

**DECLARATION OF RESTRICTIVE
COVENANTS OF SONGBIRD SUBDIVISION**

BEN C. BOYNTON, the owner of that certain land in Wakulla County, Florida described in Exhibit "A" attached hereto and made a part hereof, hereafter "Songbird Subdivision" by this instrument does make, declare and impose upon the lands described in Exhibit "A" for the benefit of all present and future owners of the land, the following conditions, restrictions, and limitations which shall be covenants running with the land, binding upon the owner, its successors and assigns, and all persons claiming any right, title or interest in the land and all subsequent purchasers of the land, their heirs, personal representatives and assigns.

**ARTICLE I
DEFINITIONS**

Section 1. "Declarant" shall mean and refer to BEN C. BOYNTON, his heirs or assigns.

Section 2. "Plat of Songbird Subdivision" shall mean and refer to the Plat of Songbird Subdivision Phase I recorded in Plat Book 3, Pages 88-92 of the Public Records of Wakulla County, Florida and particularly those properties identified thereon as Songbird Subdivision Phase I, and also Songbird Subdivision Phase II, recorded in Plat Book 3, Pages 113-114 of the Public Records of Wakulla County, Florida and particularly those properties identified thereon as Songbird Subdivision Phase II.

Section 3. "Association" shall mean and refer to SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION, a Florida Corporation not for profit, to be formed to administer these covenants, initially related to land in Exhibit "A" only. BUNTING NEIGHBORHOOD ASSOCIATION is a property owner association that has common area properties in close proximity to SONGBIRD SUBDIVISION, but no interest therein.

There shall be two (2) property owner associations.

- a. "Association" shall mean and refer to SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION; a Florida not for profit corporation, formed to administer these covenants, encumbering Lands described in Exhibit "A".
- b. "BUNTING NEIGHBORHOOD ASSOCIATION" shall mean and refer to BUNTING NEIGHBORHOOD PROPERTY OWNERS ASSOCIATION, a Florida not for profit corporation, that will be formed to administer other

**ARTICLE II
MEMBERSHIP AND
VOTING RIGHTS IN THE ASSOCIATION**

Section 1. Membership: Any person who owns property that is subject to these restrictions shall automatically be a member of the Association provided, however, that where any lot is owned by more than one (1) person, one (1) of the owners shall be designated to cast the vote on matters to come before the Association on behalf of all the owners of the lot.

In the event the owner of a lot is a corporation or partnership, a partner or corporate officer shall be designated to cast the vote on behalf of the partnership or corporation.

Section 2. Voting Rights: The Association shall have two (2) classes of voting members as follows:

"Class A" - Class A members shall be all owners with the exception of Declarant, and shall be entitled to one (1) vote for each unit of property owned.

"Class B" - The Class B member shall be the Declarant who shall be entitled to exercise two (2) votes for each unit owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals seventy-five (75) % of the total votes outstanding in the Class A and Class B membership.

Section 3. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and Facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

**ARTICLE III
ASSESSMENTS**

Section 1. Liens and Personal Obligation of Assessments: Each "Class A" owner of a lot by acceptance of his deed for such lot, whether or not it is expressed in his deed, agrees to pay the assessments as provided in this article.

Section 2. Duties of Declarant: The Declarant shall pay for the entrance sign on U.S. 319 and the initial landscaping and construction of the entrance ways for Blocks A, E, F, G, H, I, and J.

Section 3. Annual Assessments: Annual assessments shall be paid by each "Class A" lot owner to the Association. The assessment for the year 2002 shall be one hundred and fifty dollars (\$150.00) for each unit assessed to an owner. After 2002, the annual assessment may be increased by vote of the Board of Directors of the Association, not to

exceed ten percent (10%) over the assessment of the previous year. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the property and for:

- (a) the enforcement of the provisions of this Declaration on behalf of the Association;
- (b) the improvements and maintenance of the Common Areas;
- (c) water and electrical usage for the Common Areas; (Note: When there has been sufficient money collected from annual assessments, money paid by the Declarant for deposits, fees, usage, etc. will be refunded to him upon presentation of proper documentation.)
- (d) liability insurance for officers and directors;
- (e) insurance for Association; and,
- (f) management fees for professional association management.

