

**SEA-WOOD**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Declaration is made and executed this 3<sup>rd</sup> day of October, 2000, by Walls Farm, L.L.C. (hereinafter referred to as the "Developer"), of 16 Route 24, Rehoboth Beach, Delaware 19971.

**W I T N E S S E T H**

WHEREAS, the Developer is the fee simple owner or holds assignable easements in certain real property located in Lewes and Rehoboth Hundred, Sussex County, Delaware as set forth in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Property"), and desires to develop therein a residential community; and

WHEREAS, the Developer desires to provide for the preservation of the values and amenities in said community and for the maintenance of said common lands and facilities and to this end, desires to subject the Property to the covenants, restrictions, easements, charges and liens (hereinafter referred to collectively as the "Restrictions") s hereinafter set forth, for the benefit of the Property and each owner thereof; and

WHEREAS, the Developer has deemed it desirable for the efficient preservation of values and amenities in said community, to create an agency to which will be delegated and assigned the powers of maintaining and administering the community facilities, common lands, and administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developer will cause a nonprofit corporation, Sea-Wood Owners Association, Inc., to be incorporated under the laws of the State of Delaware, for the purpose of exercising the functions aforesaid.

NOW THEREFORE, the Developer hereby declares that the following Restrictions shall run with, burden and bind the Property, and the Developer hereby declares the Property, as described in Exhibit "A", is and shall be held, transferred, sold, conveyed, occupied and used subject to the Restrictions hereinafter set forth and during the period of time hereinafter set forth; and subject to all easements, rights of way and restrictions previously placed upon the Property as recorded in the Office of the Recorder of Deeds in and for Sussex County by the Development, or its predecessors in title.

## ARTICLE I

### Definitions

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

**A. “Association”** shall mean and refer to Sea - Wood Owners Association, Inc. or such other membership corporation as the Developer shall form, its successors and assigns.

**B. “Common Areas”** shall mean and refer to those areas of land designated on the Record Plat and incorporated herein by reference as Common Areas. The Common Areas shall be designated as Common Areas, and shall include all private streets and open or common space as shown on the Record Plat, including the Community Activity Center the greenway buffers from Route 277, and the internal greenway pedestrian paths. The Common Areas shall include the roads, namely, Seashell Boulevard, Nautilus Court, Alabaster Court, Conch Court, and Seahorse Place. Common Areas shall also include storm water management, erosion and sediment control facilities and any buffer strips not part of a lot as shown on the record plat, if any, as required to be a part of the Common Areas under the Sussex County Code S 99-5, Definitions, “Forested Buffer Strip,” and S 99-6 G(2). All Common Areas are intended to be devoted to the common use and enjoyment of the members of the Association, as herein defined, and are not dedicated for use by the general public All Common Areas shall be subject to the Restrictions created herein, and shall be subject to all restrictions, easements and rights-of-way previously granted by the Developer or its predecessors in title.

**C. “Developer”** shall mean and refer to Walls Farm, L.L.C., and any successor.

**D. “Lot”** shall mean and refer to any unimproved or improved plot of land intended and subdivided for a detached single family residence, shown upon the Record Plat as numbered parcel, but shall not include the “Common Areas” as hereinabove defined.

**E. “Member”** shall mean and refer to all those Owners who are members of the Association as provided in Article II, Section 1 of this Declaration.

**F. “Mortgage”** shall mean and refer to any mortgage, deed of trust, or similar instrument granted as security for the performance of any obligation.

**G. “Owner”** shall mean and refer to the record owner, whether one or more persons or entities, holding a fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

**H.** “**Record Plat**” shall mean the plat of record in the Office of the Recorder of Deeds, in and for Sussex County, recorded in Plot Book 69 at Page 4, depicting the Property and all of the Lots and the Common Areas.

## **ARTICLE II**

### **MEMBERSHIP AND VOTING RIGHTS**

**Section 1.** Every Owner of a Lot, which is subject to assessment or shall be eligible for a later assessment shall be a Member of the Association provided, however, that any such person or entity who holds such interest merely as security for performance of an obligation shall not be a Member, unless and until such person or entity has succeeded to such Owner’s interest by enforcement of such security interest. Membership shall be appurtenant to and may not be separated from the ownership of any Lot, which is subject to assessment. Provided, however, that the Developer shall be considered an Owner of each Lot held by it, whether such Lot or Lots are or are not subject to assessment.

**Section 2.** The Association shall have one class of voting membership; **Class A**, which shall be all Owners, including the Development. Class A members shall be entitled to one (1) vote for each Lot. When more than one person holds an interest in any Lot all such persons shall be members. The vote of such Lot shall be exercised as the Owners themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Section 3.** The developer shall establish the Association by the filing of a Certificate of Incorporation of the Association when the Developer, at its sole discretion, deems the creation of such Association appropriate, except that the Certificate of Incorporation shall be filed by the Developer no later than January 1, 2005.

## **ARTICLE III**

### **PROPERTY SUBJECT TO DECLARATION**

**Section 1. Property.** The real property subject to this Declaration is all that property located in Lewes and Rehoboth Hundred, Sussex County, Delaware as shown on the Record Plat, and as described in Exhibit “A”, and this Declaration and the lands subject to this Declaration shall also be subject to restrictions, easements or rights of way previously granted by the Developer, or its predecessors in title as recorded in the Office of the Recorder of Deeds, in and for Sussex County.

