



# **DECLARATION OF COVENANTS & BYLAWS**

## **Deerlake Village Community Association 2017**

**For more information about our community, visit the DVCA website at  
[www.deerlakevillage.org](http://www.deerlakevillage.org).**

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
GOVERNING DEERLAKE VILLAGE, A PLANNED COMMUNITY IN TRANSYLVANIA COUNTY, NORTH  
CAROLINA**

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PRESENTED & RECORDED

10-20-2017 11:08:25 AM

CINDY M OWNBEY

REGISTER OF DEEDS

BY: D REE M. POWELL

DEPUTY REGISTER OF DEEDS

**BK: DOC 821**

**PG: 518-545**

STATE OF NORTH CAROLINA

COUNTY OF TRANSYLVANIA

**2017 AMENDED AND RESTATED DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS GOVERNING DEERLAKE  
VILLAGE, A PLANNED COMMUNITY IN TRANSYLVANIA COUNTY,  
NORTH CAROLINA**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA OR STATE OF NORTH CAROLINA. THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.**

**THIS 2017 AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter "2017 Amended Declaration"), made and entered into this the 20<sup>th</sup> day of October, 2017 by and between DEERLAKE VILLAGE COMMUNITY ASSOCIATION INC., a North Carolina non-profit Corporation (hereinafter "the Association") and the owners of Lots within the Deerlake Village Community, a planned community located in Transylvania County, North Carolina.**

**WITNESSETH:**

**WHEREAS**, the Association desires to amend the Amended and Restated Declaration of Covenants, Conditions and Restrictions Governing Deerlake Village, a Planned Community in Transylvania County, North Carolina, recorded in Deed Book 376 at Page 267 of the Transylvania County Registry (hereinafter "2006 Declaration") which pertains to the real property and all buildings and improvements thereon in Transylvania County, North Carolina, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as "the Property" or "the Properties"); and

**WHEREAS**, at a duly called meeting of the Association held on October 12, 2017, a majority of the Qualified Voting Members in the Association affirmatively consented to the hereinafter described amendments to the 2006 Declaration in accordance with Article VIII of that instrument; and

**WHEREAS**, the Association desires to impose upon the Property mutually beneficial restrictions for the benefit of all owners of residential property located within Deerlake Village, the planned unit development made subject to this Declaration; and

**NOW, THEREFORE**, the Association hereby declares that all the properties described in Exhibit "A" and any additional property annexed as hereinafter provided shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the described Properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

## **ARTICLE I**

### **PURPOSE: PLANNED COMMUNITY ACT: SUPERSEDING EFFECT**

The primary purpose of these covenants and restrictions and the foremost consideration in the origin of the same has been the creation of a planned community which is aesthetically pleasing, functionally convenient and environmentally sound; attracting residents seeking privacy and security in a beautiful environment. The Association submits the land described on Exhibit A attached hereto and incorporated herein by reference to the covenants and restrictions contained in this Declaration as well as to the following provisions of the **North Carolina Planned Community, Chapter 47F of the North Carolina General Statutes: [47F-2-103, 47F-2-118, 47F-2-121, 47F-3-102, 47F-3-103(a), 47F-3-107, 47F-3-107.1, 47F-3-115(b), 47F-3-115(e), 47F-3-116(a), 47F-3-116(b), 47F-3-116(c), 47F-3-116(d), 47F-3-116(e), 47F-3-116(g), 47F-3-118, 47F-3-120, 47F-3-121].**

This Declaration shall supersede and replace the 2006 Declaration and all amendments thereto recorded prior to the recording of this instrument.

## **ARTICLE II**

### **DEFINITIONS**

The following are terms that shall be considered as defined terms under this Declaration and the same definition shall be applicable whether the word is shown as singular or plural, capitalized or not.

1. "Act" shall mean the parts of the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes and amendments thereto that are expressly referenced in Article I above as being part of this Declaration.

2. "Annexed Properties" shall mean any tract of land not included within the boundaries of Deerlake Village as described on Exhibit A attached hereto and incorporated herein by reference which may be added to the Deerlake Village planned community as provided in Article VII below.

3. "Association" shall mean Deerlake Village Community Association, Inc., a North Carolina non-profit corporation, its successors and/or assigns. The Articles of Incorporation of the Association are on file with the North Carolina Secretary of State's Office, a copy of which is incorporated herein by reference.

4. "Architectural Review Committee" shall mean the committee created pursuant to Article V hereof for reviewing new construction and alterations to and maintenance of the principal structure on a lot.

5. "Board" shall mean the Board of Directors of the Association and the Executive Board referred to in the Act.

6. "Bylaws" shall mean the Bylaws of the Association and any amendments thereto. The Bylaws of the Association are on file with the Secretary of the Association and incorporated herein by reference. The Bylaws and any changes thereto are not required to be recorded in the County Registry.

7. "Common Elements" shall mean any real estate, including fee simple or easement interests, within Deerlake Village owned or leased by the Association, other than a lot, including but not limited to the property described in Deed Book 268, at Page 199, Transylvania County Registry.

8. "Common Expenses" shall mean expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

9. "Community-Wide Standard" means the standard of conduct, maintenance, or other activity generally prevailing in the Deerlake Village Community. Such standard may be more specifically determined and established by the Board or any committees delegated such responsibility by the Board.