Section 4. Special Assessments-Other. In addition to the previous defined assessments, the Association may levy, in any assessment year, a special assessment to "Class A" owners for that year only. It is for the purpose of defraying, in whole or in part, the cost of enforcing this Declaration on behalf of the Association or the cost of construction, reconstruction, repair, or replacement of the entrance way, any entrance sign or improvement upon the Common Areas, including fixtures and personal property. Any such assessment must be approved by the majority vote of each class of membership of the Association in person or by proxy. Each "Class A" owner shall be assessed a percentage of the maintenance cost. The percentage of the cost allocated to each "Class A" owner shall be determined by the number of units assessed to each "Class A" owner. If the health and welfare of the public is at risk or if damage is done to the entrances of any of the neighborhoods in SONGBIRD SUBDIVISION, the Board of Directors has the right to levy this special assessment without the vote of the membership; however, the repairs are limited to only what the majority vote of the members of both The Board of Directors and The Architectural Control Committee deems as necessary.

Section 5. Effects of Nonpayment of Assessments and Remedies of the Association: Any assessment not paid within sixty (60) days after the due date, shall be deemed in default and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape liability for assessments provided for herein by abandonment of his lot.

Section 6. Subordination of Assessment Lien Mortgages: The assessment lien provided for herein shall be subordinate to the lien of the first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the assessment lien that becomes due prior to such sale or transfer. No sale or transfer shall release such lot from liability for any assessments thereafter becoming due.

Section 7. Uniform rate of Assessment and Collection. Except as otherwise set forth herein, both annual and special assessments shall be fixed at a uniform rate for all lots and be based on the calendar year. Assessments may be collected on an installment basis at the discretion of the Board of Directors. The assessments will be prorated based on the date of the deed.

ARTICLE IV PRIMARY BUILDERS' RIGHTS

Primary Builders have the authority to maintain model home(s) with appropriate on-site parking and signage as well as any off-site directional signs and flags as they deem necessary to promote the sales of their home(s). This right will stay in effect until all home(s) have been sold to first-time buyers. This right survives the cessation of the "Class B" membership. Declarant shall designate Primary Builders from time to time.

ARTICLE V EASEMENTS

Within the easement described in the Public Records, no structure, plant or other object shall be placed or permitted to remain which may damage, interfere or change the direction or flow of drainage within the easement, or the safe passage of automobile traffic.

ARTICLE VI ARCHITECTURAL CONTROL

Nothing shall be constructed on the lot including houses, outbuildings, fencing, or any other structures or improvements nor shall any exterior addition to or change to or alteration therein be made, until the plans and specifications have been approved in writing by the Architectural Control Committee (ACC). The ACC shall be composed of three (3) or more representatives named in the Articles of Incorporation of Songbird Property Owners Association or subsequently appointed by the Board of Directors of the Association. In the event the ACC fails to act in writing within thirty (30) days of receipt of the plans and specifications, then the party seeking approval shall send a certified letter to the attention of the President of the Association requesting action from the ACC. Should the party seeking approval fail to receive a reply within thirty (30) days from the date of the certified letter, approval will not be required and this Article will be deemed fully complied with.

**ARTICLE VI
USE RESTRICTIONS**

The Songbird Subdivision shall be occupied and used only as follows:

Section 1. Each lot shall be used as a residence for a single family and no other purpose.

Section 2. No lot shall be divided.

Section 3. Minimum setbacks for buildings are as follows: twenty-five (25) feet front, fifteen (15) feet rear, eight (8) feet side interior and fifteen (15) feet side corner. For the purposes of this Article, eaves and steps shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon another lot.

Section 4. No houses, outbuildings, fences including additions to existing structures, shall be erected within the Association Phase I until the construction plans, site plans and specifications showing the location and architectural design of the structure have been approved by the A.P.C. Approval shall be based on compliance with these restrictions, quality of materials and location on the property. Approval shall not be unreasonably withheld. Basic architecture will be consistent, as more fully described in Section 10 below.

