

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**OF**

**ZUMBRO SOUND**

**THIS DECLARATION**, made this \_\_\_\_ day of \_\_\_\_\_, 2005, Zumbro Shores Estates, LLC (Declarant)

**WITNESSETH**

**WHEREAS**, Declarant is the owner of the real property described in Article II of this Declaration and desires to create thereon a residential community with common facilities for the pleasure and general benefit of said community; and,

**WHEREAS**, Declarant desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common facilities and to this end desires to subject the real property described in Article II to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

**WHEREAS**, the real property is in an environmentally sensitive area, adjacent to the Zumbro River, including Lake Zumbro and native woodlands, and is subject to Resolution #01-71 of the Olmsted County Board creating a "Special District" for the real property on July 24, 2001, which requires certain restrictions for the use of the real property and Developer wishes to preserve this natural setting of the lands, including Lake Zumbro and the natural forest, by restricting development and imposing conditions

for land use consistent with the Special District; and

**WHEREAS**, Declarant has deemed it desirable for the community and for the efficient preservation of the values and amenities in said community to create an agency to which should be delegated and assigned the power to attend to and effectuate progress and facilities that will maintain and administer the common properties and facilities, administer and enforce the covenants and restrictions and collect and disburse the assessments and charges hereinafter created;

**WHEREAS**, Declarant has incorporated, under the laws of the State of Minnesota, Zumbro Sound Homeowner's Association, Inc., for the purpose of exercising the functions aforesaid; and

**WHEREAS**, pursuant to Minnesota Statutes Section 515B 1-102(e) (1) & (2), this Planned Community is exempt from the provision and applicability of the requirements of the Chapter 515B of the Minnesota Statutes ("The Minnesota Common Interest Community Act"); and

**NOW, THEREFORE**, Declarant declares that the real property described in Article II is, and shall be, held, transferred, sold, conveyed and occupied, subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth, which covenants and restrictions shall run with the real property and be binding on all parties having any right, title or interest in the hereinafter described properties or any part hereof, and their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### **ARTICLE I.** **DEFINITIONS**

The following words, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

- a. **"Association"** shall mean and refer to Zumbro Sound Association, Inc., a Minnesota nonprofit corporation, its successors and assigns.
- b. **"Common Properties"** shall mean and refer to all real property and improvements thereon owned by the Association for the common use and enjoyment of the Owners and such other persons to whom the Owners may delegate this right pursuant to this Declaration and to all improvements located thereon and owned or otherwise held by the Association for the common use and enjoyment of said persons.

The Common Properties to be owned by the Association at the time of the conveyance of the first Lot are described as follows:

Outlot A, known as "The Meadows" and Outlot B, known as "The Shores", Zumbro Sound.

and all of said Common Property shall be conveyed to the Association by the Declarant prior to the conveyance of the first Lot forming a part of the real property described in Article II, Section 1, hereof.

- c. **"Declarant"** shall mean and refer to the Declarant above-named, and to its successors and assigns, if (a) any such successor or assign should acquire more than one undeveloped Lot from the Declarant for the purpose of development and the instrument of conveyance recites that such successor or assign has acquired all of the rights and obligations of the Declarant; or (b) such rights and obligations pass to such successor or assign by operation of law. **"Affiliate of Declarant"** shall mean any person or entity which controls, is controlled by, or is under common control with, Declarant. A person or entity shall be deemed to control a Declarant if that person or entity (a) is a general partner, officer, director, or employee of the Declarant; (b) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting shares of the Declarant; (c) controls in any manner the election of a majority of the directors of the Declarant; or (d) has contributed more than twenty percent (20%) of the capital of the Declarant. A person or entity shall be deemed to be controlled by a Declarant if the Declarant (a) is a general partner, officer, director or employee of that person or entity; (b) directly or indirectly or acting in concert with one or more persons or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting share of that person or entity; (c) controls in any manner the election of a majority of the directors of that person or entity; or (d) has contributed more than twenty percent (20%) of the capital of that person or entity.
- d. **"Eligible Mortgagee"** shall mean any Person owning a mortgage on any Lot, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Lot, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.
- e. **"Zumbro Sound"** shall mean and refer to all properties subject to this Declaration.
- f. **"First Mortgagee"** shall mean and refer to any person, corporation or other

entity named as mortgagee in any mortgage deed granting a first lien upon the fee simple title to any Lot.

- g. **"Living Unit"** shall mean and refer to any portion of a building situated upon Zumbro Sound designated and intended for use and occupancy as a residence by a single family including a detached garage, and located or to be located upon one Lot.
- h. **"Lot"** shall mean and refer to any platted lot in the Properties, with the exception of the Common Properties.
- i. **"Member"** shall mean and refer to all Owners who are members of the Association as provided in Article III, Section 1, hereof.
- j. **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon Zumbro Sound, and shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to the foreclosure or deed in lieu of foreclosure.
- k. **"Properties"** shall mean and refer to all of the real property subject to this Declaration, as more particularly described in Article II hereof, and all improvements now or hereafter located thereon.
- l. **"Outbuilding"** shall mean and refer to any other building situated on the Properties which are not designated and intended as a "Living Unit".

## **ARTICLE II.**

### **PROPERTY SUBJECT TO THIS DECLARATION**

**Section 1. Existing Property.** The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located entirely in the County of Olmsted and State of Minnesota, and is more particularly described as follows:

Lots One (1) and Two (2), Block One (1); Lots One (1) through Five (5), inclusive, Block Two (2); and Outlot A and Outlot B, Zumbro Sound, according to the Plat thereof on file and of record in the office of the County Recorder in and for Olmsted County, Minnesota.