10. "Declarant" shall mean the Association and its successors or assigns.

11. "Declaration" shall mean this 2017 amended and restated Declaration of Covenants, Restrictions, Easements, Reservations, Terms and Conditions and any amendments thereto.

12. "Deerlake Village" shall mean that planned community made up of lots, Common Elements and infrastructure located within the boundaries described in Exhibit A attached hereto and incorporated herein by reference and any annexed properties as referred to in Article VII below.

13. "Governmental Entity" shall mean any and all federal, state or local governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of Deerlake Village.

14. "Landscape Review Committee" shall mean the committee created pursuant to Article V hereof for reviewing alterations to and maintenance of the landscaping, open space and environment outside the principal structure on a lot.

15. "Lot" shall mean a physical portion of Deerlake Village intended for separate ownership or occupancy by an owner, and restricted to single-family residential use. A lot does not include property designated as Common Elements.

16. "Neighborhood" shall mean a separately designated residential area within the Properties, whether or not governed by a separate property owners association, in which the owners of lots may have common interests other than those common to all Members of the Association. By way of illustration only, the Meadows at Deerlake Village is a "neighborhood" as shown on Plat File 9, Slide 916. Within a neighborhood, there may be different rules, regulations and/or restrictions that apply or modifications to the community-wide standard as determined in the Board's discretion.

17. "Owner" shall mean and refer to the owner or owners as shown by the real estate records in the Transylvania County Registry of fee simple title to any lot situated within Deerlake Village. The foregoing does not include persons or entities that hold an interest in any lot merely as security for the performance of an obligation.

18. "Plat" shall mean any existing or future plat of Deerlake Village placed of record in the Office of the Register of Deeds of Transylvania County, North Carolina, together with all amendments thereto, as approved by the governmental entity, if any, having authority to regulate subdivisions.

19. "Qualified Voting Member" shall mean a member who is designated as the Voting Member for a lot as set forth in the Bylaws who is not otherwise disqualified from voting as provided in Article III, Section 1(b).

20. "Reasonable attorneys' fees" shall mean attorneys' fee as allowed by the Act.

21. "Rules and Regulations" shall mean the procedural and substantive requirements adopted by the Board and imposed upon owners of lots within Deerlake Village concerning the use of the Common Elements or of any lot or the placement of any structure on or alteration to the exterior of any lot.

22. "Single-Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption or having a guardian/ward relationship created by decree of a Court of competent jurisdiction, or a group of not more than three persons not all so related, who maintain a common household in a dwelling.

23. "Single-Family Residence" shall mean a dwelling constructed in accordance with the restrictions and conditions set forth in Article V hereof.

24. "Single-Family Residential Use" shall mean the occupation or use of a Single-Family Residence in conformity with this Declaration.

25. "Structure" shall mean:

(a) any thing or object the placement of which upon a lot may affect the appearance of such lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, dock, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, mailbox, temporary or permanent living quarters or any other temporary or permanent improvement to such lot; and

(b) any excavation, grading, fill, ditch, diversion dam, or other thing or device which affects or alters the natural flow of surface waters from, upon, or across any lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash, or drainage channel from, upon, or across any lot.

### **ARTICLE III** **PROPERTY RIGHTS**

Owner's Easement of Enjoyment. Except as hereinafter limited, every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Elements which shall be appurtenant to and shall pass with the title to every Lot. The rights and easements of each owner as herein set forth shall be subject to the following limitations:

(a) the right of the Association to charge reasonable admission and other fees for the use of any facility now or here after situated or constructed upon the Common Elements; to post reasonable limits on the number of guests who may use the facilities; and to impose Rules and Regulations for the use and enjoyment of the Common Elements and improvements thereon, which Rules and Regulations may further restrict the use of the Common Elements;

(b) subject to notice and an opportunity for hearing as provided in the Bylaws, the right of the Association to suspend an owner's voting rights and the right to use any of the Common Elements and facilities related thereto for any period during which any assessment of the Association against that owner's lot remains unpaid and for any infraction by an owner of the Association's Rules and Regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;

(c) the right of the Association to grant easements in and to the Common Elements to any public agency, authority or utility for such purposes and subject to such conditions as required by the Board;

(d) the right of the Association to borrow money for the purpose of improving the Common Elements or any portion thereof, for acquiring additional Common Elements, or for constructing, repairing, or improving any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Elements, provided a majority of Qualified Voting Members in the Association shall approve; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, easements, and privileges reserved or established in this Declaration for the benefit of any owner, or the holder of any

mortgage, irrespective of when executed, given any owner encumbering any lot or other property located within the Deerlake Village; and

(e) the right of the Association to dedicate or transfer all or any portion of the Common Elements to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by two-thirds of the Qualified Voting Members in the Association.

#### **ARTICLE IV**

#### **ASSOCIATION: MEMBERSHIP, ASSESSMENTS AND RESPONSIBILITY**

Section 1 Membership in the Association. Every owner of a lot shall be a member of the Association and bound by this Declaration, the Articles of Incorporation of the Association and its Bylaws and Rules and Regulations as hereafter promulgated. Membership shall be appurtenant to and may not be separated from ownership of any lot.

Section 2 Powers of the Association. The Association shall have such powers as are enumerated in its Articles of Incorporation, this Amended Declaration, its Bylaws or as provided in the Act.