Section 5. No mobile homes shall be allowed on the property.

Section 6. Outbuildings shall be limited to storage sheds, boat houses, greenhouses, and structures customarily associated with single family residential homes. All outbuildings shall be approved as provided for in Section 4 and 10.

Section 7. Noxious or offensive activity shall not be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Associations. This provision also applies to the common areas. Animals shall not be kept on the property in such a manner as to cause a nuisance or annoyance because of smell or noise or to cause a health hazard. No animals shall be raised, bred or kept on the property for any commercial purposes. Animals shall be limited to domestic dogs, cats and other household pets.

Section 8. No dwelling shall be constructed in the Association that contains less than one thousand one hundred (1,100) square feet of space, heated and cooled in Block F, J, and K and one thousand five hundred (1,500) square feet of space, heated and cooled, in Blocks A, C, D, E, G, H, and I. Once construction starts, work shall be pursued diligently until completed.

Section 9. There will be no trash or any unsightly refuse allowed to be dumped on the lot permanently or temporarily. Trash, garbage or other waste shall not be allowed to accumulate over time on any lot or other part of the Properties and shall not be kept except in trash containers located and installed in the manner approved by the ACC. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be visible from the street or from any private or common driveway except for those times designated for collection by the appropriate waste management company. Each Owner shall maintain the landscaping, including trees, shrubs, and grass within the boundaries of his lot, and the exterior of the house in a neat and attractive condition. If the Owner fails to maintain his property in such a prescribed fashion, then upon a vote of a majority of the Board of Directors, and after not less than ten (10) days' notice to the Owner, the Association shall have the right to enter upon such Lot and provide such maintenance as it deems necessary or appropriate, and the cost thereof shall be payable to the Association by such Owner within ten (10) days after delivery to the Owner of a demand for payment. Amounts due hereunder may be enforced and collected under the provisions of Bylaws of Songbird Subdivision Property Owners Association. For the purpose solely of performing the maintenance authorized by this paragraph, the Association agents and employees shall have the right, after reasonable notice to the Owner, to enter upon any such lot between the hours of 7:00 a.m. and 6:00 p.m.

Section 10. Building guidelines are as follows:

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- A. The roof pitch can not be less than 12/12 and the roof must be shingled with colors approved by the ACC.
 - B. All shingles should have a useful life of a minimum of 20 years. Other roofing materials must be approved by the ACC.
 - C. House siding shall be James Hardie (or comparable) lapped siding, brick, stone, or stucco.
 - D. Mailboxes shall be attractive and consistent in appearance and color with the boxes in their block.
 - E. Front yards must be sodded with grass and landscaped with plants and mulch. Whenever possible a natural buffer shall exist between adjacent houses.
 - F. Screen porches shall match the existing structure of the house with materials and color.
 - G. Driveways shall be located when the lot is first cleared so as to minimize damage to the existing paved road. Excessive road and ditch damage must be either fixed or cost reimbursed to the Declarant within thirty (30) days from receiving the Certificate of Occupancy. The ACC shall be the final arbitrator in any dispute that may arise. The driveway shall not be located closer than five feet from an interior lot line with the exception of a backup or turn-around pad which may be located as near as one (1) foot to