## **MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**Section 1. Membership.** Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation unless and until such mortgagee has acquired title pursuant to foreclosure of said mortgage and the period in which the fee owner may redeem from such foreclosure has terminated. Where any such Lot is being sold by the fee owner to a contract vendee who is entitled to possession of the Lot, the contract vendee shall be considered the owner of the Lot if (a) the rights of the contract vendor hereunder are delegated to the vendee under such contract for deed; and (b) the vendee shall furnish proof of such delegation to the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

**Section 2. Voting Rights.** The Association shall have two (2) classes of voting membership.

Class "A". Class "A" Members shall be all those owners referred to in Section 1, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to a Lot.

Class "B". The sole Class "B" Member shall be Declarant which shall be entitled to three (3) votes for each Lot owned by it. The Class "B" membership shall cease and be converted to Class "A" membership when the total votes outstanding in the Class "A" membership Equal the total votes outstanding in the Class "B" membership, or on January 1<sup>st</sup>, 2010, whichever happens first

## **ARTICLE IV DUTIES OF ASSOCIATION**

**Section 1. Enforcement of Covenants and Restrictions; Architectural Control.** The Association shall be responsible for the enforcement of the covenants and restrictions contained in this Declaration. In addition, the Association shall be responsible for the maintenance of liability insurance on the Common Elements.

**Section 2. Common Elements.** The Association, subject to the rights of the owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Elements, and all improvements thereon (including furnishings, signs and equipment related thereto) and shall keep the same in good, clean, attractive

and sanitary condition, order and repair.

## **ARTICLE V** **COVENANTS FOR ASSESSMENTS**

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Declarant, for each Lot owned by it within Zumbro Sound, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, shall be and hereby is deemed to covenant and agree to pay to the Association (a) annual assessments or charges and (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof and reasonable attorneys' fees as hereinafter provided, shall be a charge on the land and shall be a continuing lien on each such Lot against which each such assessment is made. Each such assessment, together with interest, costs of collection and reasonable attorneys' fees, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the Owners' successors in title unless expressly assumed by said successors.

**Section 2. Purpose of Assessments.** The assessments levied by the Association under this Article shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of Zumbro Sound and, in particular, for the improvement and maintenance of the Common Properties and for services and facilities related to the use and enjoyment of the Common Properties, including, but not limited to the payment of taxes and insurance in regard to the Common Properties, repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision, including but not limited to, the cost of turf management and landscaping care and to the extent the Association agrees to provide for such services to each Lot, and the maintenance of utilities located on the Common Properties (to the extent such utilities are not maintained by the utility concerned).

**Section 3. Basis of Annual and Special Assessments.** Annual and special assessments shall be levied on each Lot on the basis of the number of Units in each class of membership as follows:

- a. Lots which create Class "A" membership shall be assessed on the basis of one (1) Unit per Lot.
- b. Lots which create Class "B" membership shall be assessed on the basis of one (1) Unit per Lot; provided, however, that the Class "B" Member for any vacant Lot owned by it prior to issuance of a building permit shall be assessed twenty-five (25%) percent of the annual assessment for a Class

"A" Member. Once a building permit has been issued to a Class "B" Member, a Class "B" Member shall be liable for paying the full assessment.

**Section 4. Maximum Annual Assessments.** Declarant shall pay the maintenance costs associated with and incidental to ownership, management, insurance and supervisions of the Common Properties and other incidental costs of operating the Association until the first annual meeting; provided, however, that each Owner shall pay Ten (\$10.00) Dollars per month commencing on the first day of the month following closing on such Owner's purchase. From the date of the first closing on a Unit, until the first annual-meeting, the maximum annual assessment for each class shall be Six Hundred (\$600.00) Dollars per Lot. From and after the first annual meeting, the maximum annual assessment may be increased by the Board of Directors by the greater of (a) ten (10%) percent of the maximum assessment for the previous year; or (b) the percentage increase, if any, over the twelve-month period preceding the year for which such assessment is levied, in the Consumer Price Index, all items, published by the United States Department of Commerce, Bureau of Labor Statistics for the region including Rochester, Minnesota ("CPI"). The annual assessment may be increased above the amount of the maximum established hereunder only by a vote of Members holding two-thirds voting in person or proxy, at a meeting duly called for that purpose. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**Section 5. Special Assessments for Capital Improvement.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of any capital improvement upon the Common Properties, including Waste Water Treatment Systems, Common Collection Systems (sewer main) and Shared Well, provided that each such assessment shall have the assent of the board of directors of the Zumbro Sound Association, Inc., Members holding three-fourths (3/4) of the votes in each class of voting membership who are voting in person or by proxy at a meeting duly called for this purpose.

**Section 6. Commencement of Assessments.** The first annual assessments provided for herein shall commence as to all Lots subject to this Declaration on the first day of the month following the conveyance of the Common Properties to the Association. The amount of the first year's assessment upon a Lot shall be prorated according to the number of months left in the year from the time the assessment commences as to such Lot.

