the public which is neither a Lot nor Common Area.

### 3.2. Service Areas.

Units may be part of one or more "Service Areas" in which the Lots share Limited Common Areas or receive special benefits or services from the Association that the Association does not provide to all Lots within the Community. A Lot may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may include Lots that are not all contiguous.

All Lots to which any Limited Common Area is assigned shall constitute a Service Area for purposes of maintaining that Limited Common Area. For example, all Lots served by the same secondary road or shared driveway designated as a "Limited Access Easement" pursuant to Chapter 13 shall constitute a Service Area for purposes of maintaining that secondary road or shared driveway. In addition, the Founder may designate other Service Areas (by name or other identifying designation) and assign Lots to a particular Service Area either in Exhibit "A" to this Charter or in a recorded Supplement. During the Development and Sale Period, the Founder may unilaterally amend this Charter or any Supplement to add or remove Lots from a Service Area or otherwise change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Lots to them upon petition of Owners of at least 67% of the Lots affected by the proposed designation pursuant to Section 10.2.

The Owners of Lots within each Service Area may elect a "Service Area Committee" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

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## Chapter 4

### Association Membership and Voting Rights

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*The Association is a mechanism by which each Owner can participate in the governance and administration of Bundoran Farm. While many powers and responsibilities are vested in the Board in order to facilitate day-to-day management and operation, the membership and voting rights vested in the Owners allow the Owners to participate in administration of the Community and influence the outcome of major decisions.*

#### 4.1. Membership.

The Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, and the Founder membership, which consists solely of the Founder. All persons holding a membership in the Association are referred to in this Charter as "Members."

(a) **Owner Membership.** Every Owner is automatically a member of the Association. However, there is only one membership per Lot. Thus, if a Lot has more than one Owner, all co-Owners of the Lot share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Association's Secretary, except that only the individuals residing in the Lot shall have the right to use any Common Area recreational facilities available for use by Owners.

(b) **Founder Membership.** The Founder holds the sole Founder membership. The Founder membership shall terminate upon expiration of the Founder Control Period, or on such earlier date as the Founder determines and declares in a recorded instrument.

The Founder may, by Supplement, create additional classes of membership comprised of the owners of Lots within any portion of the additional property submitted to this Charter. The Founder shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

#### 4.2. Voting.

Each Lot is assigned one equal vote in the Association, subject to the limitations on voting set forth in this Charter and the other Governing Documents, except that:

(a) upon commencement of site work or construction of a dwelling on a Dependency Homesite, the Owner of the Lot on which such Dependency Homesite is located shall be entitled to one additional vote (for a total of two votes for such Lot); and

(b) no vote shall be exercised for any property exempt from assessment under Section 12.8.

If there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners holding a majority of the ownership interest in the Lot determine among themselves. Any co-Owner may cast the vote for the Lot or consent to any action requiring approval of the Owners on behalf of all co-Owners of the Lot, and majority agreement shall be conclusively presumed unless another co-Owner of the Lot protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently. No more than one vote shall be cast for any Lot.

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## PART TWO: COMMUNITY STANDARDS

*The first farmer was the first man, and all historic nobility rests on possession and use of land.*

*Ralph Waldo Emerson, "Farming"*

## Chapter 5

### Architecture, Landscaping and Aesthetic Standards

The Community derives its unique character from a mix of compatible architectural languages and expressions and from the cooperation of everyone involved in the design, construction and patronage of built improvements to uphold aesthetic, construction and operational standards. This chapter explains how those standards are established and how they are applied and maintained through a process requiring prior approval for construction on and exterior modifications to improvements on Lots.

#### 5.1. General.

All site work and removal, installation or modification of plant material, landscaping, structures, improvements, and other items on a Lot or Common Area after the recording of this Charter in a manner or location visible from outside of existing structures ("**Improvements**") are subject to standards for design, landscaping and aesthetics adopted pursuant to this chapter, including but not limited to the design standards set out in the Bundoran Farm Pattern Book ("**Design Standards**") and the approval procedures set forth in this chapter, except as this chapter or the Design Standards may otherwise specify.

No prior approval is necessary to repaint the exterior of existing structures using the most recently approved color scheme or to rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures. Unless otherwise specified in the Design Standards, no approval is required for placement of outdoor furniture, sports and play equipment, garbage cans, dog runs, animal pens, and similar personal property of a residential character within the Development Zone on a Lot, provided such items cannot be readily seen from roadways within the Community and such items and the location thereof are consistent with any applicable provisions of the Design Standards.

Any dwelling constructed on a Lot shall be designed by and built in accordance with the plans and specifications of a qualified design professional approved by the Design Committee in its sole discretion.

Approval under this chapter is not a substitute for any approvals or reviews required by the Albemarle County or any governmental agency or entity having jurisdiction over architectural or construction matters.

This chapter shall not apply to structures existing on any portion of the Community prior to submitting it to this Charter, nor to the Founder's or any Founder Affiliate's design and construction activities, nor to the Association's design and construction activities during the Founder Control Period.

#### 5.2. Review Authority.

(a) **Jurisdiction.** Jurisdiction over all matters of an architectural design or aesthetic nature under the Governing Documents shall be vested exclusively in the Design Committee established pursuant to Section 2.3.



The Design Committee has jurisdiction over design and aesthetic matters in Bundoran Farm. The Founder will be entitled to appoint all members of a Design Committee during the Development and Sale Period. Thereafter, or upon delegation by the Founder, the Board will appoint the members of the Design Committee. The Design Committee sets fees for reviewing applications.

(b) **Fees; Assistance.** The Design Committee may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application. The Association shall be responsible for funding the

## Architecture, Landscaping and Aesthetic Standards

reasonable compensation of any professionals whom the Design Committee selects to assist it, to the extent that such costs exceed the fees charged for review of applications hereunder.

### 5.3. Standards and Procedures.

(a) *Design Standards.* The Founder shall prepare the initial Design Standards, which may contain general provisions applicable to all of Bundoran Farm, as well as specific provisions that vary based on the type of structure, use, or location within the Community. Any "pattern book" established by the Founder shall be a part of the Design Standards. The Design Standards are intended to promote the use of sustainable building materials and practices and otherwise provide guidance to Owners and contractors regarding matters of particular concern to the Design Committee. The Design Standards are not the exclusive basis for the Design Committee's decisions, and compliance with the Design Standards does not guarantee approval.

The Design Committee shall have the exclusive right to amend the Design Standards. Amendments to the Design Standards shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Standards as amended. There shall be no limitation on the scope of amendments to the Design Standards, and such amendments may eliminate requirements previously imposed or otherwise make the Design Standards less restrictive.

The Design Committee shall make the Design Standards available to Owners and their contractors upon request. In the Founder's discretion, such Design Standards may be recorded, in which event the recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Design Standards was in effect at any particular time.

(b) *Procedures.* Unless the Design Standards provide otherwise, no activities within the scope of this chapter (as described in Section 5.1) may begin on any property within Bundoran Farm until a written application is submitted to and approved by the Design Committee. The application must be accompanied by plans and specifications and such other information as the Design Committee or the Design Standards require.

In reviewing each application, the Design Committee may consider any factors it deems relevant, including, without limitation, harmony of the proposed external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Design Committee shall have the discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 19 or judicial review so long as they are made in good faith and in accordance with required procedures.

The Design Committee shall make a determination on each application after receipt of a completed application with all required information. The Design Committee may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Design Committee may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Design Committee shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all

## Architecture, Landscaping and Aesthetic Standards

required submissions; however, with respect to any Design Committee determination subject to the Founder's veto right under Section 2.3, the Design Committee shall notify the applicant of the final determination within 40 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Design Committee fails to respond within the time period required above, the applicant may send written notice to the Reviewer by certified mail, return receipt requested, requesting action on the application and if the Reviewer fails to respond within 30 business days after receipt of such written notice, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Standards unless a written variance has been granted pursuant to Section 5.5.

Construction of approved work shall commence within 12 months of written notice of approval unless the Committee otherwise specifies in writing. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within 18 months of commencement unless otherwise specified in the notice of approval or unless the Design Committee, in its discretion, grants an extension in writing.

The Design Committee may exempt certain activities from the application and approval requirements of this chapter, if such activities are undertaken in compliance with the Design Standards and the Community-Wide Standard.

### 5.4. No Waiver of Future Approvals.

The people reviewing applications on behalf of the Design Committee will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Standards, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Design Committee may elect not to require changes to objectionable features. However, the Design Committee may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

### 5.5. Variances.

The Design Committee may authorize variances from compliance with any of the Design Standards and any procedures when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify a variance, but no variance shall (a) be effective unless in writing; (b) be contrary to this Charter; or (c) prevent the Design Committee from denying a variance in other circumstances. A variance requires the Founder's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.



*When unusual circumstances exist that make it difficult to comply with a particular requirement of the Design Standards, the Owner may file a request with the Design Committee to be excused from complying with such requirement. The Design Committee has the discretion to determine when a variance is appropriate.*

### 5.6. Limitation of Liability.

This chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of Bundoran Farm; they do not create any duty to any Person. Review and approval of any application pursuant

## Architecture, Landscaping and Aesthetic Standards

to this chapter may be based purely on aesthetic considerations. The Design Committee is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Design Committee, the Founder, Founder Affiliates, the Association, its officers, the Board, any committee, and any member of any of the foregoing, shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Founder has approved or featured such contractor as a Builder; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Lot. In all matters, the Association shall defend and indemnify the Board, the Design Committee, and the members of each, as provided in the By-Laws.

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## Chapter 6

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### Maintenance, Repair and Replacement

*Each person who owns a Lot in Bundoran Farm, by accepting a deed to such Lot, commits to each other Owner in Bundoran Farm to uphold the Founding Principles by maintaining those portions of his or her Lot which are available for the Owner's use in a neat, attractive condition to enhance the overall beauty and aesthetic appeal of the Community. This chapter describes the Owners' responsibilities for maintenance and repair of their Lots and for insuring their Lots against property damage so that funds will be available for repair and restoration if needed.*

#### 6.1. Maintenance by Owners.

(a) Subject to subsection (c) below, each Owner shall maintain the Homesite on his or her Lot, including all structures, landscaping, facilities and equipment, and other improvements within the Homesite, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Charter, any Supplement, or by law.

(b) Subject to subsection (c) below, each Owner shall be responsible for keeping any Easement Area on his or her Lot free of trash, abandoned personal property, and debris.

(c) No person shall clear, mow, or otherwise disturb or remove trees, shrubs, or similar vegetation from any Easement Area, install any landscaping material or other Improvements on any Easement Area, or interfere with exercise of any easement over such Easement Area, without prior approval of the Farm Management Committee and the approval of the Design Committee pursuant to Chapter 5, except that prior approval of the Farm Management Committee shall not be required for an Owner or occupant of a Lot to engage in permitted equestrian activities within any Equestrian Activity Zone on such Lot.

#### 6.2. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements within the Homesite on his or her Lot, less a reasonable deductible. Within 90 days after damage to or destruction of a structure on a Lot which the Owner is responsible for insuring, the Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Lot of debris and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

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## Chapter 7

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### Use and Conduct

*In order to maintain a residential environment that encourages respect for and courtesy among neighbors and minimizes the potential for disputes, this chapter sets forth basic standards regarding use, occupancy and transfer of interests in Lots. In addition, it provides a procedure by which the Board and the membership can adopt and change rules regulating use, conduct and activities within the Community to address particular needs and desires of the Community over time.*

#### 7.1. Use of Lots.

(a) **Homesite.** The Homesite on Lots may be used only for residential and related purposes, except as the Founder may otherwise authorize pursuant to Chapter 18 with respect to construction, marketing and sale activities of the Founder and Builders it designates, and as otherwise authorized in this section. Any Lot owned or leased by the Foundation shall be exempt from this provision so long as it is used for nonprofit purposes consistent with the Founding Principles, and the Association may maintain an office within a Homesite for its property manager.