Section 3 Creation of the Lien and Personal Obligation Assessments. Each and every owner of a lot by acceptance of a deed therefore, whether or not it is so expressed in such deed, is deemed to covenant and agree to pay the Association: (1) annual assessments or charges, and (2) special assessments, such assessments to be established and collected as hereinafter provided and as stated in the Bylaws. All such annual and special assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof shall be a charge and lien upon a lot and its improvements. The amount owed shall be a continuing lien upon the applicable property against which such assessment is made, prior to all other liens except only (i) real estate taxes and other governmental assessments or charges against the lot and (ii) recorded liens and encumbrances to the extent required by law.

Each such assessment, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall also be a personal financial obligation of the person, or persons, who was, or were, the lot owner or owners at the time when the assessments became due. The personal financial obligation for delinquent assessments shall not pass to successors in title to any such lot unless expressly assumed by such purchaser: PROVIDED, HOWEVER, the same shall be and remain a charge and lien upon any such lot and improvements until paid or otherwise satisfied except as may herein otherwise be provided.

Section 4 Purpose of Assessments. The assessments levied by the Association shall be used for the purposes in keeping with a nonprofit corporation as set forth in the Association's Articles of Incorporation. Specifically, the assessments shall be used to promote the health, safety and welfare of the owners and residents of Deerlake Village and for the improvements, maintenance and repair of the Common Elements and easements appurtenant thereto (including, but not limited to the easements for the Association's use and benefit along property lines of lots adjacent to sites where forebays are constructed for the purpose of maintaining and repairing said forebays, [said easements being fifty (50) feet in width and extending twenty-five (25) feet on each side of the boundary line between lots 4 and 5, and lots 6 and 7 of the Lakeside Lots]. These easements are reserved in the annexation agreement filed in Document Book 221, at pages 717-20), for the protection of the community from pollution or erosion; for the enforcement of this Declaration; the provision of reserve funds, the employment of attorneys, accountants, and other professionals to represent the Association, when necessary, and for payment of local taxes, insurance and special governmental assessments on or to the Common Elements together with payment of services, if any, provided to the residents by the Association.

Section 5 Special Assessments. In addition to the annual assessments authorized above, the Association may levy in accordance with its Bylaws, in any fiscal year, a special assessment applicable to that



year only for the purpose of defraying, in whole or in part, the cost of any acquisition, construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including, but not limited to, fixtures and personal property (such as road signs) related thereto and to pay special governmental assessments. The Association is also authorized to levy a special assessment against any member to reimburse the Association for costs incurred in bringing a member and his/her lot into compliance with the provisions of this Declaration, any amendments thereto, the Articles, Bylaws and Association's Rules and Regulations. The special assessment against a member may be levied by a majority vote of the Board after notice to the member and an opportunity for a hearing as provided in the Bylaws.

**Section 6** Rate of Assessment. The determination of the total amount of Common Expenses for any given fiscal year of the Association shall be within the sole discretion of the Board. The Board shall allocate assessments for Common Expenses in such amounts to be fixed from year to year. For purposes of N.C. Gen. Stat. §47F-3-115(b), the reference to "allocations set forth in the declaration" for Common Expense assessments shall mean the allocations assigned to each lot as established in the annual budget adopted by the Board for each fiscal year of the Association. BY ACCEPTING A DEED FOR A LOT IN DEERLAKE VILLAGE, A PURCHASER IS ACKNOWLEDGING HIS OR HER UNDERSTANDING IN THIS DECLARATION OF THE STANDARD BY WHICH TO MEASURE A MEMBER'S ASSESSMENT LIABILITY AND THE PURPOSES FOR SAID ASSESSMENTS.

**Section 7** Effect of Nonpayment of Assessments. Any assessments which are not paid when due as determined by this Declaration and the Board shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of the delinquency at the rate of eighteen percent (18%) per annum, and the Association may bring action at law against the owner personally obligated to pay the same, or foreclose the lien against his/her property, and interest, costs and reasonable attorneys' fees of any such action for collection thereof shall be added to the amount of such assessment. Each such owner, by his/her acceptance of a deed to a lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such owner personally for the collection of such charges and liens as a debt and to enforce the aforesaid charge and lien by methods available for the enforcement of such liens. The available enforcement remedies include, but are not limited to, those rights stated under the Act. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all members of the Association. The Association, acting on behalf of its members, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be necessary or expedient. No owner of a lot may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Elements or abandonment of his/her lot. After notice and opportunity to be heard as provided in the Bylaws, the Association may restrict the use of Common Elements by a lot owner who is delinquent in paying assessments.

The omission or failure of the Board to fix any of the above assessments or rates or to deliver or mail to each owner any assessment notice shall not be deemed a waiver, modification, or a release of any owner from the obligation to pay assessments.

The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of the Association to exercise any or all of the others or those which may be permitted by law or equity. The failure to fix or levy any of the above assessments or to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of the Association's right to do so thereafter.

**Section 8** Association Responsibility of Maintenance/Repair/Improvement. The Association and its members shall be responsible for the maintenance, repair and improvement of all Common Elements in accordance with the Community-Wide Standard; provided, however, in any given fiscal year, the Board shall have the discretion to vary from such standard based on the availability of Association funds, including any reserve funds.