**Section 7. Duties of the Board of Directors.** The Board of Directors of the Association shall fix the date for commencement of monthly installments of annual or special assessments and the total amount of the assessment against each Lot for each

assessment period at least thirty (30) days in advance of such commencement date or period and shall at that time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall become a lien against a Lot on the date when the same becomes due and payable, as fixed by the Board of Directors, as herein provided.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto, provided, however, that failure to send such written notice shall not render such assessment invalid.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association setting forth whether such assessment has been paid. Said certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 8. Effect of nonpayment of Assessment; Personal Obligation of the Owner; Lien; Remedies of Association.** If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest at the rate of nine (9%) percent per annum from the due date, and the Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot. There shall also be added to the amount of such assessment the cost of preparing and filing the complaint in such action, and in the event that a judgment is obtained, such judgment shall include interest on the assessment, as above provided, and reasonable attorneys' fees to be fixed by the Court, together with all other costs of the action

No Owner may waive or otherwise avoid liability for the assessments provided for herein by nonuse of the Common Properties or abandonment of his or her Lot.

**Section 9. Subordination of Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon a Lot subject to assessments' provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to the later of (a) the time such First Mortgagee comes into possession of the Lot; or (b) the expiration of the period of redemption from mortgage foreclosure sale or conveyance by deed in lieu of foreclosure. The purchaser at a foreclosure sale of a first mortgage shall, upon expiration of the period of redemption, or a party accepting a deed in lieu of foreclosure, shall hold title to the Lot free and clear of any existing lien for unpaid assessments which was levied and became due at any time prior to six (6) months before the expiration of the period of redemption or the acceptance of a deed in lieu of foreclosure, and such purchaser shall not be personally liable for such assessments unless such purchaser specifically assumes such assessments. Nothing herein contained shall prevent the Association from reallocating and reassessing any such extinguished assessments as a common expense among all Lots. Such sale or transfer shall not release the Lot from the lien of any assessments which thereafter become due.

**Section 10. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:



- a. All properties to the extent of any easement or other interest therein dedicated to and accepted by the local public authority and devoted to public use;
- b. All properties exempt from taxation by the laws of the State of Minnesota upon the terms and to the extent of such legal exemption;
- c. All Common Properties as defined in Article I, Section 1, hereof.

Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

**Section 11. Individual Lot Maintenance Assessments.** In the event that any Owner, or their designee, violates any covenant, fails to perform any condition contained in this Declaration or damages any of the Common Elements, the Association may perform the act, remove the defect or correct the violation upon fifteen (15) days written notice to the Owner. If the Association so acts on behalf of an Owner, the Association may levy an assessment (hereinafter, "Individual Lot Maintenance Assessment") against the Lot for the cost of the performance or correction.

## **ARTICLE VI. ARCHITECTURAL CONTROL**

**Section 1. Architectural Control Committee.** There shall be established by the Board, an Architectural Control Committee (ACC) consisting of three persons. (In the event that no ACC has been appointed, the Board shall act as the ACC.) The members of the ACC shall be appointed by Declarant until a certificate of occupancy has been issued for a Living Unit which has been constructed on each Lot. After the termination of Declarant's right to appoint the ACC members, members shall be appointed and serve at the pleasure of the Board of Directors of the Association. In the absence of an appointed ACC, the Board shall fulfill the duties of the ACC.

**Section 2. Original Construction.** A site plan, landscaping plan and plans and specifications for the construction of a Living Unit on any Lot shall be submitted to the ACC for its written approval before any construction activity is begun.

**Section 3. Review of Modifications.** After the completion of an original Living Unit on a Lot, the construction or modification of any building or structure, including fences and mailboxes or the retaining walls or monuments constructed by the Declarant, shall require prior written approval by the ACC of the plans and specifications for the construction, in accordance with the standards set forth in Section 4 hereof.

**Section 4. Standard of Review.** The ACC may promulgate detailed standards and

procedures governing its areas of responsibility and practice. In addition, the following shall apply: the plans and specifications shall be reviewed as to quality of workmanship, design and harmony of external design with existing structures, topography, and finish grade elevation. No permission or approval shall be required to repaint in accordance with an originally approved color scheme, or to rebuild in accordance with originally approved plans and specifications. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of the owners' residence or to paint the interior of the owners' residence any color desired.

**Section 5. Procedure.** If the ACC fails to approve or disapprove plans and specifications within twenty (20) days after the submission of the same to it, approval will be deemed to have been granted. In the event of disapproval by the ACC, the requesting Owner may give written notice that the Owner wishes to appeal the ACC decision and request a hearing by the Association's Board of Directors. Such notice must be furnished to the ACC within ten (10) days of its decision. The hearing shall be at a special meeting of the Board of Directors to be held within thirty (30) days of the receipt of the Owner's notice of appeal.

**Section 6. Removal and Abatement.** The ACC or the Association shall have the right to order an Owner to remove or alter any structure on any Lot erected in violation of the terms of this Declaration, and to employ appropriate judicial proceedings to compel the alteration or demolition of any non conforming construction or other violation. Any cost incurred by the ACC shall be levied as an Individual Lot Maintenance Assessment as provided in Article V.

**Section 7. Variances.** Reasonable variances to the covenants, conditions and restrictions may be granted by the ACC after review, in order to overcome practical difficulties or to prevent unnecessary hardship. A variance may only be granted if it is not detrimental to other property and shall not defeat the purpose of this Declaration.

**Section 8. Architectural Review Basic Guidelines.** The following items are to be used as guidelines by the ACC, and may be changed or altered from time to time in the discretion of the ACC.

**Square Footage Requirements.** No Living Unit shall be erected, altered, placed or permitted to remain on any part or portion of a lot other than a single family dwelling with at least an attached two (2) car garage. No more than three garage stalls may be visible from the street. The ground floor of the main living structure, excluding garages and porches that are not four-season porches, must exceed the following minimum square footage requirements:

- (a) Rambler or one story: 1800 sq. ft. ground floor
- (b) Two Story: 1500 sq. ft. ground floor, 2400 sq. ft. total
- (c) Story and a half: 1500 sq. ft ground floor, 2400 sq. ft. total

**Setback Requirements.** No building or any part thereof shall be erected on any Lot within thirty (30) feet of the front lot line, or closer than twenty (20) feet from the side Lot line. The rear yard setback shall be limited by the "designated buildable area" as shown on the Special District Exhibit designated buildable areas for structures on each Lot.