For purposes of this Section, the keeping of a reasonable number of horses, cows, or small domesticated farm animals (excluding pigs and hogs) within a Homesite for personal use and enjoyment of the persons residing in the dwelling on the Homesite shall be considered a "related purpose," provided they are kept in compliance with the Initial Rules set forth on Exhibit C, as they may be amended pursuant to this Chapter.

For purposes of this Section, a business activity shall be considered "related" to a residential use and thus permitted under this Section only if conducted by a person or persons residing in the Lot and only if the business activity:

(i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(ii) complies with applicable zoning requirements;

(iii) does not involve regular visitation of the Lot by employees who do not reside in the Lot, clients, customers, suppliers, or other business invitees, or door-to-door solicitation within the Community; and

(iv) is consistent with the residential character of that portion of the Community in which the Lot is located and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer and for which such a provider would typically receive a fee, compensation, or other form of consideration, regardless of whether (i) the producer actually charges for such goods or services; (ii) such activity is engaged in full or part time; (iii) such activity is intended to or does generate a profit; or (iii) such activity requires a license under applicable law.

Leasing a Lot for residential purposes shall not be considered a "business" within the meaning of this subsection, but shall be subject to the provisions of Section 16.1 relating to leasing.

(b) **Easement Areas.** Use of the Easement Areas on a Lot shall be restricted to those persons and those uses authorized by the terms of the applicable easement, as described in Chapter 13 of this Charter.

## Use and Conduct

### 7.2. Subdivision and Combination of Lots.

(a) **Subdivision.** No Person other than the Founder, Founder Affiliates, and Builders authorized by the Founder shall subdivide or change the boundary lines of any Lot or combine Lots without the Board's prior written approval, except that the Board shall not withhold its approval of any subdivision of a Lot that contains more than one Homesite, provided that (i) the lot portfolio established by the Founder for such Lot pursuant to Section 3.1 indicates that future subdivision of the Lot is permitted, and (ii) each Lot created by such subdivision contains one of the original Homesites. Any subdivision shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s).

(b) **Combination of Lots.** Unless the Founder has recorded a revised or amended plat reflecting a boundary change, adjacent Lots owned by the same Owner shall be treated as separate Lots for purposes of voting and assessment, even though such Lots may be improved with a single dwelling; therefore, the Owner of such adjacent Lots shall be responsible for separate assessments for each such Lot.

(c) **Timesharing.** No Lot shall be used for operation of a timesharing, fraction-sharing, or similar program, or placed in use as part of a private residence club, whereby exclusive use of the Lot is made available to participants in the program or club either on a fixed or floating time schedule over a period of years or on a first come, first served basis, except as may be specifically authorized in a recorded Supplement applicable to the Lot or as part of a program established by the Founder, Founder Affiliates, or their designees in Lots which they own.

### 7.3. Rulemaking Authority and Procedures.

The Governing Documents establish a framework of covenants and conditions that govern the Community. The initial Rules attached as Exhibit "C" are a part of that frame-

work. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Association's membership are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.4.

(a) **Board Authority.** Subject to the notice requirements in subsection (c) and the Board's duty to exercise judgment and reasonableness on behalf of the Association and its Members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting.

(b) **Membership Authority.** Subject to the notice requirements in subsection (c), the Owners entitled to cast a majority of the votes in the Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, during the Development and Sale Period, any such action shall also be subject to the Founder's approval.



Since it is impossible to foresee all potential situations and problems that may arise within the Community, the Board and the Members have the authority to adopt and modify rules as needed to address new or changing circumstances.

(c) **Effective Date.** A Rules change adopted under this Section 7.3 shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners unless, within such 30-day period Owners entitled to cast at least 10% of the total votes in the Association petition for a special meeting, in accordance with the By-Laws, to consider rescinding or modifying such Rule and the Rule is rescinded or modified in the manner provided in subsection (b) above.

(d) **Administrative and Operating Policies.** The procedures set forth in this section do not apply to administrative and operating policies

## Use and Conduct

that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, speed limits on private roads, safety regulations, or the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

(e) *Conflicts.* No action taken under this Section 7.2 shall have the effect of modifying or repealing the Design Standards or any provision of this Charter other than the Rules. In the event of a conflict between the Design Standards and the Rules, the Design Standards shall control. In the event of a conflict between the Rules and any provision of this Charter (exclusive of the Rules), the Charter shall control.

### 7.4. Protection of Owners and Others.

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions:

(a) *Similar Treatment.* Similarly situated Lots shall be treated similarly; however, the Rules may vary from one portion of the Community to another.

(b) *Displays.* No Rule shall prohibit an Owner or occupant from displaying political, religious or holiday symbols and decorations within the Homesite of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs. However, the Association may adopt time, place, and manner restrictions with respect to signs, symbols, and displays visible from roadways and other Lots, including reasonable limitations on size and number.

(c) *Household Composition.* No Rule shall interfere with an Owner's freedom to determine household composition, except that the Association may impose and enforce reasonable occupancy limitations and conditions based on Lot

size and facilities and its fair share use of the Common Area.

(d) *Activities Within Dwellings.* No Rule shall interfere with the activities carried on within a dwelling, except that the Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

(e) *Allocation of Burdens and Benefits.* No Rule shall alter the allocation of financial burdens among the various Lots or rights to use the Common Area set forth in this Charter to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents, except that the Association may not deny an Owner or occupant access to his or her Lot. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12.

(f) *Leasing and Transfer of Lots.* No Rule shall prohibit leasing or transfer of any Lot or require approval prior to leasing or transferring a Lot, except as otherwise provided in Chapter 16. The Rules may require that Owners use Board-approved lease or rental forms (or include specific terms), and may impose a reasonable administrative fee in connection with the Board's review of a lease and issuance of guest passes for access to Common Area facilities.

(g) *Abridging Existing Rights.* No Rule shall require that an Owner or occupant dispose of personal property kept in or on the Lot in

## Use and Conduct

compliance with the Rules in effect at the time such personal property was brought onto the Lot. This exemption shall apply only during the period of such Owner's ownership of the Lot and shall not apply to subsequent Owners who take title to the Lot after adoption of the Rule.

(h) *Reasonable Rights to Develop.* No Rule may unreasonably interfere with the ability of the Founder, any Founder Affiliate, or Builder to develop, market and sell property in Bundoran Farm.

(i) *Interference with Easements.* No Rule may unreasonably interfere with the exercise of any easement.

### 7.4. Owners' Acknowledgment and Notice to Purchasers.

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Lot is limited and affected by the Rules, which may change from time to time. All Lot purchasers are hereby notified that the Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document. A copy of the current Rules and administrative policies are available from the Association upon request. The Association may charge a reasonable fee to cover its reproduction cost.

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## Chapter 8

### Compliance and Enforcement

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The covenants, standards and rules set forth in the Governing Documents are for the benefit of all Owners and occupants in the Community, as well as those persons authorized to use the Easement Areas. However, if they are to have any real meaning, there must be a commitment by the stakeholders in the Community to comply with them and there must be a mechanism in place to enforce that compliance in the event that someone fails or refuses to do so. This chapter sets forth the obligation to comply and the remedies available to the Association for noncompliance.

#### 8.1. Compliance.

Every Owner, occupant and visitor to a Lot must comply with the Governing Documents and shall be subject to sanctions for violations as described in this chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants of or visitors to their Lots, and for any damage to the Area of Common Responsibility that such occupants or visitors cause.

#### 8.2. Remedies for Non-Compliance.

The Association, the Founder, any Founder Affiliate, and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents.

(a) **Sanctions Requiring Prior Notice and Hearing.** After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) subject to the limitations of Va. Code §55-513, impose reasonable monetary fines, not to exceed \$50 per violation or \$10 per day for up to 90 days for a continuing violation,

or such higher amount as may be authorized under Va. Code §55-513, which fines shall constitute a lien upon the violator's Lot. In the event that any occupant, guest, or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(ii) suspend an Owner's right to vote if the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association;

(iii) suspend any Person's right to use Common Area facilities for purposes other than access to his or her Lot, for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation (except that there shall be no suspension for nonpayment of assessments or other charges owed the Association unless the Owner is more than 60 days delinquent);

(iv) suspend any services the Association provides to the violator's Lot provided such suspension does not endanger the health, safety, or property of any Owner or occupant of the Lot (except that there shall be no suspension for nonpayment of assessments or other charges owed the Association unless the Owner is more than 60 days delinquent in paying any assessment or other charge owed to the Association);

(v) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

(vi) without liability to any Person, preclude any contractor, subcontractor, agent,

## Compliance and Enforcement

employee or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5 and the Design Standards from continuing or performing any further activities in Bundoran Farm;

(vii) levy Specific Assessments to cover costs the Association incurs in bringing a Lot into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Lot on which a violation exists.

If, after notice and an opportunity for a hearing, the violation continues or recurs within 12 months after the date of such notice, the Board may impose any of the above sanctions without further notice or opportunity for another hearing.

(b) *Other Sanctions.* The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation in any situation that requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Lot that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner fails to take action as required pursuant to subsection (iii) above within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) bring suit at law for monetary damages or in equity to stop or prevent any violation, or both.



*All Owners and occupants are required to abide by the Governing Documents. If an Owner fails or refuses to obey the Governing Documents the Owner may be subject to various penalties including fines and the loss of the right to use the Common Areas.*

### 8.3. Board Decision to Pursue Enforcement Action.

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(d) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Association from enforcing the same provision at a later time or

## **Compliance and Enforcement**

prevent the enforcement of any other covenant, restriction, or rule.

### **8.4. Attorneys Fees and Costs.**

In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

### **8.5. Enforcement of Ordinances.**

The Association, by contract or other agreement, may enforce applicable city and county ordinances. In addition, Albemarle County may enforce its ordinances within Bundoran Farm.

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### PART THREE: ASSOCIATION OPERATIONS

*When tillage begins, other arts follow. The farmers, therefore, are the founders of human civilization.*

*Daniel Webster*

## Chapter 9

### Property Management

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One of the Association's primary functions is maintaining and operating property and facilities for the common benefit of the Owners and residents of Bundoran Farm. This chapter establishes the Association's obligation to accept property that the Founder designates as Common Area or Limited Common Area and to maintain, operate, and insure it, along with certain other properties, for the benefit of Bundoran Farm.

#### 9.1. Acceptance and Control of Association Property.

(a) *Transfers and Conveyances by the Founder.* The Founder, its designees, or any Founder Affiliate, and with the Founder's written consent, any Builder, may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Founder's written request, the Association shall reconvey to the Founder, or any Founder Affiliate or Builder, any real property that has not been improved with structures intended for occupancy and that the Founder originally conveyed to the Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

The Founder shall have the right to transfer or assign any property to the Association as Common Area subject to matters of record or set forth in the deed of conveyance, which may include easements permitting persons who are not members of the Association to use and enjoy

such Common Area upon payment to the Association of reasonable use fees.

(b) *Management and Control.* The Association is responsible for management, operation, and control of the Common Area, subject to any covenants, restrictions, and easements set forth in the deed or other instrument transferring the property to the Association. The Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate, and shall use reasonable, good faith efforts to enter into such an agreement for operation of the Farmbelt Zone within the Farmbelt and Greenbelt Easement in order to maintain it in active agriculture. The Association may permit use of Common Area facilities by persons other than Owners and occupants of Lots and may charge use fees, in such amount as the Board may establish, for such use.