**Section 9** Owner Responsibility. If the Board determines that (i) any owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items for which he or she is responsible hereunder; or (ii) that the need for maintenance, repair, or replacement which is in the Common Elements is caused through the willful or negligent act of any owner, his or her family, guests, lessees, or invitees, and it is not covered or paid by insurance, in whole or in part, then the Association may, but is not obligated to, provide such maintenance, repair or replacement at the owner's sole cost and expense. Such costs shall be added to and become a part of the assessment to which such owner is subject and shall become a lien against the applicable lot, as provided above. Except in an emergency situation, the Association shall give the owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at owner's cost and expense. The notice shall specify the maintenance, repair, or replacement deemed necessary by the Board. In the case of (i) above where the owner has not discharged his or her responsibility, unless the Board of Directors determines that an emergency exists, the owner shall have ten (10) days after receipt of notice within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that an emergency exists, or that an owner has not complied with the demand given by the Association as herein provided, or that the need for maintenance or repair is in the Common Elements as in (ii) above, then the Association may, but is not obligated to provide any such maintenance, repair, or replacement in the manner described above. The Association or its agents or employees shall have a right of entry upon or into a lot, structure or Common Element as necessary to perform such work and shall not be liable for trespass for such entry or work.

**Section 10** Reserve Funds and Surplus Funds. The Board shall have the right, but not the obligation, within its sole discretion, to impose assessments on lot owners for the maintenance of reserve funds. The Board, within its sole discretion, may apply surplus funds to any reserve account established in the annual budget or may credit such funds to its members as provided for in North Carolina General Statutes §47F-3-114.

**Section 11** Architectural Review Fees; Impact Fees; Cash Bonds. The Board shall have the right, but not the obligation, within its sole discretion, to impose a uniform schedule of fees to be applied to any owner of a lot at the time that owner applies for approval to construct, modify or alter a residence on the lot to offset the costs of architectural review and to mitigate the effect that owner's development plans will have on the infrastructure and environment within Deerlake Village. These fees may take the form of Architectural Review fees and/or Impact fees and any such fees may be non-refundable at the sole discretion of the Board. The Board shall also have the right to require a Cash Bond as a condition of Association approval of any construction, alteration or modification of a structure on a lot.

**Section 12** Services. The Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Properties, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Properties or the enforcement of this Declaration.

**Section 13** Contracts with Other Associations or Non-members. The Board shall have the authority to contract with any and all parties for the use of the Common Elements and the maintenance, operation, management, repair and/or improvement of the Common Elements (hereinafter "Work") pursuant to such terms and conditions that are determined in the discretion of the Board, including, but not limited to, joining with other associations in contracting for the Work or performing such work on property outside Deerlake Village, the upkeep and improvement of which is beneficial to the interests of the members of the Association. The Association, acting through the Board, is hereby authorized to enter into such agreements, including without limitation a management agreement, as it may deem necessary or desirable for the administration, management, operation and maintenance of the Common Elements. Each owner, by acquiring or holding an interest in any lot, and each occupant of a lot by said occupancy, thereby agrees to be bound by the terms and conditions of such agreements referenced in this subsection entered into by the Board on behalf of the Association. A copy of

such written agreements shall be made available for review by each member of the Association.

**Section 14** Implied Rights. The Association may exercise any other right or privilege given to it expressly by the Act, this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE V**

### **SITE IMPROVEMENT REVIEW AND APPROVAL**

**Section 1** Construction or Site Work Within Deerlake Village. The following procedures and requirements are meant to promote and assist committee's ability to execute their responsibilities and are not intended to restrict or deter owner rights to maintain, modify, and enjoy their property. In accordance with the process, procedures and requirements set forth in the Rules and Regulations, written approval is required by the Architecture Review Committee (hereinafter "ARC") and/or the Landscape Review Committee (hereinafter "LRC") before any structure is commenced, erected or maintained upon any Lot in Deerlake Village; or before any addition or alteration is made to the exterior of an existing structure; or before any site work/landscaping as it relates to new or existing home construction is initiated.

Committee approval may be achieved after accomplishing the following: submission in writing of complete final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location, floor plan, and front, side and rear elevations; and the owner of a lot insuring that all development performed by said owner conforms to this Declaration, the Rules and Regulations and all applicable federal, state, and local laws and regulations.

The Board may delegate to the ARC and/or LRC the responsibility for recommending the procedures for the review and approval of work governed by this Article and falling within their respective jurisdictions. Any such procedures recommended by the ARC and/or LRC and adopted by the Board shall become part of the Rules and Regulations.

**Section 2** Approval of Plans. In passing upon construction plans, specification plans, or landscaping plans, the ARC or LRC shall have the right to take into account any number of factors, including, but not limited to, consideration of the suitability of the proposed building or other structure, and of the materials of which it is to be built, the site upon which it is proposed to be erected, the harmony thereof with the surroundings and the effect of the building or other structure on the appearance from neighboring property. Notwithstanding that improvements meet or exceed specified minimum size requirements, the quality and attractiveness of every structure must also meet high neighborhood standards and these two committees are hereby granted broad discretion in judging the compatibility of proposed structures and improvements within Deerlake Village.