**Driveways.** All driveways from the garage to the street shall be paved with concrete, asphalt or similar materials so as to provide for a hard surface driveway

and must be completed within one (1) year from the date of completion of the construction of the Living Unit.

**Fences.** Any fence built on a lot shall be constructed of good quality materials, harmonious and consistent with the contour of the land and building located on said lots, and thereafter shall be maintained in a neat appearing condition. All fencing material must be approved by Zumbro Sound Architectural Control Committee provided for hereunder.

**Erosion Control.** All necessary landscaping to prevent erosion or other soil run off must be completed within a reasonable period of time not to exceed one year after occupancy of the Living Unit by the Lot Owner, having due regard for weather and climate conditions.

**Pre-Fabricated Housing Units.** No pre-cut, pre-fabricated, manufactured or paneled housing units shall be constructed on said lots. Log homes pre-cut off site are allowed.

**Transfer of Buildings.** No building of any kind intended to be used for habitation or residence shall be moved onto said lots.

**Outbuildings.** Any outbuilding having a ground floor area of greater than 120 square feet, shall be finished on the exterior in a neat and attractive matter and shall be architecturally harmonious with the Living Unit. All such outbuildings must be approved by the Zumbro Sound Architectural Review Committee. No outbuilding shall exceed 1200 square feet of the ground floor area.

**Home Exterior.** Homes shall be finished and maintained on the exterior in a neat and attractive manner and shall be architecturally harmonious with the setting of Zumbro Sound. All home exteriors must be approved by the Zumbro Sound Architectural Review Committee. A significant percentage of natural (e.g., rock, brick, log, cedar) siding on the front of the home is encouraged and may be required by the Zumbro Sound Architectural Review Committee.

**Home Design.** The Home designs will be subject to Zumbro Sound Architectural Control Committee approval. Home designs with steeper roof pitches are generally preferred. The home design is preferred to diminish the garage impact from the road, while emphasizing home entry.

**Landscaping.** Landscaping shall be completed within twelve months of construction completion. Landscaping that is viewed from off the property must be approved by the Zumbro Sound Architectural Control Committee.

**Mail/Newspaper Boxes.** Mail and newspaper boxes will be of a uniform

design, provided and installed by Zumbro Sound Home Owners Association. Ownership, maintenance, and/or replacement will be the responsibility of the individual property owners, and shall comply with the rules specified by the Zumbro Sound Architectural Control Committee approval.

## **ARTICLE VII.** **INSURANCE**

**Section 1. Liability Insurance; Fidelity Bonds.** The Board of Directors of the Association, or its duly authorized agent, shall obtain a broad form of public liability insurance covering all of the Common Properties insuring the Association, with such limits of liability as the Association shall determine to be necessary, but in no event less than \$500,000.00 covering all claims for personal injury and/or property damage arising out of a single occurrence, including protection against water damage liability, liability for no owned and hired automobiles, liability for property of others, and, if applicable, garage keeper's liability, host liquor liability, and such other risks as are customarily covered or required by private institutional mortgage investors to be covered in projects similar in construction, location and use as Zumbro Sound. Such insurance policy shall preclude the insurer from denying the claim of an Owner because of the negligence of the Association or other Owner. The Board of Directors shall also provide fidelity bonds providing protection to the Association against loss by reason of acts of fraud or dishonesty on the part of the Association's directors, managers, officers, employees or volunteers who are responsible for handling funds of the Association in an amount sufficient to provide no less protection than one and one-half (1-1/2) times the estimated annual operating expenses and reserves of the Association, including reserves. Any policy or bond obtained hereunder shall provide that it may not be cancelled or substantially modified, including cancellation for nonpayment of premium, without at least thirty (30) days' prior written notice to First Mortgagees. No Insurance is needed if there are no Common Properties.

**Section 2. Casualty Insurance on Insurable Common Properties.** The Association shall keep all insurable improvements and fixtures of the Common Properties insured as follows:

- a. Against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, debris removal, cost of demolition, vandalism, malicious mischief, windstorm, and water damage, as well as other risks customarily covered in similar projects for an amount equal to the full replacement value (i.e., 100% of current "replacement cost: excluding land, foundation, excavation, and other items normally excluded from coverage), such insurance to cover all common facilities owned by the Association including all fixtures and building service equipment to the extent they are a part of the Common Properties, as well as common personal property and supplies with an Agreed Amount Endorsement, if

available, and, if required by Federal National Mortgage Association, Demolition and Contingent Liability from Operation of Building Laws Endorsements, an Increased Cost of Construction Endorsement, and an Earthquake Damage Endorsement, and other endorsements as necessary; and

- b. Against such other hazards and casualties as the Association may deem desirable.

All insurance coverage with respect to the Common Properties shall be written in the name of, and the proceeds thereof shall be payable to, the Association. The insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are common expenses included in the annual assessments made by the Association. Any policy herein described may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to the Association.

## **ARTICLE IX PROHIBITED USES**

**Section 1. Use.** No Lot shall be used except for residential purposes, subject to the provision to allow home office and business activities, as contained hereinafter.

**Section 2. Subdivision.** No Lot shall be subdivided or split by any means whatsoever into any greater number of residential Lots.