#### 9.2. Maintenance of Area of Common Responsibility.

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

(a) the roadways within the Community designated "Access Easement" or "Limited Access Easement" on any recorded plat;

(b) the Common Area, except that the Association's maintenance of that portion of the Common Area designated as a Farmbelt and Greenbelt Easement shall be subject to the terms of any lease agreements affecting such easement and limited to such activities as may be permitted by the terms of such easement;

## Property Management

(c) streetlights, if any (unless maintained by the utility provider) within the Community, and any and all entry features, community signage, entry gates, and gatehouses serving any portion of the Community, except that any entry features or gates serving only a portion of the Community shall be a Limited Common Area maintained as a Service Area Expense of that portion of the Community;

(d) public rights-of-way adjacent to Bundoran Farm, to the extent that the Board determines it necessary or desirable to maintain the Community-Wide Standard;

(e) the trail system established within trail easements reserved on recorded plats of any portion of the Community and described in Section 13.7;

(f) such portions of any additional property as may be dictated by the Founder, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Association; and

(g) any property and facilities that the Founder or any Founder Affiliate owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. The Founder shall identify any such property and facilities by written notice to the Association, and they shall remain part of the Area of Common Responsibility until the Founder or Founder Affiliate revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property it does not own, including, without limitation, Lots or property dedicated to the public, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has

been negligent in performing its maintenance responsibilities.

There shall be a hierarchy of roads within the Community consisting of primary roads (approximately 16 feet in width and/or intersecting with a public street), secondary roads (approximately 13 feet in width and/or serves three or more Lots), and shared driveways. The level of maintenance which the Association provides to roadways within the Community may vary based on the level of roadway and surface, as the Board determines appropriate. In other words, shared driveways need not be maintained to the same standard as secondary roads, and secondary roads need not be maintained to the same standard as primary roads; however, all roads of a particular level and surface shall be maintained to a consistent standard throughout the Community.

The cost of maintaining portions of the Area of Common Responsibility other than Limited Common Areas shall be a Common Expense to be assessed among the Lots as part of the Base Assessment pursuant to Chapter 12. The cost of maintaining Limited Common Areas shall be a Service Area Expense to be assessed equally among the Lots within the benefited Service Area pursuant to Chapter 12, except that the cost of maintaining each shared driveway shall be allocated between the Owners of the Lots served thereby in proportion to the relative length of the shared driveway that serves their respective Lots, with the costs of maintaining the portion of the shared driveway serving more than one Lot being allocated equally among the Lots served and the costs of maintaining any portion of the driveway that serves only one Lot being allocated entirely to that Lot. For example, if there are two Lots served by a shared driveway 200 feet in length, with both Lots served by the first 100 feet and only one Lot served by the remaining 100 feet, the costs of maintaining the first 100 feet (or 50% of the total costs) will be allocated in equal shares between the two Lots and the costs of maintaining the second 100 feet (the remaining 50% of the total cost) will be allocated only to the

## Property Management

Lot served by the entire roadway, so that the first Lot will pay 25% of the cost and the last Lot will pay 75% of the cost.

### 9.3. Discontinuation of Operation.

The Association shall maintain facilities within the Common Area in operation unless the Founder, during the Development and Sale Period, and Owners entitled to cast 75% of the total votes in the Association, consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least 75% (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. This Section shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, or to restrict temporary closures or interruptions in operation as the Board may determine appropriate to perform maintenance or repairs, nor shall it preclude the Association from temporarily transferring responsibility for such maintenance to another Person pursuant to any lease, license, operating agreement, or other agreement.

### 9.4. Restoring Damaged Improvements.

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall repair or reconstruct damaged Common Area improvements unless:

(a) this Charter is terminated pursuant to Section 21.1;

(b) repair or restoration would be illegal under any state or local statute or ordinance governing health or safety;

(c) the Founder, during the Development and Sale Period, and Owners entitled to cast at least 67% of the total votes in the Association, or in the case of a Limited Common Area, Owners of at least 67% of the Lots to which the Limited Common Area is assigned, vote within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. Except as provided above, no Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.



*This provision ensures that desirable Common Area improvements will be replaced if destroyed, but it also makes it possible not to repair or rebuild if the Owners who benefit from the Common Area prefer not to rebuild.*

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive condition consistent with the Community-Wide Standard.

The insurance proceeds attributable to any Lots or Limited Common Areas that are not rebuilt shall be distributed to the Owners of the damaged Lots or the Lots to which such Limited Common Areas were assigned, or to their respective lien holders, as their interests may appear, in proportion to their relative liability for Association expenses. The Association shall retain and place in a capital improvements account for the benefit of all Owners, the Owners within the affected Service Area, or the Owners of Lots to

## **Property Management**

which such Limited Common Areas were assigned, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the membership, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.4.

### **9.5. Relationships with Other Properties**

The Association may contract with the owner of any neighboring property to provide for sharing of costs associated with (a) maintenance and operation of mutually beneficial properties or facilities, or (b) provision of mutually beneficial services.

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## Chapter 10

### Provision of Services

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In addition to its property management role, the Association is a vehicle for providing a variety of services for the benefit of the Community at large and individual Lots. This chapter describes some of the services the Association may provide and the mechanism by which it may provide varying levels and types of services to different areas of the Community.

#### 10.1. Provision of Services to Lots.

The Association may arrange for or provide services to Owners and their Lots, directly or through contracts with the Founder or other third parties. The Association may enter into bulk service agreements by which a particular service is provided to all Lots, or to all Lots improved with dwellings for which a certificate of occupancy has been issued ("**Improved Lots**"), or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, analog and digital multi-channel video and music services, community technology, utilities, fire protection, security, trash collection, landscape maintenance, pest control, and caretaker services.

Any Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Lot, may result in termination of services provided to such Lot. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Lot as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services, subject to

the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Association to provide such services.

#### 10.2. Provision of Services to Service Areas.

##### (a) *Service Areas Designated by Founder.*

The Lots served by a Limited Access Easement as described in Sections 9.2(e) and 13.8 shall constitute a Service Area for purposes of the Association providing maintenance of the private driveway as required by Section 9.2(e). In addition, the Association shall provide services to Lots within any Service Area designated by the Founder pursuant to Section 3.2 as required by the terms of this Charter or any Supplement applicable to the Service Area.

(b) *Service Areas Designated by Board.* In addition to Service Areas the Founder may designate pursuant to Section 3.2, any group of Owners may petition the Board to designate their Lots as a Service Area for the purpose of receiving from the Association (i) special benefits or services which are not provided to all Lots, or (ii) a higher level of service than the Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Lots within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least 67% of the Lots within the proposed Service Area approve the proposal in writing, the Board shall designate the Lots as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

## Provision of Services

### 10.3. Community Technology.

The Founder may provide, or may enter into and assign to the Association or cause the Association to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, analog and digital multi-channel video and music services, including video on demand, high speed data/Internet/intranet services, telephone, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("Community Systems"). Any such contracts may provide for installation, operation, management, maintenance, and upgrades or modifications to the Community Systems as the Founder determines appropriate.

The Association may enter into a bulk rate service agreement providing access to any such Community System for all Lots as a Common Expense. If particular services or benefits are provided only to Improved Lots, or to particular Owners or Lots only at their request, the benefited Owner(s) shall pay the service provider directly for such services, or the Association may assess the charges as a Specific Assessment pursuant to Chapter 12 and pay such charges to the provider on behalf of the Owners, as the Board deems appropriate.

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## Chapter 11

### Association Insurance

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*The Association is responsible for insuring against various types of risks, including property damage, personal injury, and liability. This chapter describes the minimum types and amounts of coverage that the Association must obtain, the specific requirements for such policies, and the handling of deductibles and premiums for such insurance.*

#### 11.1. Required Coverages.

The Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "all risks of direct physical loss" on a replacement cost basis (or comparable coverage by whatever name denominated) for all insurable improvements on

(i) the Common Area;

(ii) property within any Service Area, to the extent specified in any applicable Supplement; and

(iii) other portions of the Area of Common Responsibility, to the extent that the Association has responsibility for repair or replacement in the event of a casualty.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for property damage or personal injury caused by the negligence of the Association or any of its Members,

employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$5,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Association shall obtain such additional coverage or limits;

(c) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(d) Directors and officers liability coverage with a limit of at least \$1,000,000.00; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-fourth of the annual Base Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.


The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Albemarle County, Virginia. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

#### 11.2. Deductibles.

The Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the require-

## Association Insurance

ments of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage under Section 11.4. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots as a Specific Assessment.

 *Persons who cause damage in Bundoran Farm may be held responsible for the insurance deductible payable on any insurance claim related to such damage.*

### 11.3. Policy Requirements.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Association insurance shall:

(a) be written with a company authorized to do business in Virginia that satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefited parties. All policies shall be for the benefit of the Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Lots within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include a co-insurance waiver or an agreed amount endorsement, if the policy contains a co-insurance clause;


(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Association and allowance of a reasonable time to cure the defect or violation.

In addition, the Board shall use reasonable efforts to secure insurance policies that provide:

(a) a waiver of subrogation as to any claims against the Association's directors, officers, employees, and manager;

 *Subrogation is a legal concept by which one person is substituted in the place of another with respect to a lawful claim or right. For example, once they have paid a claim by an insured party, insurance companies generally have the right to step into the shoes of the insured party and sue any one that the insured party could have sued.*

(b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

## **Association Insurance**

(d) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

### **11.4. Insurance Premiums.**

Premiums for all Association insurance shall be a Common Expense, except that premiums for property insurance on Limited Common Areas assigned to a particular Service Area shall be a Service Area Expense.

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## Chapter 12

### Association Finances

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This chapter provides for various types of funding to cover expenses that the Association incurs or expects to incur in exercising its authority and performing its responsibilities under the Governing Documents. The primary source of funding is the assessments which this chapter authorizes the Association to levy against the Lots and collect from the Owner of each Lot. Assessments are secured by a lien on each Lot as described in this chapter.

#### 12.1. Association Expenses.

(a) *Common Expenses.* Except as the Governing Documents otherwise specifically provide, all of the expenses that the Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "Common Expenses." Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate.

Common Expenses shall not include any expenses incurred during the Founder Control Period for initial development or original construction costs unless Owners entitled to cast a majority of the total votes in the Association approve such expenditure. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

The characterization of a particular expense as a "Common Expense" shall not preclude the Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) *Service Area Expenses.* All expenses that the Association incurs or expects to incur in connection with the ownership, maintenance and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "Service Area Expenses." Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate among all Service Areas receiving the same service.

#### 12.2. Budgeting for and Allocating Association Expenses.

(a) *Preparation of Budget.* At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for whom the budget is prepared, as applicable. Such reserve contribution shall be based on a reserve study conducted at least once every 5 years and reviewed at least annually, as required by Va. Code §55-514.1. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the con-

## Association Finances

tribution required to fund the projected needs by annual contributions over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Lots, and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to subsections (b) and (c).

(b) *Calculation of Base Assessments.* The Board shall annually levy a "Base Assessment" against each Lot subject to assessment under Section 12.5. The Board shall set the standard Base Assessment rate at a level which the Board deems sufficient to meet the projected income needs of the Association under the Common Expense budget for the coming year. Base Assessments shall be levied against each Lot subject to assessment under Section 12.5 at the standard Base Assessment rate, except that:

(i) any Lot with more than one Homesite shall be assessed at twice the standard Base Assessment rate from and after the date that site work or construction of a dwelling commences on the second Homesite on such Lot; and

(ii) any Controlled Lot shall be assessed at 25% of the standard Base Assessment rate.

The Founder may, but shall not be obligated to, reduce the standard Base Assessment rate for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Founder under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Founder, or a loan, in the Founder's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Founder to

continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Founder.