## ARTICLE IV

### PROPERTY RIGHTS IN THE COMMON AREAS

**Section 1. Owners' Easement of Enjoyment.** Every Owner shall have a right of easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass with the title to every lot.

**Section 2. Title to Common Areas.** The Developer shall convey legal title in the Common Areas to the Association, but it may retain legal title to the Common Areas until such time as the Developer has completed improvements thereon, and until such a time as, in the opinion of the Developer, the Association shall be able to maintain the same, but, notwithstanding any other provision herein, the Developer hereby covenants for itself, its successors and assigns, that it shall convey all its right, title and interest in the Common Areas to the Association, free and clear of all liens, but subject to all previous Restrictions of record and this Declaration no later than the 1st day of January 2005.

**Section 3. Extent of Member's Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Certificate of Incorporation and By-Laws to borrow money for the purpose of improving the Common Areas and in aid thereof to mortgage the properties, and the rights of such mortgagee in the Property shall be subordinate to the rights of the Owners hereunder, provided, however, that no such borrowing or mortgaging shall be made unless approved by the vote of two-thirds (2/3) of the eligible votes at a meeting duly called for such purpose.

(b) The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure.

(c) The right of the Association as provided in its Certificate of Incorporation and By-Laws, to suspend the enjoyment rights of any Member in any easement or in any Common Areas, for a period during which any assessment against such Member remains unpaid for infractions of the Association's published rules and regulations.

(d) The right of the Association to dedicate or transfer all or any part of its interest in the Common Areas (subject to easements created hereunder, or previously created of record) to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer or determination as to purposes or as to the conditions thereof, shall be effective unless an instrument of consent signed by the Members entitled to cast two-thirds (2/3) of the votes has been recorded.

(e) The right of the Developer prior to the conveyance of the Common Areas to the Association, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public water, sewer, drainage, gas, electricity, telephone and other utilities.

(f) The right of the Association to adopt rules and regulations governing the use by the Owners of the Common Areas.

(g) The right of the Association, pursuant to adopted rules and regulations, to assess liquidated damages in an amount reasonably determined by the Association's Directors to be imposed as a special assessment against any Lot owner who violates or proposes to violate any of these restrictive covenants or the rules of use adopted by the Association, in an amount necessary to compensate the Association and the remaining Lot owners for the damages that would occur for a violation of the restrictive covenants. The reasonableness of the liquidated damages imposed by the Board of Directors of the Association for anticipatory or actual breaches of the restrictions or the rules of use shall be presumed reasonable and shall be enforced by a court of competent jurisdiction as a reasonable assessment of liquidated damages unless the affected Lot owner can establish that there is an arbitrary relationship between the amount of the liquidated damages and the harm sought to be prevented by the established liquidated damage. All such liquidated damages shall be assessed as a special assessment of liquidated damages in accordance with Article VI.

**Section 4. Delegation of Use.** Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to members of his family, tenants, guests, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the Lot or to such other persons as may be permitted by the Association.

**Section 5. Obligation of the Association.** The Association shall:

(a) Take title to, own, manage and maintain any portion of the Common Areas transferred to it, particularly the roads and any recreational areas.

(b) Operate and maintain, for the use and benefit of all Members of the Association, all Common Areas and facilities and improvements developed thereon.

(c) Operate and maintain all facilities on, mow the grass on, plant and replace landscaping on, all Common Areas.

(d) Maintain and restrict the use or uses to be made on or to the Common Areas.

(e) May improve any recreational area with recreational facilities such as tennis courts, swimming pools and/or play ground equipment, only if the improvement is erected at the

Developer's expense, or if the improvement is approved by 75 percent of lot owners other than the Developer.

## **ARTICLE V**

### **COVENANT FOR MAINTENANCE BY THE DEVELOPER**

Until the common areas are improved and transferred to the Association, title to the common areas shall be retained by the Developer. The Developer shall be entitled to utilize initial assessments and annual assessments paid by lot owners at a fixed rate per annum of at least Two Hundred Dollars (\$200.00) per annum to defer maintenance expenses in the Common Areas until 75 percent of all lots in the recorded subdivision are sold to third party purchasers for value. In the event that the actual maintenance of the common areas exceeds the expenses discharged by an annual assessment of Two Hundred Dollars (\$200.00) per year, per sold lot, then in that event, the Developer shall pay the excess maintenance requirements until 75 percent of the lots are sold. After 75 percent of the lots are sold, the Developer shall be under no obligation to contribute to common area maintenance expenses. Any capital improvements to common areas shall be made by the Developer at its expense until 75 percent of the lots are sold by the Developer to a third party purchaser for value.