**Section 3. Standards.** All uses of the Lots shall, as a minimum, comply with the zoning and other applicable ordinances and regulations. The standards herein contained shall be considered as requirements in addition to said zoning and other applicable ordinances and regulations.

**Section 4. Home Occupation.** Home office and business activities are permitted to the extent that they are compatible with a residential neighborhood and comply with all local zoning ordinances.

**Section 4. Minimum Square Footage and Set Back Provisions.** The ACC shall have the right to establish minimum square footage requirements and also restrict set backs.

**Section 5. Sign.** No sign shall be placed on any Lot or within the Property without the express written consent of the ACC, except that one "for sale" sign may be placed on a Lot by an Owner or the Developer without ACC approval, and that the Developer shall have the right to place marketing signs on any lot which it owns without ACC approval..

**Section 6. No Pets and Animals.** No birds, animals or insects shall be kept on any Lot except dogs, cats and other common house pets provided that they are not kept, bred or maintained for any commercial purposes. No dogs, cats, or other common household pets may be kept on any Lot if the Board determines that such animal is creating excessive amounts of noise and disturbing other Owners or their guests. Owners shall be responsible to insure that they clean up after their pets when they are allowed in any public of on any part of the Common Elements.

**Section 7. Nuisances.** No refuse pile or unsightly objects shall be allowed to be placed or suffered to remain any where thereon. In the event that an Owner of any Lot shall fail or refuse to keep such premises free from refuse piles or other unsightly growths or objects, then the Declarant or the Association may enter upon such lands and remove the same at the expense of the Owner and such entry shall not be deemed as trespass and in the event of such a removal, a lien shall arise and be created in favor of the Association and against such Lot for the full amount, chargeable to such Lot and such amount shall be due and payable within thirty days after the Owner is billed therefore. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property. The outside storage of an unlicensed motor vehicle upon the premises shall also be considered a nuisance.

**Section 8. Storage.** Household trash and garbage shall be regularly collected and may be kept outside only if in tightly covered containers. No boats, automobiles, snow mobiles, trailers, camping vehicles, tractors/ trailers, or trucks shall at any time be stored or parked for more than 10 days on any Lot outside of a garage unless effectively screened from view outside the Lot, or on public streets without the express written approval of the ACC, which approval may be withheld without stated reason. No personal property of any Owner or guest (including but not limited to boats and watercraft) shall be stored on any of the Common Property without the express written approval of the ACC.

**Section 9. Leasing.** Any lease between an Owner and a non-Owner occupant shall be in writing and shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles of Incorporation and By-Laws of the Association, and shall provide that any failure by the Non-Owner occupant to comply with the terms of such documents shall be default under the lease. Other than the foregoing, there shall be no restrictions on the use of a Living Unit by a non-Owner occupant.

**Section 10. Storage Tanks.** No permanent storage tanks of any kind shall be erected, placed or permitted on any Lot unless buried or effectively screened from view outside

the Lot.

**Section 11. Temporary Structures.** No structure of temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot at any time as a residence, either temporarily or permanently without the express written approval of the ACC.



**Section 12. Auxiliary Structures.** No detached dog kennels, runs or enclosures shall be permitted unless design and location of same shall be approved by the ACC.

**Section 13. Parking.** No vehicles shall be parked or kept on any area of any Lot except in a garage or on a hard-surfaced driveway without the express written approval of the ACC.

**Section 14. Exterior Lighting.** All exterior lighting fixtures and standards shall be shown on submitted plans. All forms of exterior lighting shall be subject to approval of the ACC.

**Section 15. Exterior Ornaments.** Exterior ornaments that are in view from off the property including but not limited to precast concrete, plastic or wood figurines, wishing wells and windmills shall be prohibited unless approved by the ACC prior to installation or construction.

**Section 16. Antennas.** Except with the prior written approval and authorization of the ACC, no exterior television or radio antenna of any sort shall be placed, allowed or maintained upon any portion of a Lot or the improvements or structures located thereon.

**Section 17. Completion of Construction of Improvements.** All construction work shall, upon approval of plans by the ACC, be carried on with dispatch; If any structure is begun after approval of the plans as provided in Article VI and is not completed within one year after the commencement of said construction, and in the judgment of the Developer or the ACC, it is offensive or unsightly in appearance, the Developer or the ACC, may take such steps as may be necessary to make the Property harmonious with other properties, such steps including completion of the exterior of the structure, screening or covering the structure or any combination thereof, or similar operations. The amount of any expenditure made in so doing shall be the personal, joint and several obligation of the Owner or Owners and shall be a lien on the Lot and may be foreclosed in the same manner as provided in Article V. The lien herein shall not be valid as against a subsequent bona fide purchaser of the Lot in question unless a statement setting forth the claim had been filed for record in the office of the County Recorder and/or Registrar of Titles of Olmsted County, whichever is appropriate, or unless a suit and appropriate Lis Pendens to foreclose the lien shall have been filed of record in the office of the County Recorder and/or Registrar of Titles of Olmsted County prior to the recordation of the Deed conveying the Lot in question to said purchaser.

**Section 18. Fences, Walls and Hedges.** Boundary walls and fences are inconsistent with the intended plan of development for the Property. No wall or fence shall be constructed or hedge planted on any Lot until the height, type, design and location have been approved, in writing, by the ACC. When planning Boundary walls hedges and fences the ACC will consider all property owners views from their property.

**Section 19. Utilities.** All utility lines shall be installed underground, where possible or allowed by the utility provider.