(c) *Calculation of Service Area Assessments.* The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Lots in the Service Area that are subject to assessment under Section 12.5 and levied as a "Service Area Assessment." Except as otherwise specified in Section 9.2, or in any Supplement applicable to a Service Area, Service Area Assessments shall be levied against each Lot in the Service Area in the same proportions as Base Assessments under subsection (b) of this Section.

All funds that the Association collects as Service Area Assessments shall be accounted for separate from the Association's general funds and shall be expended solely for the benefit of the Service Area for which they were collected.

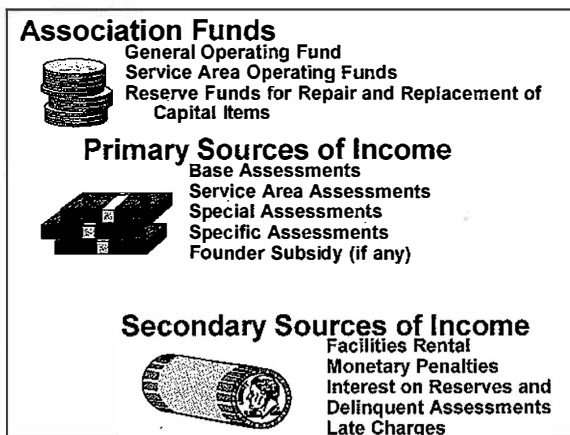
(d) *Notice of Budget and Assessment; Right to Disapprove.* Within 30 days after the Board adopts any budget, the Board shall send a summary of the budget, together with notice of the amount of the Base Assessment or any Service Area Assessment to be levied pursuant to such budget, to the Owner of each Lot responsible for a share of the expenses covered by such budget. If the Common Expense budget reflects an increase of 10% or less over the previous year's budget, it shall automatically become effective upon adoption by the Board. If it reflects an increase of more than 10%, it shall automatically become effective unless disapproved at a meeting by Owners representing at least 75% of the total votes in the Association and by the Founder, during the Development and Sale Period. If a Service Area budget reflects an increase of 10% or less over the previous year's budget, it shall automatically become effective upon adoption by the Board. If it reflects an increase of more than 10%, it shall automatically become effective unless disapproved at a meeting by Owners of at

## Association Finances

least 67% of the Lots within the Service Area and, during the Development and Sale Period, by the Founder. There shall be no obligation to call a meeting to consider the budget except on petition of the membership for a special meeting pursuant to the By-Laws, which petition is presented within 30 days after mailing of the notice of the budget and assessment pursuant to this subsection (d).

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is ratified.

(e) **Budget Revisions.** The Board may revise the budget and adjust the Base Assessment or Service Area Assessments any time during the year, subject to the same notice requirements and rights to disapprove set forth in subsection (d) above.



(f) **Surplus Funds.** Any surplus funds of the Association remaining after payment of or provision for all Association expenses and any prepayment of or provision for reserves shall be taken into account in the income portion of the budget pursuant to which the funds were collected, in order to reduce the assessments that

would otherwise be levied pursuant to that budget in the succeeding year.

### 12.3. Special Assessments.

The Association may levy "Special Assessments" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Pursuant to the authority in Va. Code §55-514, the Board may levy a Special Assessment without a vote of the membership if the Board determines that it is in the best interest of the Association and the proceeds are primarily used for maintenance or upkeep of Common Areas, including capital expenditures, or otherwise to fulfill the Association's express responsibilities under this Charter, subject to the right of the Owners to reduce or rescind such Board action within 60 days after notice of the Special Assessment by a vote of Owners representing a majority of the votes cast at a meeting of the membership at which a quorum is represented.

Except as provided above, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Owners entitled to cast more than 50% of the votes attributable to Lots subject to assessment under Section 12.5 and shall be allocated among such Lots in the same proportion as Base Assessments under Section 12.2(b). Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners entitled to cast more than 50% of the total votes allocated to Lots in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.1(c). Whether approved by the Board or the Owners, any Special Assessment during the Development and Sale Period shall also be subject to the Founder's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

## Association Finances

### 12.4. Specific Assessments.

The Association may levy **Specific Assessments** against a particular Lot as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to the Lot upon request of the Owner pursuant to any menu of optional services which the Association may offer (which might include the items identified in Section 10.1). Specific Assessments for optional services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Lot into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws before levying any Specific Assessment under this subsection (b); and

(c) in the case of an Improved Lot, to cover the charges for services provided only to Improved Lots pursuant to any bulk service or similar agreement entered into by the Association pursuant to Section 10.1; and

(d) to cover any deductible assessed against the Owner of Lot pursuant to Section 11.2; and

(e) to cover any other amounts that the Governing Documents authorize the Association to charge to a particular Owner or levy against any particular Lot.

### 12.5. Authority to Assess Owners; Time of Payment.

The Founder hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Lot on the first day of the month following the date the Association first adopts a budget or the date

that the Lot is made subject to this Charter, whichever is later. The first annual Base Assessment and Service Area Assessment, if any, levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year.

If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require the outstanding balance on all assessments to be paid in full immediately.

### 12.6. Obligation for Assessments.

(a) *Personal Obligation.* By accepting a deed or entering into a recorded contract to purchase any Lot, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Virginia law), late charges as determined by Board resolution, costs, and reasonable attorneys fees, shall be the personal obligation of each Owner and a lien upon each Lot until paid in full. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event,

## Association Finances

each Owner shall continue to pay Base Assessments and Service Area Assessments at the rate of assessment established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Lot, or non-use of services provided to all Lots or to all Lots within the Service Area to which the Lot is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.



By acquiring a Lot in Bundoran Farm each Owner agrees to pay all assessments levied against his or her Lot. If the Owner does not pay on time, the Association may charge late fees and interest on all past due amounts. Owners may not reduce their assessments because of any action or inaction by the Association.

**(b) Founder's Financial Obligations to Association.** The Founder shall be liable for assessments on any Lots it owns that are subject to assessment under Section 12.5, except that during the Founder Control Period, the Founder may satisfy its obligation to pay Base Assessments and Special Assessments for Common Expenses on Lots it owns either (i) by paying such assessments in the same manner as any other Owner, or (ii) by paying any shortfall under the Common Expense budget resulting from events other than failure of other Owners to pay their assessments, except that the Founder shall have no obligation to fund any shortfall in budgeted contributions to reserves. After termination of the Founder Control Period, the Founder shall pay Base

Assessments on any Lots it owns that are subject to assessment under Section 12.5 in the same manner as any other Owner liable for such assessments.

Regardless of the Founder's election under this section, any of the Founder's financial obligations to the Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

### 12.7. Lien for Assessments.

**(a) Existence of Lien.** The Association shall have a lien against each Lot to secure payment of assessments, as well as interest, late charges (subject to the limitations of Virginia law), and costs of collection (including attorneys fees and expenses). Such lien shall be superior to all other liens, except (a) liens and encumbrances recorded prior to this Charter; (b) the liens of all real estate taxes on that Unit; and (c) the lien or charge of any Mortgage made in good faith and for value having first priority over any other Mortgages on the Lot and recorded prior to the perfection of the Association's lien.

In order to perfect its lien, the Association shall record a memorandum of lien within 12 months from the date the first delinquent amount became due, which memorandum shall be verified by the oath of the Association's President, Vice President, Treasurer, or Secretary, and shall set forth such matters as required by Va. Code §55-516.B. At least 10 days prior to recording such memorandum of lien, the Association shall send written notice to the delinquent Owner of the intent to file the memorandum of lien unless the full amount due is paid within 10 days of the date of such notice.

**(b) Enforcement of Lien.** At any time after perfecting its lien, the Association may sell the Lot at public sale, subject to prior liens. Any non-judicial foreclosure shall be conducted in accordance with Va. Code §55-516.I. The Association may bid for the Lot at the foreclosure sale

## Association Finances

and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.



*In order to secure the obligation of each Owner to pay its share of Association expenses, the Association has a lien against each Lot. If an Owner does not pay his or her assessments on time, the Association may foreclose the lien on such Owner's Lot, causing it to be sold to pay the past due assessments. The Association may also sue an Owner in court to recover past due assessments.*

(c) **Effect of Sale or Transfer.** Sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of a first Mortgage having priority over the Association's lien pursuant to Section 12.6(a) shall extinguish the lien as to any installments of such assessments due more than six months prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Lot shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 12.5, including such acquirer, its successors and assigns.

### 12.8. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Founder or a Founder Affiliate as are included in the Area of Common Responsibility; and

(b) Any property dedicated to and accepted by any governmental authority or public utility.

In addition, the Founder or the Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Charter for purposes listed in Section 501(c) of the Internal Revenue Code.

### 12.9. Use and Consumption Fees.

The Board may charge use, consumption, or activity fees to any Person using Association services or facilities or participating in Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners).

\* \* \*

PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

*What would human life be without forests, those natural cities?*

*Henry David Thoreau (1817–1862), U.S. philosopher  
From “A Winter Walk” (1843), in *The Writings  
of Henry David Thoreau*, Houghton Mifflin (1906).*

## Chapter 13

### Easements

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*The easements created in this chapter establish the rights of Owners to use the Common Area and create various rights for the benefit of owners, the Founder, the Association, and others over property within the Community. Some of these rights are related to development and construction within the Community and on adjacent property. Others relate to the rights of the Association to come upon property of others to fulfill its responsibilities.*

#### 13.1. Easements in Common Area.

The Founder grants to each Owner a non-exclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

(a) the Governing Documents and any other applicable covenants;

(b) any restrictions or limitations contained in any deed conveying such property to the Association;

(c) certain Owners' rights to the exclusive use of those portions of the Common Area designated "Limited Common Area," if any; and

(d) the Board's right to:

(i) restrict access to and use of the Farmbelt and Greenbelt Easement to persons whom the Board has specifically granted rights of access and use by lease, use or operating agreement, or other agreement consistent with the intended use of such easement and to persons engaged in forest management activities (e.g., timbering, etc.);

(ii) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use any recreational facilities within the Common Area, and to charge use fees for such use;

(ii) suspend an Owner's right to use Common Area facilities except for direct access between the Owner's Lot and public highways;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements set forth in this Charter;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) lease or rent any portion of the Easement Areas on an exclusive or non-exclusive basis to any Person for active agricultural operations, wildlife management activities, or special events, and to rent other Common Areas on a short-term basis for purposes consistent with their intended use;

(vi) permit use of any recreational facilities situated on the Common Area by persons who do not own property subject to this Charter or reside in the Community, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion; and

(vii) permit any Person to use Common Areas, at such charge or no charge as the Board may determine, for the purpose of offering and conducting classes or similar activities for the benefit of interested Owners and residents and such other individuals as the Board may specify, whether offered on a fee basis for profit or otherwise;

(viii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

## Easements

(e) a perpetual, nonexclusive easement over the Common Area hereby reserved by the Founder for the benefit of such persons as the Founder may designate at any time prior to expiration of the Development and Sale Period by recorded instrument, to use and enjoy such portions of the Common Area as the Founder may designate upon payment to the Association of reasonable use fees, as specified in such recorded instrument.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot for the period of the lease.



An easement is one person's right to go onto or do something on the property of another.

### 13.2. Easements of Encroachment.

The Founder grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots. A permitted encroachment is a structure or fixture that extends unintentionally from one person's property onto another's a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. An encroachment easement shall not exist if the encroachment results from willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.



An encroachment occurs when a person's home, fence, or other structure extends onto his or her neighbor's property. This section permits minor, unintentional encroachments to remain.

### 13.3. Easements for Utilities, Etc.

(a) *Installation and Maintenance.* The Founder reserves for itself, its successors, assigns, and designees, perpetual exclusive easements throughout Bundoran Farm (but not through a structure) for the purpose of:

(i) installing utilities and infrastructure, Community Systems, security and similar systems, and drainage systems to serve Bundoran Farm;

(ii) installing walkways, pathways and trails, and signage on property the Founder or the Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspecting, maintaining, repairing, replacing, and upgrading the utilities, infrastructure, and other improvements described above; and

(iv) access to read, maintain, and repair utility meters.