## **ARTICLE VI**

### **COVENANT FOR MAINTENANCE AND TO ACCEPT AND DISCHARGE**

#### **ASSESSMENTS**

**Section 1. Creation of Lien and Personal Obligation of Assessments.** The Developer, for itself and its successors and assigns, and for each Lot within the Property, hereby covenants, ad each Owner of any Lot, by acceptance of a deed or other transfer document therefore, whether or not it shall be expressly established in such Deed or other transfer document, hereby covenants and agrees to pay the Association: (1) annual assessments or charges; (2) liquidated damage assessments, if imposed, pursuant to the provisions of Article IV, Section 3(g); and (3) an initial assessment in the amount of Two Hundred Dollars (\$200.00) due upon the conveyance of any Lot from the Developer to a third party purchaser for value (except to the Developer), such assessments to be fixed, established and collected as hereinafter provided. The annual assessment, liquidated damage assessment and initial assessment, together with interest and costs and reasonable attorney's fees, shall be a charge on the Lot, and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment was due. A personal obligation for delinquent assessment shall not

pass to the Owner's successor in title (other than as a lien on the land), unless expressly assumed by them.

**Section 2. Purpose of Assessments.** Assessments levied by the Association shall be for the purpose of promoting the recreation, health, safety and welfare of the residents in the Property, or for the improvement and maintenance of the Common Areas of the Property, and for services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon, repair, replacement and additions thereto, for the cost of labor, equipment, materials, management and supervision thereof, or for operating reserve funds and reserve funds for repair and replacement of the Common Areas and the facilities thereon, or for a purpose of discharging a duty or obligation of the Association, and/or for liquidated damages for the breach or anticipated breach of the Restrictions or Rules of the Association by a Lot Owner.

**Section 3. Basis and Maximum Assessment.** Each respective Lot to be sold by the Developer, as conveyed by the Developer after the final date of transfer to any Owner, shall thereafter be subject to assessments to be paid to the Association. The amount of such annual assessment shall be fixed annually at Two Hundred Dollars (\$200.00) per year until 75 percent of all lots in the Development are sold to third parties other than the Developer, or a successor Developer, and thereafter periodically as needs for annual assessments arise, as determined by the Association through the Board of Directors, and shall be charged or assessed in equal proportions against each Lot within the Property, except for assessments for liquidated damages. The first assessment year shall be January 1, 2000, and the assessment rate for the first assessment year is set at Two Hundred Dollars (\$200.00), and thereafter each annual assessment shall be made for each subsequent calendar year commencing as of January 1 of each year. Each annual assessment shall be due and payable on or before thirty (30) days after it has been fixed and levied. It shall be the duty of the Association to notify all Owners, whose addresses are listed with the said Association, within thirty (30) days after said annual assessment has been fixed or levied, giving the amount of the charge of the assessment for said year, when due, and the amount due on each Lot or parcel of land owned by each such Owner. Failure of the Association to levy the assessment for any one year shall not affect the right of the Association to do so for any subsequent year.

**Section 4. Establishment of Annual Assessment Rate.** The Board of Directors of the Association may, after 75 percent of all lots are transferred and sold to third parties other than the Developer, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment in an amount deemed appropriate and may provide for the payment in monthly or quarterly installments; provided however, that if any periodic payment obligation is not paid on its due date, the full annual amount of the assessment shall be due. In establishing each annual assessment after the first annual assessment, the Board of Directors may increase the annual assessment by twenty percent (20%) over the previous year's assessment. Any increase

in the annual assessment in excess of twenty percent (20%) over the previous year's assessment shall require approval by two-thirds (2/3) of the eligible votes of the Association.

**Section 5. Initial Assessment.** In addition to the annual assessment or other assessments, the Developer, for use of the Association, hereby establishes an initial assessment to be paid by the purchaser upon the conveyance of each Lot from the Developer (except the Developer) to a third party purchaser for value; and the amount of such initial assessment is set at Two Hundred Dollars (\$200.00). The Developer may use that fund to pay the cost of any obligation to maintain the Common Areas pending transfer of the fund and the Common Areas to the Association.

**Section 6. Special Assessment for Liquidated Damages.** The Association, through its Board of Directors, has the power and duty to impose liquidated damage assessments for violations of these Restrictions and/or By-Laws or Rules of the Association. Such assessment shall be imposed in the manner set forth in Article IV, Section 3(g).

**Section 7. Date of Commencement Assessment:** Due Date. The annual assessments as to any Lot shall commence on the conveyance of such Lot, prorated for the remaining portion of said year, providing such conveyance is after January 1, 2000. In the event a Lot is conveyed prior to January 1, 2000, the annual assessment will commence January 1, 2000. The due date of any liquidated damage assessment shall be established by the Board of Directors in establishing the liquidated damage assessment.

**Section 8. Effect of Nonpayment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of the Association.** If any Assessment is not paid on the date when stated to be due in the notice of assessment, then the Assessment shall be deemed delinquent, and if the delinquent payment is a periodic payment (i.e. monthly, quarterly, etc.), the entire assessment shall be delinquent, and shall, together with such interest thereon and cost of collection thereof, including reasonable attorney's fees, as hereinafter provided, continue as a lien on the Lot and any structure built thereon which shall bind such Lot in the hands of the Owner, his heirs, devisees, personal representatives, successors and assigns. In addition to such lien rights, the obligation of the assessment shall be a personal obligation of the then Owner to pay such Assessment, however, the personal obligation shall not pass to his successors in title (other than as a lien on the land) unless expressly assumed by them. If the Assessment is not paid within thirty (30) days after the delinquency, the Assessment shall bear interest from the date of delinquency at the rate of the legal interest rate authorized by 6 Del. C S 2301 as amended, and the Association may bring legal action against the Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot; and in the event a judgment is obtained, such judgment shall include interest on the Assessment from its due date and reasonable attorney's fees to be fixed by the Court, together with the costs of collection. No Owner of a Lot may waive or otherwise escape liability for an Assessment provided for herein by nonuse of the Common Areas or abandonment of his or its Lot. The Association reserves the



right to suspend the enjoyment rights of any Member in any easement or Common Area for the period during which any assessment against such Member remains unpaid.