**Section 3** Waiver. The approval by the ARC or LRC of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of any of said committees, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

**Section 4** Liability. Neither the ARC or LRC nor any member thereof shall be liable to the Association, any owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of:

- (a) The approval or disapproval of any plans, drawings, specifications, whether or not defective.
- (b) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; or
- (c) The development of any property, including, but not limited to, defective construction of residences.

Section 5 Appeal of Committee Decisions. Any party aggrieved by a decision of the ARC or LRC may appeal such decision to the Board, and such decision of the appropriate committee is final, unless overridden by a vote of two-thirds of the Board. No owner or any other party shall have recourse against any such committee or the Board for its refusal to approve any plans or specifications.

## **ARTICLE VI**

### **USE RESTRICTIONS**

The following use restrictions shall apply to all property within Deerlake Village:

Section 1 Single-family Residential Purposes; Principal Building; Accessory Structures. All lots shall be used for single-family residential purposes only. No lot or structure may be subdivided or owned in such a manner as to permit time sharing, fractional ownership or other "devices" to effect interval ownership. No more than one principal building shall be permitted on any lot. Accessory structures shall not be permitted except in accordance with the Rules and Regulations.

Section 2 Subdividing, Combination and Boundary Relocation. The subdivision of a lot shall not be for the purpose of, nor result in, the creation of an additional building lot, unless expressly permitted in the deed. No subdivision, combination or boundary relocation shall be made without the written approval of the Board. Following the combination of two lots into one larger lot, only the exterior boundary lines of the resulting larger lot shall be considered in the interpretation of this Declaration. Once combined, the resulting larger lot may be subdivided only to the originally platted lots with the consent of the Board. The Board, in its sole discretion, shall determine what effect, if any, the combination or subdivision of a platted lot has on the assessments for that modified lot.

Section 3 Business or Commercial Use. Except for home occupations as defined below, no commercial or industrial enterprise, undertaking or use is permitted within Deerlake Village. Notwithstanding the above, a "home occupation" on a lot is allowed with the written consent of the Board subject to the terms and conditions contained within the Rules and Regulations. A "home occupation" is a use of a residence by an owner-occupant wherein not more than 25% of the residence is dedicated to business use and there is no traffic, noise or odor generated by the business.

Section 4 Temporary Structures and Mobile Homes. No structure of a temporary character shall be placed upon any portion of Deerlake Village at any time; provided, however, that this prohibition shall not apply to shelters used by contractors during the construction of any single-family residence. Basements or partially complete single-family residences will be considered temporary and may not be inhabited. Mobile homes, trailers, recreational vehicles, and tents, may not, at any time, be used as temporary or permanent residences or be permitted to remain visible on any portion of Deerlake Village after completion of construction thereon as herein above provided.

Section 5 Exterior Construction. The exterior of a single-family residence on a lot as well as site work and landscaping must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner of a lot due to strikes, fire, natural emergencies or natural calamities. Single-family residences may not be occupied until a Certificate of Occupancy has been issued by Transylvania County.

Section 6 Tree and Forest Management. Deerlake Village has both carefully landscaped neighborhoods, where every tree contributes to owner and neighboring properties, and also has neighborhoods and conservation areas with large tracts of dense mature woods, where forest management is necessary to sustain health of the total mass of trees and the woodland nature of the community. Although property owners are responsible for tree and forest management, the Landscape Review Committee (LRC) is charged with

assisting owners and with approving specific plans in order to sustain the standards contained in our governing documents.

Tree age, growth, health and density affect the character of our community, lake, forested trails and scenic views in both common and private areas. To promote resident enjoyment and property values, DVCA Rules and Regulations contain planning requirements, restrictions, and provisions for fining that apply to tree and forest management within Deerlake Village.

Section 7 Fences and Hedges. Any regulations pertaining to fences and hedges will be addressed in Rules and Regulations Parts 1 and 8.

Section 8 Duty to Maintain and Rebuild.

(a) Each owner shall, at his or her sole cost and expense, maintain and repair his or her residence, keeping the same condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.

(b) Each owner shall keep the grass on the lot properly cut, shall keep the lot free from trash, and shall keep it otherwise neat and attractive in appearance. This shall not be construed as requiring natural areas on a Lot to be mowed.

(c) If all or any portion of a residence is damaged or destroyed by fire, or other casualty, then the owner shall, in consultation with the Architectural Review Committee and with all due diligence, promptly rebuild, repair or reconstruct such apparent condition existing immediately prior to the casualty.

Section 9 Trash. No lot shall be used or maintained as a dumping ground or disposal site for rubbish, trash, or garbage. Trash, garbage or other waste shall not be kept except in sanitary containers and should not be permitted to remain visible for an unreasonable length of time. This restriction shall not apply during the period of construction of a residence on the lot, however, upon completion of construction the owner shall comply with all restrictions with respect to disposal of trash and maintenance of the lot and property in a neat and attractive manner.

Section 10 Lot Upkeep. It is the responsibility of each lot owner to prevent any unclean, unsightly, or unkempt condition of buildings or grounds to exist on the lot owner's property. The Association shall have the right, but not the duty, to enter upon any property for the purpose of abating any unclean, unsightly or unkempt condition of buildings or grounds which tend to decrease the beauty of the specific area or the neighborhood as a whole. The cost of such abatement and any damage resulting from such entry shall be at the expense of the specific lot owner and said entry shall not be deemed a trespass.