Notwithstanding the above, the Founder reserves the right to deny access to any utility or service provider, to the extent permitted by law, and to condition such access on negotiated terms.

(b) *Specific Easements.* The Founder also reserves the non-exclusive right and power to grant and record such specific easements, consistent with Section 13.3(a), as it deems necessary or appropriate to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) *Minimal Interference.* All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed so as to minimize interference with

## Easements

the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

### 13.4. Easements to Serve Additional Property.

The Founder hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property.

If the above easement grants permanent access to any property that is not submitted to this Charter, the Founder, or its successors or assigns, shall enter into a reasonable agreement with the Association to share the cost of maintenance that the Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

### 13.5. Easements for Maintenance, Emergency, and Enforcement.

By this Charter, the Founder grants to the Association easements throughout Bundoran Farm as necessary to enable the Association to perform maintenance under Section 9.2 and

exercise its enforcement rights under Section 8.2. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry onto a Homesite shall only be during reasonable hours and after notice to the Owner.



The Association may come onto a Lot to perform maintenance or to address violations of the covenants, but will give prior notice before entering onto a Homesite unless there is an urgent need to enter the property.

### 13.6. Access Easements Over Private Roadways.

(a) The Founder hereby grants to the Association, for the benefit of its members, their guests and invitees, and such other persons as the Association may authorize, perpetual easements for vehicular and pedestrian access, ingress and egress over the private roadways and driveways within those portions of the Community designated on any recorded plat as an "Access Easement;" provided, any portion of the Community designated on the recorded plat as a "Limited Access Easement" shall be Limited Common Area assigned for the primary use and benefit of only those Lots directly served by such Limited Access Easement.

Use of the private roadways and driveways within the Access Easements and Limited Access Easements ("Private Roadways") shall be subject to and in accordance with this Charter, such reasonable Use Restrictions and Rules as the Association may adopt from time to time consistent with this Charter, the recorded subdivision plats, and any law, ordinance, or regulation governing the Community.

## Easements

(b) The Founder hereby reserves for itself, its agents, employees; successors, assigns, and other persons it may designate, an easement over all Private Roadways for the purpose of constructing, maintaining, repairing, or rebuilding any subdivision improvements installed or to be installed in the Community and for performing any other work within the Community which the Founder deems reasonably necessary, in its discretion, or which the Founder is required to perform pursuant to a contract with any Owner or pursuant to the requirements of any government agency having jurisdiction over the Community. The Founder hereby authorizes the contractors, subcontractors, laborers, material-men, and other Persons providing construction services and materials to any Lot to exercise this easement for access to such Lot, subject to such rules as the Association may adopt; however, during the Development and Sale Period, the Founder shall have the right to restrict use of all or portions of the Private Roadways and designate alternate access for such Persons, and to revoke such authorization and prohibit the use of the Private Roadways by Persons who violate the Governing Documents or any agreement with the Founder.

(c) The Founder hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Private Roadways for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; school buses; U.S. Postal Service delivery vehicles and personnel; utility providers; and vehicles, equipment, and personnel providing garbage collection service to the Community; however, such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities. The Association shall have the right to limit access for garbage collection purposes to such days of the week as the Board may specify.

(d) The Founder reserves for itself and Founder Affiliates a perpetual, non-exclusive easement of access to and use of the Private Roadways and other Common Areas in connec-

tion with the marketing and sale of other communities which Founder or any Founder Affiliate may be developing and marketing, in order to show the Community as an example of the Founder's developments.

(e) The existence of the easements described in this Section shall not preclude the Association from maintaining gates or other devices or systems, provided that the Association at all times maintains systems and/or procedures to permit entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

(f) No Person shall use or permit the use of any portion of the access easements for parking of vehicles, or any purpose other than vehicular and pedestrian access, without the consent of the Owners of the other Lots benefited and burdened by such portion of the access easement, except that the Board may permit parking on roadways when snow or ice conditions are present or expected. No Person shall interfere with or block access over the easement area to any benefited Lot.

### 13.7. Easements for Trail System.

The Founder has reserved on the recorded plats relating to property in Bundoran Farm certain "Trail Easements" for construction, maintenance, use, and enjoyment of a trail system over and through the Lots shown on each plat, to be held and maintained by the Association as Common Area.

### 13.8. Landscape and Signage Easement.

The Founder reserves for itself, the Association, and their respective successors and assigns, a perpetual, nonexclusive landscape and signage easement along, over and under a strip of land on each side of all Private Roadways running parallel to the right-of-way line and extending a distance of 20 feet out from the outside edge of the Private Roadway pavement for the purpose of installing, maintaining, repairing, and replacing

## Easements

landscaping, street trees, walkways or paths, and community signage. The Association shall be responsible for maintaining all landscaping, street trees, walkways and paths, and community signage installed by the Founder or the Association within the easement area as part of the Common Area except as otherwise provided in Section 9.2.

### 13.9. Farmbelt and Greenbelt Easement.

The Founder hereby grants to the Association, its successors, and assigns, a perpetual, exclusive easement (subject to any pre-existing rights and easements) over all portions of the Community lying outside the boundaries of the Homesites ("**Farmbelt and Greenbelt Easement**") for the purposes of:

(a) engaging in agricultural operations and activities within those portions of the easement area consisting primarily of pastures and fields suitable for such activities, as the Board may more particularly define in consultation with the Farm Management Committee ("**Farmbelt Zone**"), which agricultural activities may include planting, raising, and harvesting of crops, trees, and/or fruit; grazing and keeping of horses and livestock (excluding pigs and hogs); aquaculture; special events to promote and celebrate farming and agriculture (e.g., county fair, farmers market, and similar events); and related activities consistent with the Founding Principles;

(b) engaging in the following activities within those portions of the easement area lying outside the Farmbelt Zone ("**Greenbelt Zone**"): such timbering, logging, and silviculture activities as the Farm Management Committee deems appropriate for maintenance of the Greenbelt Zone in its natural condition as forest or open space, wildlife management activities, and recreational pursuits such as hiking, horseback riding, and other recreational activities as the Board may permit upon recommendation of the Farm Management Committee; and

(c) engaging in such other forest, land, water, and wildlife management and environmental

activities and practices as the Board, upon recommendation of the Farm Management Committee, deems appropriate, which shall specifically include the right to apply fertilizers, pesticides and fungicides and the right to remove or bring onto the Farmbelt and Greenbelt Easement such materials as may be necessary or convenient to the maintenance and improvement of the Farmbelt and Greenbelt Easement or to sound farming and land management practices.

Such Farmbelt and Greenbelt Easement shall be subject to (i) all rights reserved to the Founder under this Charter, including the right to modify the boundaries of the Farmbelt and Greenbelt Easement in conjunction with any modification to the location or configuration of Homesites under Section 3.1, and the right to establish access easements and install Private Roadways, utilities, and other infrastructure through the Farmbelt and Greenbelt Easement.

Access to and use of the Farmbelt Zone and Greenbelt Zone within the Farmbelt and Greenbelt Easement shall be restricted to only such persons as the Association specifically authorizes to use each Zone, and then subject to such limitations and conditions as the Association may impose by Rule or in any lease, use and operating agreement, or other agreement authorizing such use.

The Association shall have the right to enter into leases, licenses or other agreements granting to others the right to exercise all or a portion of the easement rights set forth in this Section, subject to the terms and conditions of such lease, license, or other agreement.

Notwithstanding any lesser approval requirement for amendments generally under Section 21.2 of this Charter, amendment of this Section that would eliminate the Farmbelt and Greenbelt Easement or substantially undermine the purposes for which the Farmbelt and Greenbelt Easement is established shall require the

## **Easements**

written consent of Owners of not less than 95% of the Lots.

### **13.10. Obligation to Indemnify and Defend.**

The Association shall indemnify and defend any Owner whose Lot is subject to an easement in favor of the Association established pursuant to Chapter 13 against any claim, demand, cause of action, loss, or injury arising out of the maintenance of any Easement Area or the exercise of such easement by persons other than the Owner and occupants of his or her Lot.

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## Chapter 14

### Disclosures and Waivers

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*This chapter discloses some important information about the Community for the benefit of prospective purchasers of property in the Community. Each Owner, by accepting a deed to property in the Community, also accepts and agrees to the matters set forth in this chapter.*

#### 14.1. Safety and Security.

Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in Bundoran Farm. The Association may, but shall not be obligated to, maintain or support certain activities within Bundoran Farm designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. **However, the Association, the Founder, and Founder Affiliate shall not in any way be considered insurers or guarantors of safety or security within Bundoran Farm, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.**

No representation or warranty is made that any systems or measures, including security monitoring systems or any mechanism or system for limiting access to Bundoran Farm, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing any tenants and other occupants of such Owner's Lot that the Association, its Board and committees, and the Founder and Founder Affiliates are not insurers or guarantors of security or safety and that each Person within Bundoran Farm assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

#### 14.2. Changes in Development Plan.

Each Owner acknowledges that Bundoran Farm is a planned community, the development and evolution of which is likely to extend over a number of years and may necessitate changes in the development plan from time to time to accommodate unforeseen conditions, market forces, and other factors which cannot reasonably anticipate at the time development commences. Each Owner agrees that the Association shall not engage in, or use Association funds to support, any protest, challenge, or other form of objection to changes in the development plan for Bundoran Farm without the Founder's prior written consent.

#### 14.3. View Impairment.

Neither the Founder, any Founder Affiliate, nor the Association, guarantee or represent that any view over and across the Lots, Common Areas, or open space within the Community, will be preserved without impairment. The Founder, Founder Affiliates, and the Association shall have no obligation to relocate, prune, or thin trees or shrubs on the Common Area, except as otherwise required under a separate covenant or agreement. The Association shall have the right to add trees and other landscaping to the Common Area. There shall be no express or implied easements for view purposes or for the passage of light and air.

#### 14.4. Notices and Disclaimers as to Community Systems and Services.

Each Owner acknowledges that interruptions in cable television and other Community Systems and services will occur from time to time. The Founder, Founder Affiliates, Association, and their respective successors or assigns, shall not be liable for, and shall not be obligated to refund, rebate, discount, or offset any applicable fees as a result of any interruption in Community Systems

## **Disclosures and Waivers**

and services, regardless of whether or not such interruption is caused by reasons within the service provider's control.

### **14.5. Radio and Telecommunication Towers.**

Every Owner and occupant of a Lot is hereby advised that radio and telecommunication towers and related equipment may now or hereafter be located within or in the vicinity of Bundoran Farm. The Founder, any Founder Affiliate, Builders, the Association, and their respective members, partners, affiliates, officers, directors, agents, and employees, shall not be liable for any damage or injury to any Person or any property arising out of or related to the construction, installation, maintenance, or operation of, or proximity to, radio or telecommunication towers, any such towers that may now or hereafter be located in or in the vicinity of Bundoran Farm.

### **14.6. Disclosure Statement to be Provided by Association.**

Within 14 days after receipt of a written request from any Owner or authorized agent of an Owner, accompanied by the appropriate fee as the Board may establish pursuant to this Section, the Association shall make available to the Owner or his authorized agent an association disclosure packet meeting the requirements of Va. Code §55-512 and, if requested, an update of such disclosures or assurances that the information in any disclosure packet previously provided remains current.