**Section 9. Subordination of the Lien to the First Mortgage.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on the Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, sale or transfer of any Lot by foreclosure of any first mortgage or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

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

(a) All properties dedicated to an accepted by a government body, agency or authority and devoted to public use;

(b) All Common Areas;

(c) All Lots owned by the Developer until sold to third persons, unless such Lots are improved by a permitted structure.

## ARTICLE VII

### RESTRICTIVE AND PROTECTIVE COVENANTS

#### Section 1.

**A) Utility Easements.** The Developer, its successors and assigns, and the Association, hereby reserve the right to grant easements over, under, on and through the Common Areas and in the reserved easement area of each Lot for the installation, construction, reconstruction, relocation, removal, maintenance, repair, operation, inspection of sewer, water drainage, electric, gas, television, telephone, and cable telephone and television facilities and wires, lines, conduits and other necessary and proper attachments in connection therewith, for the benefit of the Property, the Developer, and federal, state or local authority, commission or agency having jurisdiction there over or any corporation, either public, quasi-public or private, supplying or serving such facilities.

**B)** The Developer reserves unto itself, its successors and assigns, a ten foot (10') drainage and/or utility easement from the right-of-way from the front Lot line extending ten feet (10') from the right-of-way of all Lots. Developer further reserves a ten foot (10') drainage and/or utility easement along the interior side and rear of all perimeter boundary lines.

**Section 2. Utility Easements. Prior Restrictions.** The Property is subject to all those prior easements, rights-of-way and restrictions placed upon the Property by the Developer's predecessors in title as such be recorded among the land records in the Office of the Recorder of Deeds in and for Sussex County.

**Section 3. Residential Usage Restriction.** No lot shall be used except for residential purposes and the use or occupancy of any lot or improvement thereon for any trade, business or commercial purpose is hereby excluded and prohibited, except for (i) the Developer's activity to develop or sell lots in the subdivision, (ii) the conduct by the Developer or the Homeowners' Association of business of amenities, which are limited to the use of the owners of lots in the subdivision or their guests and not available to the general public, (iii) the purchase of any lot for speculation or construction of residential improvements thereon for resale, provided that the improvements so constructed may be occupied for residential purposes only, and (iv) the conduct of business activities from a residence by mail, phone or other electronic media.

**Section 4. Limit of House Type.** Construction shall be limited to built on site or "stick built" improvements. Prohibited on any lot is any single-family dwelling which moves to the lot with its structural support being erected or assembled off the lot, except for roof or floor trusses which may be assembled off lot. Specifically prohibited shall be any mobile home, manufactured home or modular home.

**Section 5. Architectural Review Committee, Approval of Building Plans.**

**A)** In order to insure the development and maintenance of Sea Wood subdivision as a residential development of high standards, there shall be a three (3) member Architectural Review Committee (ARC). The initial members shall be appointed by the Developer ("the Developer appointed ARC members") and shall serve until such time as their successors are designated by the Association, but in no event earlier than seventy-five percent (75%) of the Lots are transferred by the Developer. The ARC is vested with the power to control all buildings, structures, improvements and landscaping to be placed upon any Lot within Sea Wood Subdivision.

**B)** No building, structure, fence, wall or other erection shall be commenced, erected, maintained or used, nor shall any addition to or change or alterations therein, or in the use thereof, be made upon any Lot which is the subject matter of the Restrictive Covenants, no matter for what purpose or use, until complete and comprehensive plans and specifications showing the nature, kind, shape, height, materials, floor plans, exterior architectural scheme, location and placements on the Lot, structure or other erection, the grading and landscaping of the Lot to be built upon or improved, and such other information as may be necessary to determine the type, nature or scope of the proposed improvement as is reasonably necessary, shall be submitted to and approved in writing by the ARC or its successors. The plans shall be submitted to the ARC for approval along with a payment in the amount as set forth from time to

time by the ARC to discharge its expenses, if any. If the ARC does not reject a submitted plan within thirty (30) days of verified receipt, the plan shall be deemed approved by the ARC, except that any denied approval shall not authorize any construction which is in violation of any explicit prohibition hereinafter provided. Verified receipt shall be by accepted certified mail, registered mail, or written receipt of hand delivery. Plans shall be delivered to Walls Farm, L.L.C. until the Association is registered, and thereafter to the registered agency of the Association. A copy of all such plans and specifications, finally approved as aforesaid, shall be lodged permanently with the said Committee, or its successors; provided, however, that nothing herein shall require the aforesaid approval as to interior decorations, alterations or changes.