In addition to the foregoing, upon an owner's failure to comply with any of the covenants, conditions, and restrictions herein provided relating to the use or maintenance of such owner's lot or residential unit, where such owner's failure to comply has continued for ten (10) days after being notified of such failure and being provided an opportunity to be heard concerning such failure, the Association may enter upon such owner's lot or residential unit and perform whatever maintenance or other measures are reasonably necessary to cure such failure to comply provided that the entering party shall be responsible to repair any damage caused by the result of the entry; provided further, however, in the event such failure to comply poses a health, safety, or security risk, no prior notice or hearing need be given. In either event, such owner shall be responsible for the actual costs incurred in taking such curative measures. The cost thereof shall be an assessment, and the Association shall have a lien therefore in the same manner as assessment liens set out in Article IV above.

Section 11 Utilities, Antennae, Wireless Communication. All utilities, wires, cables, antennae and the like, of any kind (such as telephone, electrical, television, radio and citizens band radios) must be placed underground except as may be expressly permitted in the Rules and Regulations.

Section 12 Renewable Energy Systems. Solar panels, windmills, geothermal infrastructure and other external renewable energy systems are not allowed unless they are an integral and harmonious part of the architectural design. See the Rules and Regulations for additional detail. In all cases, approval for installation of external renewable energy systems must be obtained from the Architectural Review Committee.

**Section 13** Vehicle Parking. The Board shall have the power through its Rules and Regulations to restrict vehicle parking or storage on any lot within Deerlake Village.

**Section 14** Nuisances. No obnoxious or offensive activity shall be carried on upon any portions of Deerlake Village nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any owner of a lot, tenant or guest thereof in any area of Deerlake Village thereby diminishing the enjoyment of other lots by their owners. No hazardous or toxic substances or wastes as defined by applicable law shall be dumped within Deerlake Village. No plant, animal, device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, noisy, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of any portion of Deerlake Village by the lot owners, tenants, and guests thereof, may be maintained. The Board has the right in its sole discretion to determine a nuisance, and upon ten (10) days' written notification by the Board, the activity must cease. See Rules & Regulations Part 2 Judicial Process and the NC Planned Community Act 47F-3-107.1.

**Section 15** Erosion Control. The Association shall have the right to protect any lot from erosion, by planting trees, plants, and shrubs to the extent necessary. Alternatively, erosion control by mechanical means such as providing drainage ways and/or dams or other means deemed necessary by the Association may be implemented. The Association, however, is under no obligation to take such actions as herein above provided.

During the improvement of any lot, every owner of a lot shall use best management practices as that term is defined by applicable State of North Carolina environmental regulations to control erosion and prevent off-site damages. In order to implement effective and adequate erosion control and protect the beauty and purity of the water courses within Deerlake Village, the Association and its agents shall have the right, but not the obligation, to enter any lot for the purpose of correcting or remedying any erosion control violations. Any costs of remediation attributable to a lot owner's failure to comply with best management practices in erosion control incurred by the Association shall be the responsibility of the lot owner.

**Section 16** Fires No outdoor fire shall be built within Deerlake Village. No leaves, trash, garbage or similar debris shall be burned. Outdoor grills and fireplaces shall be used with the greatest of care in view of fire and smoke hazards and general pollution.

**Section 17** Signs and Flags In general, no sign for advertising or for any other purpose shall be displayed on any lot or on a building or a structure on any lot. Exemptions to this prohibition include (1) the standard, Board approved real estate "for sale"; (2) temporary (only until completion of work) construction or contractor signs not greater than 9 square feet in size; (3) occupant name signs; (4) lot/street number signs; (5) one small security system sign provided by the security company. If deemed necessary, the Board may require an owner of a lot to install, at the owner's expense, and at a location determined by the Board, common address signage for easy identification by emergency services. Pursuant to N.C. Gen. Stat. 47F-3-121 and the notice printed on the first page of these Declarations, flags may not exceed four (4) feet by six (6) feet in size. See Rules and Regulations for additional detail regarding sign and flag requirements.

**Section 18** Water Courses. No lake shall be constructed, neither shall the course of any stream be changed, nor any culverts installed in any stream without prior written approval of the Board. See Rules & Regulations for further water course requirements.

**Section 19** Storage Tanks. Underground gasoline storage tanks are not permitted within Deerlake Village. Underground propane or liquid gas tanks and above ground storage tanks may be allowed by the ARC or LRC subject to the Rules and Regulations.

**Section 20** Animals. No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other commonly domesticated household pets may be kept, provided that they are not bred, maintained or housed (i.e. kennels) for commercial purposes. Pets, when running loose, must be kept strictly within the boundaries of a lot owner's property. At all other times, they must be kept securely on a leash. No pets are permitted if they are kept so as to constitute a nuisance as determined by the Board in their sole discretion.

Section 21 Hunting and Firearms. Hunting or trapping by individuals, or the harassing of animals is prohibited, and the discharge of firearms or bows or arrows for any purpose shall be prohibited.

Section 22 Fishing. Fishing rules are to be governed by the State of North Carolina. Fishing shall also be governed by the Rules and Regulations.