- an interior lot line. No driveway can enter directly onto Songora Avenue.
- H. Driveways shall be built with concrete and with proper culverts installed with concrete mitered-end sections (minimum length allowed by the County is 30 ft.).
- I. Walkways and patios must be concrete with a broom finish. Any specialty finish must be approved by the ACC.
- J. Outbuildings must be consistent with the exterior of the house in color and materials and located in the rear yard. The side-walls cannot exceed eight (8) feet in height. No metal outbuildings will be allowed. All outbuildings must get ACC approval.
- K. All fencing shall be six (6) foot "shadow box" style. It must start at the rear corners of the house unless otherwise approved by the ACC.
- L. All boats, trailers, motor homes, and campers must be parked in an enclosed garage or behind a screen fence. Pursuit of hobbies or other activities including, but not limited to, work on vehicles or other mechanical devices and woodworking, which tend to result in disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken except within an enclosed garage.
- M. Each house shall have a functional garage attached thereto which shall be designated to accommodate the parking of at least two (2) automobiles in Blocks A, C, D, E, G, H, and I. In Block F, J, and K the owner can reduce this requirement to one (1) automobile.
- N. Pet pens and pet houses must be kept behind a fence or in the rear yard. Crop and/or vegetable gardens shall be in the rear yard only.
- O. All signs and locations must be approved by the ACC unless promoting one-day events and then the owner must remove them by the end of the following day.
- P. No tank or storage of fuel, water or other substance shall be placed or permitted to remain on the lot unless approved by the ACC.
- Q. Garages may be enclosed only on model homes and only so long as used as a model home, and not thereafter.
- R. The Architectural Control Committee shall make the final determination in any dispute that may arise involving these issues.

**ARTICLE VIII
EFFECT**

Each and every conveyance of any lot in the Association is expressly made subject to the provisions hereof whether or not the terms of such conveyance incorporates or refers to these provisions.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement and Attorneys' Fees. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, including injunctive relief, all restrictions, conditions, covenants, reservations, liens, charges and obligations now or hereafter imposed by the provisions of this Declaration. In connection with such litigation, the prevailing party shall be entitled to recover all costs and expenses incurred in connection with such litigation, including reasonable attorneys' fees. Without limiting the generality of the foregoing, the prevailing party in any litigation to require the Association to perform its obligations or to require the Declarant to incorporate the Association or to perform any other action or obligation imposed on the Declarant pursuant to this Declaration, shall be entitled to recover all costs and expenses incurred in connection with such litigation, including reasonable attorneys' fees. The failure of the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Annexation. Additional residential property and common areas may be annexed to the Properties by the Declarant. Any such annexation shall subject said land to these covenants, conditions and restrictions, and the Owners of each lot in such annexed area shall have the same rights, benefits, obligations and duties as the Owners of the lots described in this Declaration.

Section 4. Development by Declarant. No provisions contained herein shall prevent Declarant, or a Builder or its contractors or subcontractors from performing such work and activities as it deems necessary or advisable in connection with the development of the Properties and its construction activities, nor shall such provisions in any way prevent the Declarant from maintaining such sign or signs on the Properties as Declarant deems necessary or desirable for the sale or other disposition thereof, nor shall such provisions in any way prevent the use of a Lot and dwelling thereon as a model home and/or sales office including the use of the garage as a sales office.

Section 5. Duration/Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded in the Public Records of WAKULLA COUNTY, Florida, at the end of which period it shall be extended for successive periods of ten (10)

years each, unless at least two-thirds (2/3) of the Owners at the time of expiration of said initial period, or any extension period, shall sign an instrument signed in which said covenants and restrictions are removed or modified in whole or in part, which instrument shall be filed for record in the appropriate WAKULLA COUNTY Public Records and in the manner then provided by law. No amendment shall affect the priority of the lien of any first mortgage on any lot over the lien of the assessments provided for herein unless the holder of the mortgage joins in the execution of the amendment. Declarant reserves and shall have the sole right to add to, alter, amend, revoke, release and waive this Declaration for any purpose or purposes, at any time and in whole or in part until January 1, 2004. Except as provided herein, no amendments to Article VII, Section 10, may occur until after five (5) years and upon a seventy-five percent (75%) favorable vote of those eligible to vote; all other amendments shall require unanimous consent of all those eligible to vote at all times.

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require prior written approval of the Federal Housing Administration or the Department of Veterans Affairs: annexation of additional properties to be subject to this Declaration, dedication of any Common Areas, and amendment of this Declaration.

IN WITNESS WHEREOF, this instrument is executed this
July 29, 2003

WITNESSES:

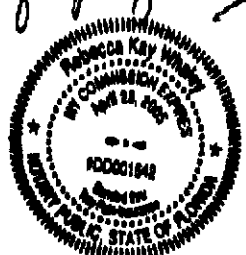
Rebecca Kay Whaley
Print:

Erica Daniels
Print:

[Signature]
Ben C. Boynton

STATE OF FLORIDA
COUNTY OF WAKULLA

The foregoing Declaration of Restrictive Covenants of SONGBIRD SUBDIVISION, was acknowledged before me by BEN C. BOYNTON on this
29th day of July 2003.