C) The ARC, or its successors, shall have the right to refuse to approve any such plans or specifications, grading or landscaping plans or changes, which are not suitable or desirable to the ARC, or its successors, based upon an application of the mandatory architectural considerations hereinafter provided. In passing on such plans, the ARC shall take into consideration the suitability of the proposed building or other improvements or erections and/or the materials of which the building or other improvements or erections are to be built, and the site upon which it is proposed to be built, the harmony thereof with the surroundings, and the effect of such improvements, additions, alterations or changes, as planned on the adjacent or neighboring property, and any and all factors which in its opinion, would affect the desirability or suitability of such proposed improvements, erections, alterations or changes. As a guideline for approving or passing on such plans, the ARC will consider the following:

(i) Construction of Homes on the Lots:

(a) 85% of all homes and habitable porches on one block face shall be located along the front setback line to establish a compatible streetscape image.

(b) Entry and porches shall face the primary street.

(c) All garages shall be attached to the primary structure.

(ii) Building Materials and Colors:

(a) Exterior building materials shall be aluminum, vinyl, wood, brick, stone, stucco or dryvit. Unfinished cinder block is prohibited as an exterior building material.

(b) Exterior building colors shall be earth tones, white, Williamsburg or colonial colors.

(iii) Roof Materials & Colors:

(a) Roof colors shall be black, dark green, dark red, dark grey or blue. Any other colors must be approved by the ARC.

(iv) Landscaping:

(a) Formally edged planting beds and lawn areas are encouraged. Landscaping must be completed within six (6) months of occupancy and must be approved by the ARC.

(b) Lawn ornaments, fish ponds, fountains, barbeque grills, play sets and decorative lawn furniture are not allowed with front yards or public view areas.

(c) The front yard should not be dominated by garages and parked cars.

(d) Landscape treatments, color and textures should blend naturally with the Property's existing landscape.

(v) Fences:

(a) Appropriate fences include wrought iron look, white pvc, scallop picket, split rail, simple picket, horizontal plank or 2/3 solid wood with 1/3 open above and cap detailing. All wooden fences must be painted white or stained. Stain colors must be approved by the ARC; stained fences must be visibly compatible with the main dwelling. The finished side must face the street and, or adjoining properties. Chain link, wire, flexible plastic, and stockade fences are not permitted. \*\*

(b) Fences shall not be permitted in any front setback area. Fences must be located behind the front corner of the house and shall be a maximum height of six feet (6'). Solid side yard fences taller than four feet (4') in height shall be kept at least eight feet (8') behind the front setback line established by the front wall of the house. Fences must be approved by the ARC and must be visibly compatible with the main dwelling. \*\*

\*\* (These changes were ratified September 17, 2020 by the Recorder of Deeds for Sussex County, Scott Dailey. Document # 2020000043052 BK: 53212 PG: 159)

(vi) Driveways:

(a) Driveways shall be a minimum of 10' wide at the street and widen to garage width.

(b) Appropriate driveway materials include crushed shell, gravel, asphalt or concrete.

D) In addition to the considerations stated above, the ARC shall administer and enforce the Minimum Building and Architectural Standards of Sea-Wood Subdivision. The Developer hereby declares that each residential Lot to be improved by a residential structure must and shall conform with the following minimum building and architectural standards for each Main Dwelling developed on any Lot:

(i) The minimum roof pitch shall be 6'/12';

(ii) For a two-story main dwelling, the roof pitch may be modified to accommodate hip roofs, gambrel roofs and/or mansard roofs; provided however, that a gambrel, hip or mansard roof must have a minimum 3'/12' pitch;

(iii) Shed roofs and flat roofs shall not be allowed on a main dwelling, garage or accessory building, unless approved by the ARC as being aesthetically appropriate, and all pitch roofs shall have a minimum 3'/12' pitch;

(iv) The minimum size of each residential structure shall be 1,800 square feet at the base of the foundation, or at the exterior base to the perimeter walls, exclusive of eaves and overhangs, unheated porches and decks are excluded from the minimum base dimensional calculation.

(v) The housing unit must meet the Southern Standard Building Code requirements generally known as BOCA and/or Sussex County residential building code requirements;

(vi) All exterior color schemes and change of color schemes must be approved by the ARC;

(vii) All residential structures must have a masonry foundation at the perimeter of the base walls of the main dwelling. The masonry foundation must have a finish coating of acceptable finished surface of the exterior foundation. No exterior foundation shall be unfinished concrete block or cinder block;

(viii) Each main residence shall have a minimum two-car attached garage with minimum exterior dimensions of 20' X 22'. Design of garage and/or carports must conform with the design of the main dwelling and be approved by the ARC.

E) The Sea-Wood ARC, the Association, and/or the Developer shall have the right to enforce the provisions of this Section and the requirements of the Minimum Building and Architectural Standards against any person or persons violating or attempting to violate said requirements by appropriate legal action, including assessment for violation or equitable action.

F) On specific request, the ARC reserves the right to approve proposed improvements to a lot not specifically listed, but will apply the criteria of the mandatory restrictions imposed upon any specific proposed improvement not specifically addressed.