Section 23 Trespass. Whenever the Association is permitted by these covenants to correct, repair, clean, preserve, clean out or do any action on any portion of Deerlake Village, including lots, entering such areas and taking such action shall not be deemed a trespass on the part of the Association. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a lot or any other portion of the Property to abate or remove, using such force as may be reasonably necessary, any erection, thing or condition which violates this Declaration, the Bylaws, or the Rules and Regulations. Unless an emergency situation exists, the Board shall give the violating lot owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorneys' fees actually incurred, shall be assessed against the violating lot owner and shall be collected as provided for herein for the collection of assessments. The Association shall have the right, in addition to and not in limitation of all the rights it may have, to enter into lots for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firefighters, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after reasonable notice to the owner or occupant of the lot.

Section 24 Septic Systems. Septic tanks, drain and repair fields are prohibited on a lot.

Section 25 Enforcement.

(a) All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them.

(b) Enforcement of these covenants and restrictions shall be by any proceeding at law or equity and as permitted under 47F-3-107.1, against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in the Act, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of Association to exercise any or all of the others or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear or affect its enforcement. Any person entitled to file a legal action for violation of these covenants shall be entitled as part of any judgment in favor of the filing party to recover reasonable attorneys' fees as a part of such action.

Section 26 Responsibility for Others. Owners of a lot are obligated to assume the responsibility that any and all dependents, guests, servants, visitors and building contractors working for the lot owner observe and maintain all the rules, regulations, covenants and restrictions binding the lot owners themselves.

Section 27 Leasing or Renting. A lot owner may lease or rent the family residence owned by such Owner; provided, however, that the tenant or lessee shall be bound by all covenants and restrictions contained herein. Prior to the rental period commencing, and for the convenience, safety, and security of all concerned, the Owner is required to notify the Secretary of the Association of the name(s) of the tenants or lessees. All leases shall have a minimum term of six (6) months. At no time may a lot owner lease or rent a portion of the family dwelling unit unless the entire family dwelling unit is leased or rented. Every lessee or tenant shall in all respects be subject to the terms and conditions of this Declaration, the Bylaws, and the Rules and Regulations adopted hereunder. In the event of noncompliance by the tenant or his/her guests, all costs associated therewith, including fines and legal fees, will be assessed against the owner and the owner's property.

**Section 28** Variances. In case of hardship and for good cause shown, the Board may in their sole discretion grant variances from any of these covenants and restrictions. The decision of the Board to grant or not grant variances as herein provided is based upon the Board's sole and absolute discretion.

**Section 29** Rules and Regulations. Each owner and/or occupant of a lot shall comply with the Rules and Regulations established by the Board. Each lot owner should obtain a copy of the Rules and Regulations from the Association Secretary or from the DVCA website for easy reference as to matters pertaining to the use and enjoyment of property within Deerlake Village.

**Section 30** Access Way. No driveway, road or access way may be constructed across any lot to provide access to an adjacent property without the written consent of the Board

**Section 31** Common Driveways. Where easements across lots have been granted for common driveways or private roads, DVCA has no responsibility for maintaining same except when covered by a separate written agreement. DVCA has no liability for such common driveways.

**Section 32** Irrigation. No sprinkler or irrigation systems of any type which draw upon water from creeks, streams or the lake within Deerlake Village shall be installed or operated unless prior written approval has been received from the Board of Directors or its designee.

## ARTICLE VII

### **ANNEXATION OF ADDITIONAL PROPERTY; DE-ANNEXATION**

Annexation or de-annexation of real property requires the written consent, affirmative vote or ballot of a majority of the Qualified Voting Members in the Association at a meeting duly called for such purpose as specified in Section 4.3 of the Bylaws, or at the Annual Meeting with notice as required in Section 4.4 of the Bylaws. Subject to the consent of the owner of the property to be annexed and approval of the members, the Association may annex or de-annex real property to or from the provisions of this Declaration and the jurisdiction of the Association by filing a subsequent amendment or supplemental declaration with respect to the property being annexed or de-annexed in the office of the Register of Deeds for Transylvania County, North Carolina. Any such subsequent amendment or supplemental declaration shall be signed by the President and the Secretary of the Association, and the owner of the properties being annexed or de-annexed, and any such act shall be effective upon filing unless otherwise provided therein.

## ARTICLE VIII

### **AMENDMENTS; RUNNING WITH THE LAND**

This Declaration may be amended only by affirmative vote, ballot, or written agreement signed by a majority of the Qualified Voting Members in the Association at a duly called meeting as specified in Section 4.3 of the Bylaws, or at the Annual Meeting with notice as required in Section 4.4 of the Bylaws. These covenants are to run with the land and be binding upon all current and future lot owners owning lots within the Properties until January 1, 2035 at which time said covenants shall be automatically extended for successive periods of (10) years unless by vote of the Qualified Voting Members in the Association as specified above said property owners agree to change these covenants in whole or in part.

The amendment process may not be used for termination of the Association. Termination is subject to the terms of N.C. Gen. Stat. §47F-2-118 which is made a part of this declaration. Termination requires the agreement of at least eighty percent (80%) of the votes in the Association.



## **ARTICLE IX INSURANCE**

The Association's Board of Directors, or its duly authorized agent, shall obtain the following insurance coverage, if reasonably available:

(a) Blanket All Risk Property insurance, including mechanical breakdown, covering the physical assets of the Association in an amount sufficient to cover one hundred percent (100%) of the replacement cost with a reasonable deductible(s) amount.