**Section 20. Garbage and Refuse Removal.** No Lot shall be used or maintained as a dumping ground for trash or rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. Lots shall be kept free of debris at all times regardless of whether said lot is improved or unimproved. Trash, garbage, other waste or stored material and equipment shall be placed or maintained on said Lot, so as not to be exposed to the view of or become a nuisance to either the public or adjoining Lot owner.

**ARTICLE IX.**  
**PROPERTY RIGHTS IN THE COMMON PROPERTIES**

**Section 1. Easements.** Subject to the provisions of Section 2 hereof, there shall exist the following easements in favor of each Owner and appurtenant to such Owner's Lot over, across and upon the Common Properties:

- a. A nonexclusive easement of ingress and egress over the Common Properties for the use and enjoyment of the Common Properties.

**Section 2. Extent of Members' Easements.** The rights and easements created hereby and the title of the Association to the Common Properties shall be subject to the following and as further provided herein:

- a. The right of the Association, as provided in its Articles and By-Laws, to suspend the voting and enjoyment rights of any Member for any period during which any assessment remains unpaid, as provided in the Association's By-Laws; provided, however, that nothing contained in this Paragraph (a) shall be deemed to deny an Owner access to and from his or her Lot in Zumbro Sound;
- b. The right of the Declarant to make use of such portions of the Common Properties as may be necessary and incidental to the construction of the initial improvements upon Zumbro Sound of including, without limitation, vehicular ingress and egress, vehicular parking, storage and maintenance of models and signs advertising Lots in Zumbro Sound together with the right of the Declarant to execute and deliver any and all necessary conveyances or dedication to governmental authorities or public utilities deemed necessary by Declarant for the purpose of providing public utilities to Zumbro Sound provided, however, that the Declarant shall promptly restore any damage to the Common Properties by reason of any construction incident to the foregoing;

- c. The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility (including, without limitation, utilities furnishing gas, sewage treatment, electricity, water, telephone or cable television) or to grant permits, licenses and easements over such Common Properties for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Properties, provided that no dedication or transfer of any portion of the Common Properties, nor any easement, license or permit over or with respect to any portion thereof of more than one hundred eighty (180) days duration shall be effective unless an instrument signed by Members entitled to cast three-fourths (3/4) of the votes of each class of membership has been recorded agreeing to such dedication, transfer, grant, permit, license or easement, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least ninety (90) days in advance of any action taken;
- d. Rights to access of governmental units for fire, police, emergency or any other lawful governmental purpose.

Nothing herein contained shall be construed as a dedication of any part of the Common Properties to the public or to public use.

**Section 3. Title to Common Properties.** Declarant shall convey marketable legal title to the Common Properties to the Association prior to the first conveyance of any Lot.

**Section 4. Taxes and Special Assessments on Common Properties.** Taxes and special assessments that would normally be levied against the Common Properties by a governmental entity shall be divided and levied in equal amounts against the individual Lots in the Properties, which levies shall be a lien against said individual Lots provided that such a method is permitted by state law.

**Section 5. Delegation of Rights.** An Owner may delegate his or her right and easement of enjoyment in and to the Common Properties to the members of his or her family, a contract vendee, who is entitled to possession of the Lot, or to his or her guests or tenants who reside on the Owner's Lot, subject to rules and regulations of the Association.

**Section 6. Outlots.** Zumbro Sound property owners and their guests that use The Meadows (Outlot A) or The Shores (Outlot B) will be responsible to keep the Outlots clean and in good condition. The Home Owners Association may at its option each year, provide a dock area for the enjoyment of the property owners and their guests. Limited slip space may be available to property owners. Property owners that want slip space may be required to provide additional dock sections and watercraft lifts. Any dock

sections or improvements added to the dock area by any property owner will become the property of the Zumbro Sound Home Owners Association except for watercraft lifts. All slip space, lifts, canopies, and any other dock area improvements will be subject to the approval of the Zumbro Sound Architectural Review Committee. The boat owners will be required to remove their watercraft lifts at their own expense before the water freezes each year. No boat shall be stored in the dock area or on the shore of Outlot A except in an approved slip area. Temporary boat docking is allowed in the dock area for the property owners and their guests. The Zumbro Sound Home Owners Association reserves the right to charge fees for slip space for the maintenance of the dock area. Slip space will be awarded on a first come first serve basis with a maximum of 20 feet of slip space for any one property owner (any exception will have to be approved by the Zumbro Sound Architectural Review Committee). Slip space will be awarded on a calendar year basis. Property Owners who are awarded slip space shall have the first option to retain the slip space the next year. These Property Owners have until the first day of each year to provide the association with their written intent to retain slip space.

**Section 5. Subdivision Sign.** There may be one sign at the entrance to the Properties identifying the subdivision, Zumbro Sound. The Home Owners Association shall maintain any sign built on either outlot A or outlot B for the purpose of identifying the subdivision or outlot names.

## **ARTICLE X. OWNER'S DUTIES**

**Section 1. Maintenance and Repair.** In order to preserve the uniform and high-standard appearance of the Property, each Owner undertakes responsibility for maintenance and repair of the exterior of his Living Unit, private yard area and private driveway on the Lot. Such responsibility for maintaining the Lot and improvements thereon shall include, but not be limited to the following: the maintenance and repair of exterior surfaces of all buildings on the Lot, including without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance or repair of roofs, gutters, downspouts and overhangs, the maintenance and repair of exterior windows and doors, necessary painting, staining and repair of patio structures; in maintaining Private Yard Areas and private driveways an Owner shall be required to mow, trim, water or otherwise care for grass, trees or other plants located on a Lot and shall be required to remove snow from the private driveways, parking areas and walkways to the Living Unit. Maintenance, painting and construction shall be in the original colors and materials, or according to approved color boards on file with the Association. Other colors and materials may be approved by the ACC.