**Section 6. Limitation to Modular Homes and Site Built Homes.** A manufactured home which moves to a building site on wheels attached to its own chassis shall not be allowed. A structure manufactured off site in modulars to be installed on a foundation erected on site shall not be allowed. Only a site built residential structure/house, shall be allowed if approved by the Sea-Wood ARC, and if the structure conforms or exceeds the standards of Article VII, Section 5, the Building and Architectural Standard of Sea-Wood Subdivision.

**Section 7. Minimum Initial Landscaping.** In addition to other provisions regarding landscaping and improvement of Lots, each Lot which is approved for a main dwelling after placement or construction on a Lot, shall require within six (6) months of a Certificate of Occupancy, landscaping in accordance with a plan approved by the ARC at the time the housing plan is approved. The mandatory landscaping plan shall require the lot owner to install appropriate trees and shrubs as approved the ARC in addition to lot grading and grass seeding. The minimum landscaping to be installed on the Lot must be completed within one (1) year of the date of occupancy.

**Section 8. Minimum Driveway Improvements.** Within six (6) months of the date of the Certificate of Occupancy being issued for any main dwelling, the home owner must improve the interior driveway with a surface treatment as approved by the ARC, which approval shall be issued in conjunction with the approval of the house plans. The completed driveway surface, i.e., tar and chip, asphalt, or concrete or concrete pavers must be installed within six (6) months of the date of occupancy.

**Section 9. Resubdivision.** No Lot shall be sesubdivided, sold or otherwise alienated in a lesser or smaller parcel, unless approved by the ARC in writing.

**Section 10. Sanitation and Water.** No individual water wells shall be allowed with the subdivision, if the subdivision is served by a central water system. Until such time as the community is served by a central water system, individual wells shall be allowed.

In the event a centralized sewer system becomes available, all Lots shall connect to the central sewer system. Pending development of a central sewer system, if available, each Lot shall obtain a permit for an on-site wastewater disposal system approved by the Department of Natural Resources and Environmental Control.

**Section 11. Signs Notices and Outdoor Decoration Regulations.** No commercial signs, notices or advertising matter of any nature or description, including political, construction and/or maintenance signs shall be erected, used or permitted upon any of the Lots, or on vehicles parked for more than seven (7) continuous hours on the Common Areas (including streets) until the written permission of the Association has been secured or as detailed below. A single "For Sale" sign per lot is permitted. This sign must be removed immediately upon closing. A small sign indicating home security or electronic fencing, for dog control is permitted. Holiday decorations should be removed no later than thirty (30) days after the holiday. All other signs of any nature must be approved by the ARC. \*\*\*

\*\*\* (Amended September 15, 2020)

**Section 12. Setback Restrictions – Height Limitation.**

A) The building setbacks for the lots (front, rear and side), are shown by the dash lines inside the perimeter of each lot on the record plat.

B) No main dwelling shall be erected to a height greater than forty-two feet (42'); and any accessory building shall be limited to two (2) stories and no more than twenty five feet ( 25') in height. The height of any building shall be as determined pursuant to the Sussex County Comprehensive Zoning Ordinance.

C) *A building not attached to the main dwelling commonly called an accessory building shall require approval by the ARC before placement or construction and must be visibly compatible with the main dwelling.* \*\*\* The type of roof, pitch of roof and exterior finish shall be compatible with the main structure, i.e., consisting of the same color and veneer of exterior surface as the main structure. The roof pitch minimums shall be dependent upon use. For garage use, the pitch should be the same as the main structure. The roof pitch of storage structures shall be a minimum 3'/12' pitch.

\*\*\* ( 1<sup>st</sup> sentence amended September 15, 2020)

**Section 13. Garbage Receptacles.** Each Lot shall provide receptacles for garbage in a screened area not generally visible from any interior road; the method of screening of garbage receptacles shall require the approval of the ARC.

**Section 14. Storage Receptacles.** No fuel tanks or similar storage receptacles may be exposed to view; but some may be installed within the main dwelling, or within an accessory building or buried underground or properly screened from view, in accordance with a plan approved by the ARC.

**Section 15. Construction and Demolition.** Once construction or demolition of any building has been commenced on any Lot, such construction or demolition shall proceed without delay until the same is completed, except where such completion is impossible or results in great hardship to the Owner or builder due to strikes, fires, national emergencies or national calamities. Cessation of work upon the construction or demolition of any building once started and before completion thereof for a continuous period of sixty (60) days shall be prima facie evidence of an attempt to abandon the same in its partially completed or demolished state and shall be deemed to be a public nuisance. In the event construction plans have been approved by the ARC, construction must commence pursuant to said approved plans within one (1) year of the date of approval. Failure to commence construction within one (1) year of the date of approval of plans will void the approval.

**Section 16. Fences.** No fence shall be placed in front of the front setback line. No other fence whatsoever shall be erected or allowed to remain on any Lot, except as approved by the ARC.