The Board may require the payment of a reasonable processing fee to cover the actual cost to the Association of preparing such disclosure packet, not to exceed \$100 plus (i) an additional fee upon agreement of the requesting Owner to of up to \$25.00 for furnishing the required disclosures within three business days after the actual receipt of the request, (ii) the actual cost of mailing or delivery requested by the Owner; and (iii) any other cost incurred at the request and with the consent of the purchaser of the requesting Owner's Lot. The Association may not

require payment of such fee in cash or by certified funds unless the Owner is more than 30 days delinquent in payment of any charges due to the Association or has had a check returned for insufficient funds within the previous six months.

The disclosure packet issued by the Association pursuant to this Section shall be current as of the date specified by the Association in such disclosure, and shall be binding on the Association as of such date as to any good faith purchaser of the Owner's Lot unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

### **14.7. Albemarle County Fair.**

As of the date of recording this Charter, a portion of the Easement Area consisting of approximately 50 acres of land located north of State Road 692 is subject to an existing lease in favor of the Albemarle County Fair, with renewal rights through 2033, to permit holding of the fair on the property described in the lease as well as set up prior to the fair and clean up after the fair. Such activity can be expected to result in increased traffic on roads providing access to the Community, as well as an increased level of lights, noise, and other activity beyond that generally present in the Community. The Association shall have the right and authority to modify, extend, or renew such lease as the Board deems appropriate, subject to prior approval of the Farm Management Committee.

### **14.8. Orchards.**

As of the date of recording this Charter, a portion of the Community consisting of approximately 125 acres on Routes 696 and 692 is subject to a lease to Crown Orchard Co. to permit planting, growing, and maintaining a commercial orchard and related underground irrigation systems, and access to such orchard. Another 29 acres within the Community are subject to a separate lease to Clarewin Orchard for similar purposes, which lease has since been

## **Disclosures and Waivers**

assigned to Crown Orchard Nursery. In addition, other portions of the property within the Community and the surrounding area have been used for orchards in the past.

Each Owner and each other person entering the Community are advised that current orchard activities may involve application of insecticides and fungicides and other potentially toxic substances, exposure to which could cause harm to humans and animals. In addition, soils and streams in the area, including those on Lots, could contain residual contamination from application of toxic substances in the past.

### **14.9. Private Airstrip.**

As of the date of recording this Charter, there is a private airstrip located within or adjacent to the Community which is subject to a nonexclusive easement for life in favor of Frederic W. Scott, Jr. Private planes using this airstrip for takeoffs and landings will generate noise and other conditions that could be considered objectionable to residents of the Community and may pose a danger to persons and property in the flight path should an emergency landing be necessary. No person other than the holder of the easement shall have any right to use the airstrip without the prior written permission of the Board.

### **14.10. Stables.**

The Association may, but shall not be obligated to, maintain stables within the Easement Area, or lease a portion of the Easement Area for use as stables, for the boarding and training of horses or other livestock. Such activity may result in odors commonly associated with livestock to drift toward and be detectable by persons occupying nearby property.

### **14.11. Wildlife Management Activities**

The FMC has instituted the Bundoran Farm Wildlife Management Program to maintain an appropriate balance between the human and natural environment. The goals of the Wildlife

Management Program are to manage the wildlife population, primarily deer, in a manner which is safe, humane and consistent with the preservation and stewardship goals of Bundoran Farm. The primary method of control will be the taking of deer by skilled hunters authorized by the FMC, using bows and crossbows from deer stands. If the FMC deems it necessary to reduce or maintain deer populations at desirable levels, it may authorize other means of control, including use of firearms. Such wildlife management activities could involve gunfire and use of other weapons that could result in sudden loud noise and pose a danger to persons using the Easement Areas or surrounding property.

### **14.12. Cattle Ranching Operations.**

Portions of the Farmbelt Easement Area may be subject to leases or other agreements permitting cattle ranching operations to take place within such Easement Area. Such operations could necessitate fencing and gating portions of the Community to contain cattle and could give rise to noise and odors that some may find objectionable. In addition, in the event that a fence breaks or a gate is inadvertently left open, there is a risk of cattle straying outside the boundaries of the Easement Area.

### **14.13. Forest Management Activities**

As part of the management of the Greenbelt Easement Areas, the Founder, the Association, and their respective agents, contractors, and employees, or third parties to whom the Association grants such rights, may engage in various forest management activities within the Community, including:

(a) cutting and removal of timber;

(b) the periodic burning and/or mechanical removal of undergrowth as part of a continuing resource management plan to enhance the appearance of the woodlands and to minimize the risk of unplanned and uncontrolled wildfires.

## Disclosures and Waivers

Such activities may generate high levels of noise from equipment in use and heavy vehicles driving through the community and may result in smoke, ash, and embers drifting or being carried by the wind across property within the Community during burning activities.

Although the Association will use reasonable efforts to notify Owners in advance when such activities will be in progress, it is often difficult to predict weather conditions and, in order to conduct such activities when weather conditions are optimal, it may not always be possible or practical to give adequate advance notice or to schedule such activities so as to minimize inconvenience to Owners and occupants of Units.

Each Owner, by accepting a deed to a Unit, and each tenant, by accepting a lease or rental agreement for a Unit, acknowledges that such activities are necessary to proper management of the natural resources within the Community and to minimize fire hazards and waives all claims which such Owner or tenant and their respective family members and guests may have against the Association, the Founder, and their respective officers, directors, contractors, agents, and employees, as a result of any personal injury, property damage, nuisance, or inconvenience arising out of the resource management activities undertaken by or on behalf of the Founder or the Association within the Community or on property adjacent or in proximity to the Community.

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## **Chapter 15**

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### **Rights of Lenders**

*In order to enhance each Owner's ability to obtain financing for the purchase of his or her Lot, this chapter sets forth provisions for the benefit of lenders who make mortgage loans.*

#### **15.1. Notices of Action.**

An institutional holder, insurer, or guarantor of a first Mortgage that provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "**Eligible Holder**"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss that affects a material portion of Bundoran Farm or that affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; and

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Lot or the Owner or occupant which is not cured within 60 days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

#### **15.2. Notice to Association.**

Upon request, each Owner shall furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

#### **15.3. Failure of Mortgagee to Respond.**

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved

such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

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## Chapter 16

### Leasing and Transfer of Lots

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In order to assist the Association in maintaining accurate membership records and records of ownership and occupancy within the Community, it is critical that the Association receive timely notice of leases and transfers of title to Lots. Each Owner, upon transfer of title, also has certain financial obligations as set forth in this Section.

#### 16.1 Leasing

(a) **Leasing.** For purposes of this Charter, the terms "Lease" and "Leasing" shall refer to the regular, exclusive occupancy of a Homesite by any Person other than the Owner, for which the Owner receives any consideration or benefit. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased; however, any self-contained garage apartment, detached "in-law suite" or "guest cottage" ("**Ancillary Structure**", if permitted by applicable zoning and approved pursuant to Chapter 5, may be leased separate from the primary dwelling so long as the Owner resides in either the primary dwelling or the Ancillary Structure.

All leases and rentals shall be evidenced by a written lease or rental agreement and shall disclose that the tenants and all occupants of the leased dwelling are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease. Any lease shall be for an initial term of not less than six months.

Within 10 days of a lease being signed, the Owner of the leased Homesite shall notify the Board or the Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must provide the tenant with copies of the Governing Documents. In addition to, but consistent with this subsection, the Association or the Board may

adopt Rules governing leasing and subleasing, including Rules requiring tenants and other occupants of a leased Lot to register, obtain, and carry a guest pass when using Common Area facilities.

#### 16.2 Notice of Transfer of Title

Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title. The Person transferring title shall also be responsible for requesting and delivering to the purchaser or transferee the disclosure materials required by Va. Code §55-512 and for paying the transfer fee, if any, due pursuant to Section 16.3 of this Charter.

#### 16.3. Transfer Fee to Support Sustainability.

(a) **Payment of Transfer Fee.** Except as otherwise provided in subsection (c), upon each transfer of title to a Lot by any person other than the Founder, the seller shall pay to the Foundation, at the closing of such transfer, a transfer fee in the amount of one percent (1%) of the gross sale price of the Lot, if improved with a dwelling, and two percent (2%) of the gross sale price of the Lot, if not improved with a dwelling. The "gross sale price" is the total cost to the purchaser of the Lot, excluding any transfer taxes and title fees imposed by Albemarle County, and/or the Commonwealth of Virginia. In the event that title to a Lot is transferred for less than fair market value, the "gross sale price" shall be deemed to be the fair market value as agreed by

## Leasing and Transfer of Lots

the Foundation and the seller or, upon the inability to reach agreement as to the fair market value, the fair market value established by a qualified real estate appraiser selected by the Foundation and familiar with residential properties in the vicinity of Bundoran Farm.

(b) *Purposes.* The Foundation may use the transfer fees collected pursuant to this Section 14.7 only for such programs, services, and activities as are consistent with the purposes outlined in Section 2.8, which may include grants and contributions to other nonprofit or tax-exempt entities with common purposes. Such transfer fees shall not be used to engage in any political activity, including lobbying, protesting, or taking or asserting a position in any zoning matter.

(c) *Exempt Transfers.* Notwithstanding the above, no transfer fee shall be due upon transfer of title to a Unit:

(i) by or to the Founder, or any entity controlled by or under common control with the Founder;

(ii) by a Builder designated by the Founder who held title solely for purposes of development and resale;

(iii) by a co-Owner to any Person who was a co-Owner immediately prior to such transfer;

(iv) to the Owner's spouse during their marriage, or to the Owner's former spouse pursuant to an award of property under a divorce decree;

(v) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(vi) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subse-

quent transfer of an ownership interest in such entity, the transfer fee shall become due;

(vii) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage;

(viii) to a relocation service or other person or entity taking title solely as an intermediary for purposes of immediate transfer to a third party within 48 hours thereafter, provided that the transfer fee is collected upon the transfer to the third party and paid to the Foundation within 10 days after the original transfer to the intermediary;

(ix) under circumstances that the Foundation, in its discretion, deems to warrant classification as an exempt transfer (e.g., a transfer made solely for legitimate estate planning purposes, but which does not change the beneficial ownership of the Lot, may in the Foundation's discretion, be deemed exempt). The classification of any transfer as exempt shall not be deemed a waiver of the Foundation's right to collect the transfer fee on future title transfers under similar circumstances. The Association shall cooperate with the Foundation in the collection of the transfer fee by, among other things, notifying the Foundation, or its designee, of any pending transfer.

(d) *Lien Right.* The obligation to pay such transfer fee shall be the personal obligation of the transferor. In addition, the Foundation shall have a lien against each Lot to secure payment of such transfer fee, as well as interest (in the amount of 10% per annum) and any costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the Association's lien under Chapter 12, (b) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (c) the lien or charge of any recorded first Mortgage (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Foundation may enforce its lien and the personal obligation to pay by suit, judgment,

## Leasing and Transfer of Lots

and judicial or non-judicial foreclosure in the same manner as the Association under this Charter; provided, the Foundation's lien rights as to a particular transfer shall expire if action to enforce the lien is not commenced within three years following the date of the closing of the transfer of such Lot.

(e) *Amendment.* This Section may not be amended without the Foundation's written consent, and any amendment without such consent shall be void and of no force and effect.

\* \* \*

## PART FIVE: COMMUNITY DEVELOPMENT

*What makes a place special is the way it buries itself inside the heart, not whether it's flat or rugged, rich or austere, wet or arid, gentle or harsh, warm or cold, wild or tame.*

*Richard Nelson, The Island Within*

## **Chapter 17**

### **Expansion of the Community**

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*It is not practical to develop, market and sell all of the property planned for Bundoran Farm at the same time. Therefore, the Founder intends to develop and market the Community in phases. This chapter establishes procedures by which the Founder and the Association may expand the Community.*

#### **17.1. Expansion by the Founder.**

The Founder may, from time to time, submit to the terms of this Charter all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property to be submitted. The Founder may record such a Supplement without the consent of any Person except the owner of such property, if not the Founder

The Founder's right to expand Bundoran Farm under this section expires when all property described in Exhibit "B" has been submitted to this Charter or 40 years after this Charter is recorded, whichever is earlier. Until then, the Founder may transfer or assign this right to any Founder Affiliate or any Person who is the developer of at least a portion of the real property described in Exhibit "A" or "B." Any such transfer shall be described in a recorded instrument executed by the Founder.