## **ARTICLE XI. RIGHTS OF ELIGIBLE MORTGAGEES**

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

**Section 1. Consent to Certain Amendments.** The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) of the Lots that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per first mortgage owned) shall be required for any amendment to the Governing Documents which causes any change in the following: (i) voting rights; (ii) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or priority of assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; (vi) redefinition of any Lot boundaries; (vii) convertibility of Lots into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazard or fidelity insurance requirements; (x) leasing of Lots; (xi) imposition of any restrictions on the leasing of Lots; (xii) if the common interest community consists of 50 or more Lots, a decision by the Association to establish self management when professional management is in effect as required previously by the Governing Documents or by an Eligible Mortgagee; (xiii) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiv) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit mortgage holders, or insurers or guarantors of mortgages. Notwithstanding the foregoing, implied approval of a proposed amendment shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided that the notice was delivered by certified mail with a return receipt requested.

**Section 2. Consent to Certain Actions.** The written consent of Eligible Mortgagees representing at least sixty-seven percent (67%) of the Lots that are subject to first mortgages (based upon one vote per first mortgage owned) shall be required to abandon or terminate the common interest community, subject to any greater requirements contained in the Act.

**Section 3. Access to Books and Records/Audit.** Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those that are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Lot, for an audit of the Association's financial statements for the preceding year, the Association shall cause an

audit to be made and deliver a copy to the requesting party.

**Section 4. Notice Requirements.** Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Lot, and the Lot number or address, the holder, insurer or guarantor shall be entitled to timely written notice of:

4.1 A 60-day delinquency in the payment of assessments or charges owed by the Owner of a Lot on which it holds a mortgage;

4.2 A proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

**Section 5. Conflicting Provisions.** The provisions of this Article take precedence over any other conflicting provisions of this Declaration.

**Section 6. Right to Pay Association Obligations.** First Mortgagees may, jointly or singly, pay any charges or debts of the Association which are in default and which may or have become a charge against the Common Properties and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such property and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association. The Board of Directors of the Association shall have power to enter into an agreement in favor of all First Mortgagees to effectuate the provisions of this Section 7. The prevailing party shall be entitled to its costs, disbursements and attorney's fees.

**Section 7. Priority of First Mortgagees.** No provision of this Declaration or the By-Laws of the Association shall be construed to give any Owner, or any other party, priority over the rights of any First Mortgagee of a Lot pursuant to its First Mortgage in the case of a distribution to an Owner of insurance proceeds or condemnation award for losses to or a taking of Common Properties or any portion thereof or any Lot or portion thereof. The Association shall give timely written notice of any damage or proposed condemnation to all First Mortgagees, if such damage or condemnation affects the Common Properties, and to the First Mortgagee of any Lot affected by such damage or condemnation.

**Section 8. Attendance at Meetings of Members.** Any Eligible Mortgage who so requests shall be given notice of all meetings of the Members as if such Eligible Mortgagee was a Member entitled to notice. Each such Eligible Mortgagee shall have the right to designate a representative to attend all such meetings, which representative shall not have the right to cast a vote.

## ARTICLE XII.

## **SPECIAL DISTRICT RESTRICTIONS**

**Section 1.** Zumbro Sound has been designated a Special District by action of the Olmsted County Board amending the Olmsted County Zoning Ordinance and the County of Olmsted Official Zoning Map. Pursuant to that certain restrictions and requirements have been placed upon Zumbro Sound to preserve forever the natural setting of the land within Zumbro Sound, including the natural forest, and further to prevent erosion and run off into the adjacent Zumbro River and Lake Zumbro, as well as to prevent interference of the use by Zumbro Sound with the adjacent agricultural land use. Wherever, the restrictions contained in the Special District are greater than the restrictions contained in these Covenants and Restrictions, the restrictions of the Special District shall control.

**Section 2. Disclosure of an Environmentally Sensitive Area.** Declarant hereby discloses that Zumbro Sound is located in and adjacent to environmentally sensitive areas. It is strongly recommended and encouraged that homeowners limit their use of lawn chemicals, pesticides, certain fertilizers, etc. that cause environmental damage. This disclosure is to make homeowners aware that there are other "environmental sound", turf management and other landscaping procedures available and recommends they be used.

**Section 3. Building Location.** No building or any part thereof shall be erected on any Lot, except in the area designated as a "Buildable Area" as shown on the Special District Exhibit. All Lot Owners shall take into consideration the effect of the placement of any home or building might have on the wooded areas of the Lot. In addition, in order to maintain the wooded character of Zumbro Sound, clearing of the setback areas shall be limited to underbrush and general maintenance of the woods. An Owner shall be permitted to sufficiently clear woods to allow access to the Owner's home site. All such permitted clearing shall be subject to the approval of the Architectural Control Committee.

**Section 4. Forestry Management Plan and Turf Management Plan.** A Forestry Management Plan will be created and implemented to preserve and to protect the value of the existing woodland area of Zumbro Sound. The Forestry Management Plan shall be appended to this Declaration of Protective Covenants and made a part hereof.

A Turf Management Plan shall be developed to address proper fertilization, mowing, watering and pesticide applications on lawns, gardens and Common Properties to minimize potential pollution. A Turf Management Plan shall be appended to this Declaration of Protective Covenants and made a part hereof.