**Section 17. Nuisance.** It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds upon a Lot which shall tend to substantially decrease the beauty of the Property as a whole, or the beauty of the specific area. No noxious or offensive activity shall be permitted upon any Lot nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to the Property. There shall not be maintained upon any Lot any plant, animal, device or thing of any sort the normal activities of which is in any way noxious, dangerous, unsightly, unpleasant or of such a nature as may diminish or destroy the enjoyment of the Property. Specifically included under this Section is the prohibition against any livestock being kept on any Lots. The keeping of any non-domestic animals shall be deemed a nuisance per se under this Section; but the keeping of domestic cats and dogs, or other traditional household pets, unless the activity of such pets is in any way noxious, dangerous, unsightly or unpleasant, shall not be prohibited under this Section.

**Section 18. Landscaping.** No landscaping, shrubs or trees to be placed on any Lot in conjunction with the erection of any main dwelling shall be planted, until complete and comprehensive landscaping plans shall be submitted to and approved in writing by the ARC. The land area not occupied by structures, hard-surfacing, vehicular driveways or pedestrian paths shall be kept planted with grass, trees or shrubs or other ground covering or landscaping in conformance with the requirements set by the ARC.

**Section 19. Weeds.** No noxious weeds, or accumulated trash of any kind shall be permitted to grow or be maintained upon any Lot by the Owner or occupier thereof. The Association or its successors and assigns may first notify the Owner or occupier to cut and/or remove any such offending growth or trash within must be in writing. If the Owner or occupier shall fail or neglect to comply with any such notice, then and in such an event, the Association or its successors shall be empowered to enter upon any such Lot, together with such assistance and equipment as may be required and thereupon to cut and/or remove the same, all without being deemed a trespass and all at the expense of the Owner of the Lot. This covenant shall not be construed as an obligation on the part of the Association or its successors to provide garbage or trash removal services.

**Section 20. Square Footage.** The square footage and construction costs of all improvements on any Lot shall be in accordance with the plans for each Lot as approved by the ARC, but in not case shall the under roof heated interior space of a main dwelling, exclusive of porches and decks, garage or similar non-year-round heated space be less than one thousand eight hundred (1,800) square feet.

**Section 21. Parking Spaces.** Each Lot shall provide for parking two (2) automobiles on site and off all roadways. Automobiles and other vehicles are not to be parked upon any unpaved or paved areas not created for automobile/vehicle parking. No vehicle shall be



habitually or regularly parked on any roadway but shall be parked in the paved driveway area of the lot.

All parked vehicles must be registered and operating. No untagged, expired tags, unregistered, stripped down or junk motor vehicle or sizable part thereof shall be permitted to be parked on any lot or any street. Motor vehicle repairs and maintenance must be done in an enclosed garage.

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\*\*\*(Amended September 15, 2020)

**Section 22. Sales and Marketing Office.** Notwithstanding anything herein to the contrary, the Developer, its successors and assigns shall be permitted to place and maintain a sales and marketing office on any Lot. The above use shall terminate when the Developer, in its sole discretion, so determines, but in any event said use shall terminate on December 31, 2004.

**Section 23. Parking and Storage.** The parking or storage of boats, recreational vehicles, campers, boat trailers, motor vehicles with advertising or identification of a business, and/or similar type vehicles, must be within an enclosed garage with doors, and the garage doors shall be closed, except during the moving of such vehicles, except service vehicles used to service the home or during construction of same.

**Section 24. Dogs.** All dogs must be on a leash at all times while off your property in Sea-Wood Estates. The leash can be no longer than six (6) feet.

All dog owners are responsible for picking up all of their dog waste at the time that such is created.

All homeowners/renters are responsible to keep their dogs quiet and are not to be left continuous barking/crying. No dog should be left outdoors while homeowners-renter are not home. No dog should be tethered unattended or left outdoors for long periods of time that is no longer than forty-five (45) continuous minutes. Dogs are to be "house pets" and not to be living outside of the home. \*\*\*

**Section 25. Rentals.** The owners of a leased or rented dwelling shall be jointly and severally liable with their tenant(s) to the Association to pay any claim for damage to property caused by the action or omission, including, without limitation, the negligence of the tenant(s). The minimum term any dwelling may be rented or leased shall be one (1) year, and in no event may transient(s) or seasonal tenant(s) be accommodated in any dwelling. \*\*\*

\*\*\* (Section 24 & 25 created and added September 15, 2020)

## ARTICLE VIII

### AGRICULTURAL USE PROTECTIONS

Section 1. If the Property subject to these Restrictions lies within three hundred (300) feet of the boundary of land used primarily for normal agricultural uses and activities under the Code of Sussex County, then the following language applies to the Property pursuant to § 99-6 G(1) of the Code of Sussex County:

This property is located in the vicinity of land used primarily for agricultural purposes on which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

## **ARTICLE IX**

### **General Provisions**

**Section 1. Duration and Amendment.** The Restrictions of this Declaration run with and bind the Property and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot, subject to this Declaration, their respective legal representatives, heirs, successors and assigns, as the case may be, in perpetuity. Subject, however, to the provision that the Association or its successors, by and with the vote or written consent of sixty-six and two-thirds percent (66 2/3) of the eligible votes of the membership, shall have the power to waive, abandon, terminate, modify, alter, change, amend, eliminate or add to these Restrictions and this Declaration at any time hereafter. Any such waiver, abandonment, termination, modification, alteration, change, amendment, elimination or addition shall take effect when a copy thereof, executed and acknowledged by the Association or its successors in accord with the usual form of execution and acknowledgment of deeds, together with written consents of the requisite number of Owners, has been filed for record in the Office of the Recorder of Deeds, in and for Sussex County, and the same shall thereafter remain in effect in perpetuity unless otherwise provided.