(b) Comprehensive General Liability policy covering the Association, members of the Board of Directors or its agents, against liability from third party claims for damages or injury. The policy shall have at least a One Million Dollar (\$1,000,000) single person limit as respect to bodily injury and property damage, and a Two Million Dollar (\$2,000,000) limit per occurrence.

(c) An Umbrella Liability policy excess of coverage (b) with limits of at least Two Million Dollar (\$2,000,000) per occurrence.

(d) A Fidelity bond in an amount at least equal to the maximum total funds in operating and reserve accounts projected for the policy period.

(e) Directors and Officers policy indemnifying directors, officers and committee members for personal liability arising from their services to the Association with coverage of at least Two Million Dollar (\$2,000,000).

## **ARTICLE X MISCELLANEOUS**

**Section 1 Severability.** Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

**Section 2 Construction of this Declaration.** This Declaration and the provisions contained herein shall be construed in accordance with the laws of the State of North Carolina.

**Section 3 Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

**Section 4 Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. THE ASSOCIATION SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE PROPERTIES, NOR SHALL THE ASSOCIATION BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. EACH OWNER, TENANT, GUEST OR INVITEE OF AN OWNER, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES ARE NOT INSURERS AND THAT EACH OWNER, TENANT, GUEST AND INVITEE ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS OR PROPERTY.

IN WITNESS WHEREOF, the Association has caused these presents to be signed this

20<sup>th</sup> day of October, 2017

DEERLAKE VILLAGE COMMUNITY ASSOCIATION, INC.

By Kenneth H. Kolb (SEAL)

Print Name and Title: Kenneth H. Kolb, President

STATE OF NORTH CAROLINA  
COUNTY OF TRANSYLVANIA

I, a Notary Public of the County and State aforesaid, certify that Kenneth Kolb personally  
came before me this day executing the foregoing instrument.

Witness my hand and official stamp or seal, this 20 day of October, 2017

Notary Public Shannon N. Holcomb  
My commission expires 5-21-2022 (SEAL)



**EXHIBIT A****Property Subject to Declaration of Covenants, Restrictions, et al. for  
Deerlake Village, a Planned Community**

Being all of the Deerlake Village planned community previously made subject to the Revised Declaration of Covenants, Conditions and Restrictions of Deerlake Village originally recorded in Deed Book 310, at Page 626, Transylvania County Registry, including, but not limited to, all of the property described as follows: all of lots 3, 4, 6 through 21, and 46 of the Cottages at Deerlake Village as shown on a plat thereof recorded in Plat File 3, Slide 308; all of lots 22 through 26 and 29 through 43 of the Cottages at Deerlake Village as shown on a plat thereof recorded in Plat File 4, Slide 104; all of lots 47 through 54 of Block Four of the North Cottages of Deerlake Village as shown on a plat thereof recorded in Plat File 5, Slide 351; all of lots 55 through 59 of Block Three of the North Cottages of Deerlake Village as shown on a plat thereof recorded in Plat File 5, Slide 286; all of lots 60 through 69 of Block One of the North Cottages of Deerlake Village as shown on a plat thereof recorded in Plat File 5, Slide 352; all of lots 70 through 82 of Block Two of the North Cottages of Deerlake Village as shown on a plat thereof recorded in Plat File 5, Slide 103; all of lots 1 through 12 and 56 through 69 of the Meadows at Deerlake Village as shown on a plat thereof recorded in Plat File 6, Slide 280; all of lots 13 through 17 and 45 through 51 of the Meadows at Deerlake Village as shown on a plat thereof recorded in Plat File 7, Slide 862; all of lots 18 through 37 of Phase III (revised) of the Meadows at Deerlake Village as shown on a plat thereof recorded in Plat File 8, Slide 580; all of lots 40 through 44 and 52 through 54 of the Meadows at Deerlake Village as shown on a plat thereof recorded in Plat File 8, Slide 252; all of lot 1A of Section 1 of the Mountain Lots of Deerlake Village as shown on a plat thereof recorded in Plat File 6, Slide 51; all of lot 1 through 24 of Section 1 of the Mountain lots of Deerlake Village as shown on a plat thereof recorded in Plat File 4, Slide 11; all of lots 25 through 38 of Section II of the Mountain Lots in Deerlake Village as shown on a plat thereof recorded in Plat File 4, Slide 27; all of lots 39 through 49 of Section III of the Mountain Lots in Deerlake Village as shown on a plat thereof recorded in Plat File 4, Slide 28; all of lots 50 through 63 of Section IV of the Mountain Lots in Deerlake Village as shown on a plat thereof recorded in Plat File 4, Slide 29; all of lot 64 of Section I of the Mountain Lots in Deerlake Village as shown on a plat thereof recorded in Plat File 7, Slide 412; all of lots 2-7 of the Lakeside Lots and all of lots 8-17 of the Creekside Lots in Deerlake Village as shown on a plat thereof recorded in Plat File 10, Slides 593-595, (on which plat all of said lots are incorrectly referred to as being a part of the Lakeside Lots at Deerlake Village); and all of 70.439 acres as recorded in Plat File 4, Slide 551; Records of Plats for Transylvania County in the office of the Register of Deeds for Transylvania County, North Carolina.

All real property owned by Deerlake Village Community Association.