Rebecca Kay Whaley
NOTARY PUBLIC
My Commission Expires:

Personally Known to me

EXHIBIT "A"

SONGBIRD SUBDIVISION

All Lots, Easements, and Common Areas located within Blocks A, C, D, E, and F as more fully described on the Plat of Songbird Subdivision Phase I and all Lots, Easements, and Common Areas located within Blocks G, H, I, J and K as more fully described in the Plat of Songbird Subdivision Phase II.

EXHIBIT "B"

**BUNTING NEIGHBORHOOD LOCATED IN SONGBIRD
SUBDIVISION PHASE I**

All Lots, Easements, and Common Areas located in Block B including the wetland area on the North boundary of Block B and more fully described on the Plat of Songbird Subdivision Phase I.

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FC, Great Thunder, WAKULLA County 8:497 P:63

**BYLAWS OF SONGBIRD SUBDIVISION
PROPERTY OWNERS ASSOCIATION, INC.
A NON-PROFIT CORPORATION**

**ARTICLE I.
NAME AND LOCATION**

The name of the corporation is SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION, INC. The principal office shall be located at 2735 Miller Landing Road, Tallahassee, FL 32312, but meetings of members and directors may be designated by the board of directors.

**ARTICLE II.
DEFINITIONS**

Section 1. SONGBIRD SUBDIVISION shall mean Lands described in Exhibit "A" and more fully described on the Plat of Songbird Subdivision Phase I in Plat Book 3, Pages 88-92 in the Public Records of Wakulla County, Florida, and also Songbird Subdivision Phase II, recorded in Plat Book 3, Pages 114 of the Public Records of Wakulla County, Florida and particularly those properties identified thereon as Songbird Subdivision Phase II.

Section 2. "Association" shall mean and refer to SONGBIRD SUBDIVISION Property Owners Association, Inc., its successors and assigns.

Section 3. "Declarant" shall mean and refer to Ben C. Boynton.

Section 4. "Restrictive Covenants" shall mean and refer to the Declaration of Restrictive Covenants of SONGBIRD SUBDIVISION and recorded on 7/27/03 in the Public Records of Wakulla County, Fl, in Official Records Book 497, Page 52.

Section 5. "Lot" shall mean any parcel of land contained in SONGBIRD SUBDIVISION and sold by Declarant to any one individual or group of individuals.

Section 6. "Unit" is an arbitrary designation for annual and special assessment purposes and to determine voting rights. A unit is one residential lot.

Section 7. "Member" shall mean and refer to any person entitled to membership in the Association as provided in the Restrictive Covenants of SONGBIRD SUBDIVISION.

Section 8. "Owner" shall mean and refer to the record owner, as provided for in the Restrictive Covenants.

**ARTICLE III.
MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The first annual meeting of members shall be held within one (1) year from the date of incorporation of the Association or not later than sixty (60) days after fifty percent (50 %) of the lots have been sold, whichever first occurs. Subsequent meetings of members shall be held annually at a place and time determined by the Board of Directors.

Section 2. Special Meetings. Special meetings of members may be called at any time by the president or by the board of directors, or on written request of members who are entitled to vote one-fourth (1/4) of all votes of the Class A Membership.

Section 3. Notice of Meetings. Written notice of each meeting of members shall be given by, or at the direction of, the secretary or other person authorized to call the meeting by mailing a copy of such notice, at least thirty (30) but not more than sixty (60) days before such meeting to each member entitled to vote at the meeting, addressed to the member's address last appearing on the books of the Association, or supplied by the member to the Association for the purpose of receiving notice. The notice shall specify the day, hour, and place of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting, in person or by proxy, of members entitled to cast a majority of the votes of each class of the membership shall constitute a quorum for authorization of any action, except as may otherwise be provided in the Restrictive Covenants, the Articles of Incorporation, or these Bylaws. If a quorum is not present at any meeting, the members entitled to vote shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Proxies shall be revocable, and the proxy of any owner shall automatically terminate on conveyance by him of his lot.