**Section 2. Remedies.** The Developer, the Association or any Owner, shall have the right to enforce this Declaration and the restrictions contained herein by any proceeding at law or in equity, against any person or persons violating or attempting to violate any provision of this Declaration or any restrictions contained herein, to restrain violation, to require specific performance, and/or to recover damages; and to proceed against any Lot to enforce any lien created by these Restrictions. The expense and cost in enforcement by the Association shall be reasonable attorney's fees. In the event any legal action is taken by the Association, such fees, approved by a court of competent jurisdiction, shall constitute a lien on the Lot, collectable in the same manner as assessments hereunder.

**Section 3. Assignability.** The Developer, his successors and assigns, shall at all times have the right to fully transfer and assign any or all of its rights and powers under this Declaration, subject to the Developer's obligations hereunder.

**Section 4. Nonwaiver.** Failure of the Developer or any Owner, or their respective legal representatives, heirs, successors and assigns, to enforce any Restrictions contained in this Declaration shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto.

**Section 5. Construction and Interpretation.** The Association, to the extent provided herein, may adopt and promulgate reasonable rules and regulations regarding the administration, interpretation and the enforcement of the provisions of this Declaration and the Minimum Building and Architectural Standards. In so adopting and promulgating such rules and regulations and in making any finding, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association shall take into consideration the best interest of the Owners to the end that the Property shall be preserved and maintained as a viable community.

**Section 6. Severability.** All the covenants, conditions, restrictions, and reservations contained in this Declaration are hereby declared to be severable, and a finding by any court or competent jurisdiction that any of them or any clause or phrase thereof is void, unlawful or unenforceable, shall not affect the validity or enforceability of any other covenants, conditions, restrictions, reservations or clause or phrase thereof.

**Section 7. Non-liability.** Nothing contained in this Declaration shall be construed in any manner as to impose upon the Association or the Developer, or their successors or assigns, any liability whatsoever for property damage and/or personal injury occurring to any person or persons whomsoever, or by reason of any use of any Common Areas, or roads, or adjacent waters, depicted on Exhibit "A" hereto. Any and all persons using such roads, Common Areas, or any of them, shall do so at their own risk and without any liability whatsoever on the part of the Association, the Developer or their respective successors or assigns, as the case may be.

**IN WITNESS WHEREOF**, the said Walls Farm, L.L.C. has executed this Declaration of Covenants, Conditions and Restrictions, the day and year first above written.

WALLS FARM L.L.C.

By \_\_\_\_\_  
Member

STATE OF DELAWARE :

COUNTY OF SUSSEX : ss.  
:

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 2000, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, CRAIG HUDSON, Member of WALLS FARM L.L.C., party to this Indenture, known to me personally to be such, and acknowledged this Indenture to be his deed.

GIVEN under my Hand and Seal of Office, the day and year aforesaid.

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Notary Public

EXHIBIT "A"

All that certain tract, piece or parcel of land situate, lying and being in Lewes and Rehoboth Hundred, Sussex County and State of Delaware, lying on the Northwesterly side of County Road 277 and being more particularly described as follows, to wit:

**BEGINNING** at an iron pipe found along the Northwesterly right-of-way line of County Road 277, a corner for these lands and lands now or formerly of Fred Orson and Mary Ann Biesecker; thence from said point of beginning and running along and with the line of lands now or formerly of Orson and Biesecker, North 57 degrees 10 minutes 40 seconds East 1047.98 feet to a an iron pipe found, said iron pipe being a corner for lands now or formerly of Gosling Creek Purchase; thence running along and with the line of lands now or formerly of Gosling Creek Purchase, North 56 degrees 58 minutes 09 seconds West 1067.42 feet to a concrete monument found, a corner for these lands, lands now or formerly of Gosling Creek Purchase and in line of lands now or running with the line of lands now or formerly of Delaware State Housing Authority; thence turning and running with the line of lands now or formerly of Delaware Housing Authority and lands now or formerly of Halsey G. Knapp, North 48 degrees 23 minutes 26 seconds East 1317.50 feet to a concrete monument found, a corner for these lands and lands now or formerly of Halsey G. Knapp; thence turning and running with lands now or formerly of Halsey G. Knapp, South 58 degrees 04 minutes 44 seconds East 1699.42 feet to a concrete monument found along the Northwesterly right-of-way line of County Road 277; thence turning

running along and with the line of County Road 277, South 30 degrees 03 minutes 56 seconds West 1301.27 feet to an iron pipe found, the point and place of beginning, said to contain 56.25 acres of land, be the same more or less as surveyed by McCrone, Inc., William A. Carroll, Professional land Surveyor, September 22, 2000, said plot being filed for record in the Office of the Recorder of Deeds in and for Sussex County at Georgetown, Delaware, in Plot Book 69, page 4.

RECORDER OF DEEDS  
RICHARD H PELL, II

00 OCT 19 AM 10:48

SUSSEX COUNTY  
DOC. SURCHARGE PAID