Nothing in this Charter shall require the Founder or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever. The Founder may submit different parcels of property to this Charter at different times. The Founder gives no assurances as to the boundaries of the parcels that may be submitted to this Charter, or as to the order in which the Founder may submit different parcels of property to this Charter, or as to whether buildings erected on any additional property submitted to this Charter will be compatible with other buildings in the Community in terms of architectural

style, quality of construction, principal materials employed in construction, or size.

#### **17.2. Expansion by the Association.**

The Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement that the Association records must be approved by Owners entitled to cast more than 50% of the total votes in the Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Founder's consent is required. The Association's President and Secretary, the owner of the property, and the Founder, if the Founder's consent is required, shall sign the Supplement.

#### **17.3. Additional Covenants and Easements.**

Any Supplement that the Founder records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Founder owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this Charter as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

#### **17.4. Effect of Filing a Supplement.**

A Supplement shall be effective upon recording unless otherwise specified in the Sup-

### **Expansion of the Community**

plement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Charter.

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## **Chapter 18**

### **Additional Rights Reserved to the Founder**

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*This chapter reserves various rights to the Founder, in addition to those specifically reserved elsewhere in the Governing Documents, in order to facilitate the Founder's development and sale of property in the Community, to enable the Founder to respond to Owners' concerns, and to protect various property rights and other interests of the Founder.*

#### **18.1. Special Development Rights.**

In addition the rights specifically reserved to the Founder under Chapter 18 with respect to expanding the Community, the Founder reserves the right, during the Development and Sale Period, to:

(a) create Lots, Common Areas, and Limited Common Areas, and to designate Access Easements, within any portion of the Community which it owns;

(b) subdivide or combine any Lot or Lots which it owns in order to create larger or additional Lots, Common Areas, and/or Limited Common Areas;

(c) to modify the location and configuration of Homesites without the consent of any Person prior to conveyance of the Lot on which the Homesite is located, and thereafter with only the consent of the Owner of such Lot, and as a result thereof, to affect the boundaries of the Farmbelt and Greenbelt Easement;

(d) convert any Lot which it owns into Common Area, Limited Common Area, or roadways;

(e) adjust the boundaries of any Lots that it owns and any Common Area or Limited Common Area; and

(f) amend this Charter or any Supplement to withdraw property from the Community and the coverage of this Charter, provided that such

property has not been improved with a dwelling. Any such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Founder. If the property is Common Area, the Association shall consent to such withdrawal.

#### **18.2. Marketing and Sales Activities; Photos.**

(a) Notwithstanding anything in the Governing Documents to the contrary, during the Development and Sale Period the Founder and its designees or assigns may construct, use, and maintain such facilities and conduct such activities and events upon portions of the Common Area and other property they own as, in the Founder's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Lots. Such permitted facilities and activities shall include business offices, signs, flags and banners (whether hung from flag poles or attached to a structure), model homes, sales offices, parking facilities, exterior lighting features or displays, and special events. There shall be no limit on the number or location of such facilities, except as otherwise restricted by state law or local ordinance or regulations.

(b) The Founder reserves the right and each Owner, by acceptance of a deed, agrees that the Founder shall have the right to photograph any portion of the Community, including any Lot and structures, improvements, and personal property on the Lot, whether or not owned by the Founder, for use by the Founder or its designees in marketing and promotion of Bundoran Farm and other communities developed by the Founder, in press releases relating to Bundoran Farm, in articles and other publications promoting sustainability or otherwise related to any of the Founding Principles, and for similar purposes, without compensation to any person. Prior to entry upon any Homesite to exercise such right, the Founder or its designee shall notify the Owner and obtain the Owner's permis-

### **Additional Rights Reserved to Founder**

sion to enter, which shall not unreasonably be withheld. However, no prior notice shall be required to photograph any portion of the Lot visible from outside the boundaries of the Home-site.

#### **18.3. Access for Development Purposes.**

During the Development and Sale Period, the Founder and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area and roadways within the Community for the purpose of:

(a) exercising any rights reserved to the Founder pursuant to this Charter, including the rights set forth in Sections 18.1 and 18.2; and

(b) making, constructing, and installing any improvements indicated on recorded subdivision maps or plats of the Community and such other improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

#### **18.4. Right to Approve Changes in Community Standards.**

During the Development and Sale Period, no amendment to or modification of any Rules or Design Standards shall be effective without prior notice to and the written approval of the Founder.

#### **18.5. Additional Covenants and Restrictions.**

During the Development and Sale Period, no one other than the Founder or a Founder Affiliate may record any additional covenants or restrictions affecting any portion of the Community without the Founder's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

#### **18.6. Exclusive Rights to Use Name of Development.**

No Person other than the Founder or a Founder Affiliate shall use the name "Homestead" or "Bundoran Farm" or any derivative of

such name or in any logo or depiction associated with Bundoran Farm in any printed or promotional material without the prior written consent of Edge Valley Preservation, LLC.

#### **18.7. Community Systems.**

The Founder reserves for itself, Founder Affiliates, and their respective successors and assigns, a perpetual, exclusive right and easement over all of the property in Bundoran Farm to install and operate such Community Systems as the Founder, in its discretion, deems appropriate to serve any portion of the Community. Such right shall include, without limitation, the Founder's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the area. The Founder also has the right to charge or authorize any provider to charge individual users a reasonable fee, not to exceed the maximum allowable charge for such service, as defined from time to time by the laws, rules, and regulations of any government authority having jurisdiction.

Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available.

#### **18.8. Easement to Inspect and Right to Correct.**

The Founder reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, modify, redesign, and correct any structure, improvement, or condition that may exist on any portion of the property within Bundoran Farm, including Lots, and a perpetual nonexclusive easement of access throughout Bundoran Farm to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she

## Additional Rights Reserved to Founder

causes. Nothing in this paragraph shall relieve an Owner of the responsibility for the maintenance and repair of his or her Lot.



*The Founder, or someone it designates, may enter any Owner's property to inspect and correct problems with the Lot. The Founder must give the Owner of the Lot prior notice, unless it is an emergency.*

### 18.9. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Bundoran Farm in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Founder and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

### 18.10. Right to Transfer or Assign the Founder's Rights.

The Founder may transfer any or all of the Founder's special rights and obligations set forth in this Charter or the By-Laws in whole or in part, temporarily or permanently, to other Persons. However, such a transfer shall not reduce an obligation or enlarge a right beyond that which the Founder has under this Charter or the By-Laws. No transfer or assignment of the Founder's status as the Founder or as the Founder member shall be effective unless it is in a recorded instrument that the Founder has signed. The Founder may permit other Persons to exercise, on a one-time or limited basis, any right reserved to the Founder in this Charter where the Founder does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless

desired to evidence the Founder's consent to such exercise.

### 18.11. Termination of Rights.

Except as otherwise specified above, the rights reserved to the Founder in this Chapter shall terminate on the earlier of (a) termination of the Development and Sale Period; or (b) the Founder's recording of a written statement that all sales activity has ceased.

\* \* \*

PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS

*A woodland in full color is awesome as a forest fire;  
but a single tree is like a dancing tongue of flame to warm the heart.*

*Hal Borland (1900 - 1978), US journalist  
From "Sundial of the Seasons"*

## Chapter 19

### Dispute Resolution and Limitation on Litigation

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*From time to time, disputes may arise between owners or between an owner and the Association, the Founder or others involved in the Community. This Chapter commits the parties to any such a dispute to work together in an attempt to resolve the dispute without litigation in order to facilitate the prompt resolution of such disputes in a manner that respects and builds upon the relationships between the parties. It also requires substantial support of the Association's membership before the Association can engage in certain types of litigation that could result in significant legal and emotional costs to the Community.*

#### 19.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) **Bound Parties.** The Founder, the Association and its officers, directors, and committee members, the Foundation and its officers, directors, and committee members, all Persons subject to this Charter, and any Person not otherwise subject to this Charter who agrees to submit to this Chapter (collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 19.2 in a good faith effort to resolve such Claim.

(b) **Claims.** As used in this Chapter, the term "**Claim**" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Community, other than matters of aesthetic judgment under Chapter 5, which shall not be subject to review, unless the claim is made against the Founder or a Founder Affiliate and the Founder or Founder Affiliate elects not to participate in the procedures set forth in Section 19.2.

Notwithstanding the above, the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 19.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Founder, a Founder Affiliate, or the Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 19.2;

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 19.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the

## Dispute Resolution and Limitation on Litigation

Claim's statute of limitations to comply with this Chapter; and

(vi) any suit by the Association to enforce the Governing Documents where the Association has given the violator notice and either a hearing or an opportunity to cure the violation, or both, prior to the Association filing suit.

### 19.2. Dispute Resolution Procedures.

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency provid-

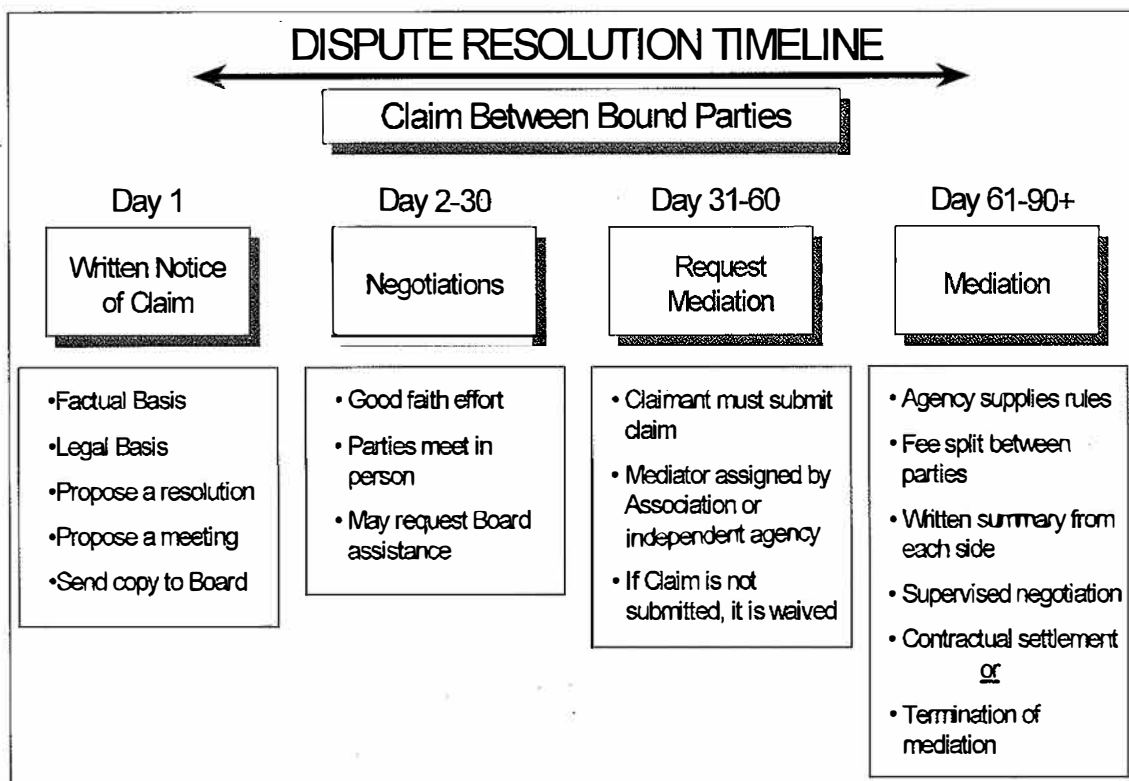


Diagram 18.1

## Dispute Resolution and Limitation on Litigation

ing dispute resolution services in Albemarle County, Virginia, or such other location as the parties may mutually select. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

### 19.3. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Owners entitled to cast 75% of the total votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Founder Control Period;
- (b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

\* \* \*

## Chapter 20

### Changes in the Common Area

Various influences and circumstances within and outside the Community may give rise to a need or desire to make changes in the ownership of, or rights to use, Common Area. This chapter explains the procedures for dealing with matters such as changing use rights in Common Area or Limited Common Area, partition of the Common Area, and condemnation.