**ARTICLE IV.
BOARD OF DIRECTORS-
TERM OF OFFICE; FIRST ELECTION; REMOVAL**

Section 1. Number. The affairs of the Association shall be managed by a board of three (3) directors who shall be members of the Association. The board of directors shall be elected from the membership at large.

Section 2. Term of office. The directors shall be elected at each annual meeting.

Section 3. Removal. Any director may be removed from the board, with or without cause, by a majority vote of the members of the Association entitled to vote for the election of the director. In the event of death, resignation, or removal of a director, his successor shall be selected by the remaining members of the board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V. BOARD OF DIRECTORS - MEETINGS

Section 1. Meetings. Meetings of the board of the directors shall be held from time to time when called by the president or any (2) directors. Regular meetings shall be held, however, at least quarterly without notice at a date, time and place set by the directors.

Section 2. Quorum. A majority of the directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of directors present at a duly held meeting in which a quorum is present shall constitute the act or decision of the board.

ARTICLE VI. BOARD OF DIRECTORS - POWERS AND DUTIES

Section 1. Powers. The board of directors shall have power to:

- (a) Exercise on behalf of the Association all powers, duties and authority vested in or delegated to the Association and not specifically reserved to the membership by the Restrictive Covenants, Articles of Incorporation, or by other provisions of these Bylaws;
- (b) Employ independent contractors, and such other employees as they may deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the board of directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at each annual meeting, or at any special meeting at which such a statement is requested in writing by one-fourth (1/4) of the class A members entitled to vote thereat;

- (b) Supervise all officers and agents of the Association and see to it that their duties are properly performed;
- (c) As more fully provided in the declaration, to:
 - (1) Fix the amount of the assessment against each lot at least thirty (30) days in advance of each assessment period;
 - (2) Send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each assessment period; and
 - (3) Foreclose the lien against any property for which assessments are not paid within sixty (60) days after the due date, or to bring an action at law against the owner personally obligated to pay the same.
- (d) Issue, or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any assessment has been paid. A statement in a certificate to the effect that an assessment has been paid shall constitute conclusive evidence of such payment. The board may impose a reasonable charge for the issuance of these certificates;
- (e) Procure and maintain adequate liability and hazard insurance on all property owned by the Association;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

**ARTICLE VII
OFFICERS AND THEIR DUTIES**

Section 1. Enumeration of Offices. The officers of the Association shall be a president and vice president, who shall at all times be members of the board of directors, and a secretary, treasurer, and such other officers as the board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the board of directors following each annual meeting of members.

Section 3. Term. The officers of the Association shall be elected annually by the board. Each shall hold office for a term of one (1) year unless he shall sooner resign, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The board may elect such other officers as the affairs in the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may, from time to time, determine.

Section 5. Resignation and removal. Any officer may be removed from office by the board at any time with or without cause. Any officer may resign at any time by

giving written notice to the board, the president, or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment of the board. The officer appointed to such vacancy shall serve for the unexpired term of the officer he replaces.

Section 7. Multiple offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

- (a) **President.** The president shall preside at all meetings of the board of directors; shall see that orders and resolutions of the board are carried out; shall sign all contracts, and shall cosign all checks and promissory notes.
- (b) **Vice President.** The vice president shall act in the place of the president in the event of his absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.
- (c) **Secretary.** The secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the members; keep the corporate seal of the Association and affix it to all papers so requiring; serve notice of meetings of the board and of members; keep appropriate current records showing the members of the Association together with their addresses; and perform such other duties as may be required by the board or by law.
- (d) **Treasurer.** The treasurer shall receive and deposit in appropriate bank accounts all funds of the Association, and shall disburse such funds as directed by resolution of the board of directors; shall sign all checks and promissory notes of the Association; shall keep proper books of account; and shall prepare a statement of income and expenditures, a copy of which documents shall be delivered to each member, and a report on which shall be given at the regular annual meeting of members.