**Section 5. Water Supply and Sewage Disposal.** Each Lot shall be provided with a connection point to a shared well by separate well declaration. Each Lot Owner shall also be provided with a connection to a separate waste water treatment system and common collection system (sewer main) to be located on the common property designated as Outlot A by separate sewer declaration. It is the responsibility of the Lot

Owner to comply with the separate shared well and separate sewer/septic agreement. It is the responsibility of each Lot Owner to comply with the septic system requirements as stipulated in the plat grant, site development plan and requirements of the Special District. It is the responsibility of each Lot Owner to comply with the shared well system stipulated in the plat grant, site development plan and the requirements of the Special District.

**Section 6. Preservation Area.** An open space preservation area (OPCA) is being created to preserve the amenities of the subdivision and provide for water detention/sedimentation control, common drain field, trails and recreational uses. The purpose of this OPCA is to specifically identify the wooded areas with steep slopes that require additional protection from removal and destruction. No construction or clearing shall be allowed in this area, except of removal of underbrush and general maintenance to preserve and protect the characteristics of Zumbro Sound. It may be necessary to periodically selectively cut trees to maintain a viable forest growth to insure longevity of the tree cover. In this instance, an Owner or the Zumbro Sound Association may contract with a forest management consultant, the Minnesota Department of Natural Resources and/or forester to selectively log portions of the wooded areas within the conservation area.

a. The OPCA is defined as Outlots A and B, less any area dedicated to the community waste water treatment located on Outlot A as shown on the Special District Exhibit.

**Section 7. Agricultural Reserve Area.** Declarant hereby discloses that Zumbro Sound is adjacent to an Agricultural Reserve Area for agricultural uses of adjacent and distant lands which are expected to continue on an indefinite basis. Declarant hereby acknowledges and hereby gives notice to all future owners of Lots in Zumbro Sound that such agricultural use may create unpleasant odors, dust, fumes, noise, or other annoyances from time to time and that any future owners of the Lots in Zumbro Sound shall not have a right to bring an action for damage or injunctive relief against any land owner or occupier of lands in an Agricultural Reserve Area as a result of the agricultural use existing from time to time hereafter.

**Section 8. Sedimentation Basis.** The sedimentation basis to be constructed on Outlot A shall at all times be maintained by the Association pursuant to the requirements of the Olmsted County Soil and Water Conservation Department or any succeeding agency having to set standards.

### **ARTICLE XIII.** **GENERAL PROVISIONS**

**Section 1. Rules and Regulations.** The Association shall have the power to adopt rules and regulations not inconsistent herewith governing the use of Common Properties.



Any such regulation shall be adopted in accordance with the By-Laws.

**Section 2. No Right of First Refusal.** The right of any Owner to sell, transfer, or otherwise convey his or her Lot or Unit shall not be subject to any right of first refusal or similar restriction in favor of the Association.

**Section 3. Prohibition of Damage and Certain Activities.** Nothing shall be done or kept on any Lot or any part thereof (a) to increase the rate of insurance on any other Lot over what the Owner of such other Lot, but for such activity, would pay, without the prior written consent of the Association, or (b) which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Properties or the buildings situated thereon, shall be committed by any Owner or any invitee of any Owner and each Owner agrees to indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by him or his invitees. No noxious, destructive or offensive activity shall be allowed on any Properties, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner or to any other person at any time lawfully residing in the Properties.

**Section 4. Notices.** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed postpaid to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

**Section 5. Enforcement.** In the event any Owner fails to comply with the provisions of this Declaration, or the By-Laws or Articles of Incorporation of the Association or with decisions of the Association which are made pursuant thereto, such failure will give rise to a cause of action on the part of the Association or any aggrieved Owner for the recovery of damages or for injunctive relief, or both. Owners shall have a similar right of action against the Association. Enforcement of these covenants and restrictions may be by any proceeding at law or in equity. The prevailing party shall be entitled to its costs, disbursements and attorney's fees.

**Section 6. Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

**Section 7. Duration of Covenants, Restrictions and Easements.** The covenants, restrictions and easements of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, or their respective legal representatives, heirs, successors and assigns. The easements set forth herein shall be perpetual. The covenants and restrictions herein set forth shall have a term of twenty (20) years from the date this

Declaration is recorded, after which time, said covenants and restrictions shall be automatically renewed for two (2) successive periods of ten (10) years, unless before the end of any period 100% of the Owners agree to terminate the covenants. The covenants and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five (50%) percent of the Lot. Any amendment must be properly recorded.

**Section 8. Association Easement.** The Association shall have an easement to enter upon any Lot in order to perform any obligations or duties of the Association hereunder, or to exercise any right or remedy of the Association hereunder.

**Section 9. Rights of Declarant.** Until the last Lot is sold and conveyed to an Owner other than a Declarant, the following activities by Declarant or with the written consent of Declarant will not be deemed violations of restrictions contained in this Declaration:

- (a) The use of a Lot or Lots for model and sales office purposes;
- (b) The storage of a construction trailer, equipment, materials and earth during the construction of new Living Units;
- (c) the display of signs advertising the Property, or new Living Units and the maintenance of temporary fencing, walkways, landscaping and berming in the vicinity of model and sales units.

**IN WITNESS WHEREOF**, the undersigned has hereunto set its hand and seal as of the day and year first above written.

Zumbro Shores, LLC

\_\_\_\_\_  
Chris Craven  
Manager

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF OLMSTED    )

The foregoing was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, the

Manager of Zumbro Shores, LLC, a Minnesota Limited Liability Company, on behalf of the limited liability company.

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Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Timothy A. Netzell, LLC  
2573 Hamline Ave N, Suite A  
Roseville, MN 55113  
651-357-1011