#### 20.1. Assignment and Reassignment of Limited Common Area.

(a) *Assignment.* The Board may assign any portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and Owners representing a majority of the total votes in the Association, including a majority of the votes attributable to Lots to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Founder's written consent.

(b) *Use by Others.* Upon approval of a majority of Owners of Lots to which any Limited Common Area is assigned, the Association may permit Owners of other Lots to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Service Area Expenses attributable to such Limited Common Area.

#### 20.2. Condemnation.



A public entity such as a town, county, or state has the power to condemn property for its own uses and generally has to pay the value of the property to do so.

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Association in lieu of and under threat of condemnation with such approval as may be required under Section 20.4, each Owner shall be entitled to

written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Founder, during the Development and Sale Period, and Owners entitled to cast at least 75% of the total votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring damaged improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 20.4.

#### 20.3. Partition.

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 20.4.

## Changes in the Common Area



*Partition is a legal action in which a party requests to have a portion of one interest in property split off so that the party can possess that portion or interest separately from other parties who have rights in the property.*

### 20.4. Transfer, Mortgaging, or Dedication of Common Area.

The Association may transfer or dedicate portions of the Common Area to Albemarle County, Virginia, or to any other local, state, or federal governmental or quasi-governmental entity; may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of Owners entitled to cast at least 75% of the total votes in the Association and, during the Development and Sale Period, the written consent of the Founder; provided, the Association shall not take any action that would cause easements creating any Farmbelt Easement Area or Greenbelt Easement Area to be extinguished except upon the written direction of Owners entitled to cast at least 95% of the total votes in the Association. Any transfer of such easements to a non-profit organization organized for purposes consistent with such easements on the condition that such easements not be extinguished or terminated without the preceding vote of Owners need only be approved by the Founder during the Development and Sale Period and thereafter by Owners entitled to cast a majority of the total Association vote;

(b) if Limited Common Area, upon written approval of Owners of at least 75% of the Lots to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines, unless otherwise directed by Owners at the time such sale or

mortgage is authorized pursuant to Section 20.4(a). The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner directed by the Owners of Lots to which the Limited Common Area is assigned at the time such sale or mortgage is authorized pursuant to Section 20.4(b).

No conveyance or encumbrance of Common Area may deprive any Lot of rights of access or support.

\* \* \*

## Chapter 21

### Termination and Amendment of Community Charter

*As the Community matures and grows, the rules by which it is governed must be flexible enough to adapt to changes in the development plan, as well as changes in the needs and desires of the Community that inevitably will occur. This chapter sets out procedures by which either the Founder or the Owners as a group may amend this Charter to address such changes.*

#### 21.1. Term and Termination.

This Charter shall be effective for a minimum of 21 years from the date it is recorded. After 21 years, this Charter shall be renewed and extended automatically for successive 10-year periods unless at least 95% of the then Owners sign a document stating that the Community Charter is terminated and that document is recorded within the year before any extension. In such case, this Charter shall terminate on the date specified in the termination document.

This section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement and such other persons whose consent is required thereunder.

#### 21.2. Amendment.

(a) *By the Founder.* In addition to the specific amendment rights granted elsewhere in this Charter, the Founder may unilaterally amend this Charter for any purpose during the Founder Control Period, subject to any limitations imposed by Virginia law.

(b) *By Board or Owners.* The Board may, upon the vote of a majority of the total number of directors, amend this Charter or any Supplement or amendment without a vote of the Owners to correct a mathematical mistake, inconsistency, or scrivener's error, or to clarify an ambiguity with respect to an objectively verifiable fact, provided the amendment does not materially reduce what the Founder's obligation would

have been if the mistake, inconsistency, scrivener's error or ambiguity had not occurred.

Except as otherwise specifically provided above or elsewhere in this Charter, this Charter may be amended only upon the written consent of Owners of not less than two-thirds (2/3) of the Lots. During the Development and Sale Period, the Founder's written consent shall also be required.

Any amendment pursuant to this subsection (b) shall be prepared, executed, certified and recorded on behalf of the Association by any officer designated for such purpose or, in the absence of such designation, by the Association's President.

(c) *Validity and Effective Date.* Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of the Founder or the Founder Member without the written consent of the Founder or the Founder Member, respectively (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Charter or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment.

No action to challenge the validity of an amendment may be brought more than one year

## Termination and Amendment of Community Charter

after its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

(d) *Exhibits.* Exhibits "A" and "B" are incorporated by this reference and this Chapter shall govern amendment of those exhibits. Exhibit "C" is attached for informational purposes only and may be amended under Chapter 7 or pursuant to Section 21.2. Exhibit "D" is attached for informational purposes only and may be amended as provided in that exhibit.

\* \* \*

In witness of the foregoing, the Founder has executed this Charter this 4 day of October 2007.

FOUNDER: EDGE VALLEY PRESERVATION, LLC, a Delaware limited liability company

BY: QROECA BUNDORAN, LLC, a Delaware limited liability company, its manager

By: Charles E. Adams  
Name: CHARLES E. ADAMS  
Its: General Manager

COMMONWEALTH OF VIRGINIA

COUNTY OF ALBEMARLE

I Tiffany M. Dillard, a notary public for Albemarle County, in the Commonwealth of Virginia, do certify that Charles E. Adams, General Manager of QROECA BUNDORAN, LLC, a Delaware limited liability company, sole Manager of EDGE VALLEY PRESERVATION, LLC, a Delaware limited liability company, is signed to the writing above bearing date on the 4 day of October 2007, has acknowledged the same before me in my county aforesaid.

Given under my hand this 4 day of October, 2007.

Tiffany M. Dillard  
Notary Public

My commission expires: 05/31/2011  
Notary #: 7086484

EXHIBIT "A"

Land Initially Submitted

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in Albemarle County, Virginia, and being more particularly described on that final plat of Bundoran Farm recorded on September 5, 2007 in Book 3486, Page 87, *et seq.*, in the Office of the Clerk of the Circuit Court of Albemarle County, Virginia.

## EXHIBIT "B"

### Expansion Property

In addition to the above, as the owner or with the written consent of the owner, the Founder may also submit to the terms of the Charter any real property situated within one mile of the perimeter boundaries of the property described on Exhibit "A."

#### Note to clerk and title examiners:

**This Charter is not intended to create an encumbrance on title to the property described in this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Chapter 17.**

## EXHIBIT "C"

### Initial Rules

The following Rules are the initial Rules governing activities, use and conduct within Bundoran Farm, but are subject to modification and may be expanded by the Board and the membership in accordance with the procedures set forth in Section 7.3 of the Charter. These Rules apply in addition to the restrictions on use and conduct set forth in Chapter 7 of the Charter and the architectural, aesthetic and design standards adopted by the Design Committee as described in Chapter 5 of the Charter.

1. General. Easement Areas may be used only for purposes consistent with the applicable easement, and only by persons entitled to exercise such easement. Portions of Lots other than Easement Areas shall be used only for residential and related purposes as provided in Section 7.1 of the Charter, except that, subject to applicable zoning: (a) any Lot owned by the Foundation shall be exempt from this provision so long as it is used for nonprofit purposes consistent with the Founding Principles; (b) the Founder and its designees may use Lots as administrative offices, sales offices, and as an information center, so long as the Founder owns any property described in Exhibits "A" or "B;" and (c) the Association may maintain an office for its property manager.

2. Restricted Activities. Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within portions of Bundoran Farm other than Farmbelt and Greenbelt Easement Areas, and within Farmbelt and Greenbelt Easement Areas to the extent expressly so provided:

(a) Overnight parking of vehicles on Private Roadways within the Community except as the Board may permit when snow or ice conditions are present or expected; or parking on shared portions of driveways that serve two or more Lots; or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles on Homesites unless in an enclosed garage or otherwise screened from view of roadways in a manner approved by the Design Committee pursuant to Chapter 5; provided, construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Area;

(b) Raising, breeding, or keeping animals on a Homesite, except that a reasonable number of (i) dogs, cats, or other usual and common household pets; (ii) chickens and other small domesticated farm animals (excluding pigs and hogs), and (iii) horses and other livestock (excluding pigs and hogs) may be kept within the Development Zone on any Homesite and horses may be kept within any Equestrian Activity Zone, provided that any horses or other livestock are restrained within a fence, paddock or other appropriate enclosure approved by the Design Committee pursuant to Chapter 5 and provided, further, that the animals are kept for personal use and/or enjoyment and not for commercial purposes. Any animals which are permitted to roam free (outside of the Homesite), or, in the Board's discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Homesites shall be removed upon the Board's request. If the animal owner fails to honor such request, the Board may remove the animal;

(c) Any activity within a Homesite that emits foul or obnoxious odors or creates noise or other conditions, that tends to disturb the peace or threaten the safety of the occupants of other Lots;

## EXHIBIT "C"

### Initial Rules (continued)

(d) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities on a Homesite that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Homesite;

(f) Any noxious or offensive activity which, in the reasonable determination of the Board, tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots;

(g) Outside burning of trash, household or construction debris, or other materials on a Homesite, except during the normal course of constructing a dwelling on a Homesite and then only in accordance with applicable county ordinances;

(h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Homesites or persons using the Common Areas, except alarm devices used exclusively for security or safety purposes;

(i) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(j) Hunting, except by individuals authorized by the FMC as part of the Bundoran Farm Wildlife Management Program, and then only in designated zones during specific days and time periods during the legal hunting season;

(k) Discharge of firearms other than by authorized public safety personnel in the line of duty and persons participating in wildlife management activities approved by the Board upon recommendation of the Farm Management Committee; provided, the Board shall have no obligation to take action to prevent or stop any unauthorized discharge;

(l) Storage of fuel on any Homesite, except that (i) a reasonable amount of fuel may be stored on each Homesite for emergency purposes and operation of lawn mowers and similar tools or equipment, and (iii) the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and other equipment used in management and maintenance of the Common Area. This provision shall not apply to any underground fuel tank authorized pursuant to Chapter 5;

(m) Any activities on Homesites which materially disturb or destroy the vegetation, wildlife, water quality, or air quality within Bundoran Farm or which result in unreasonable levels of water, sound or light pollution; and

(n) Operation of any motorized vehicles within Farmbelt and Greenbelt Easement Areas except by (i) the Founder, its employees, contractors, and agents in the course of development and sale of the Community; (ii) by the Association, its employees, contractors, and agents in the performance of their duties; and (iii) such lessees and other persons as the Association may authorize in the course of farm or orchard

## EXHIBIT "C"

### Initial Rules (continued)

management, forestry and timber management, wildlife management, and other environmental science activities.

3. Modifications to Lots. No Owner or occupant of a Lot, nor any person acting on their behalf, shall engage in any activity within the scope of Chapter 5, Architecture, Landscaping, and Aesthetic Standards, of the Charter except in compliance with that Chapter and the Design Standards and such prior approval as may be required thereunder.

EXHIBIT "D"

By-Laws of Bundoran Farm Community Association, Inc.