ARTICLE VIII COMMITTEES

The board of directors may appoint such committees as it may deem appropriate in the performance of its duties.

**ARTICLE IX.
ASSESSMENTS**

As more fully provided in the Restrictive Covenants, each lot owner is obligated to pay to the Association annual and special assessments as well as any individual assessments, all of which are secured by a continuing lien on the property against which such assessments are made. Any assessments not paid when due are considered delinquent. If any assessment is not paid within sixty (60) days after the due date, the assessment bears interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against his property. Interest, costs, and reasonable attorneys' fees of any such action shall be added to the amount of any assessment due. No owner may waive or otherwise escape liability for assessments by abandonment of his lot.

Annual assessments for 2002 shall be \$150.00 for each unit of property in SONGBIRD SUBDIVISION. The Declarant is exempted from the annual assessments. After 2002, the annual assessments may, in the discretion of the board of directors, be increased but not to exceed ten percent (10%) of the annual assessments of the previous year.

Moneys guaranteed by annual assessments may be utilized for repair and maintenance of any common area in SONGBIRD SUBDIVISION. In the event a special assessment is necessary, the owners of property shall bear the full amount of the special assessment as provided for in the Restrictive Covenants.

**ARTICLE X.
BOOKS AND RECORDS; INSPECTION**

The books, records, and papers of the Association shall be subject to inspection by any member during ordinary business hours. The Restrictive Covenants, Articles of Incorporation, and Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies shall be made available for sale at a reasonable price.

**ARTICLE XI.
CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: SONGBIRD SUBDIVISION Property Owners Association, Inc.

Instr:000200036 Date:07/29/2002 Time:10:19
DC, Brent Thurmond, HANRILLA County B:497 P:69

**ARTICLE XII.
FISCAL YEAR**

The fiscal year of the Association shall be the calendar year, except that the first fiscal period shall begin on the date of incorporation and shall end on December 31st of the year of incorporation.

**ARTICLES XIII.
AMENDMENTS**

These Bylaws may be amended, at a regular or special meeting of members, by vote of a majority of a quorum of each class of members present in person or by proxy. The Association cannot be voted out of existence for any reason whatsoever.

**ARTICLE XIV.
CONFLICTS**

In case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; in the case of any conflict between the Restrictive Covenants and these Bylaws, the Restrictive Covenants shall control.

Ben C. Boynton

Inst:000020000 Date:07/20/2003 Time:10:10
DC, Brent Thurmond, VANILLA County S:487 P:70

EXHIBIT "A"

SONGBIRD SUBDIVISION

All Lots, Easements, and Common Areas located within Blocks A, C, D, E, and F as more fully described on the Plat of Songbird Subdivision Phase I and all Lots, Easements, and Common Areas located within Blocks G, H, I, J and K as more fully described in the Plat of Songbird Subdivision Phase II.

Int: 000200635 Date: 07/29/2003 Time: 10:10
DC, Brent Thornwood, WABALA County Br 497 P:71

State of Florida
Department of State

I certify the attached is a true and correct copy of the Articles of Incorporation of SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION, INC., a Florida corporation, filed on July 22, 2003, as shown by the records of this office.

The document number of this corporation is N03000006232.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capitol, this the Twenty-second day of July, 2003



CAS002 (2-03)

Glenda E. Hood
Glenda E. Hood
Secretary of State



Instr:0000200020 Date:07/25/2003 Time:10:13
DC, Invt: Tallahassee, MADALA County B:497 P:72

FLORIDA DEPARTMENT OF STATE
Glenda E. Hood
Secretary of State

July 22, 2003

BEN C. BOYNTON
2735 MILLER LANDING ROAD
TALLAHASSEE, FL 32312

The Articles of Incorporation for SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION, INC. were filed on July 22, 2003 and assigned document number N03000000232. Please refer to this number whenever corresponding with this office regarding the above corporation. The certification you requested is enclosed.

PLEASE NOTE: COMPLIANCE WITH THE FOLLOWING PROCEDURES IS ESSENTIAL TO MAINTAINING YOUR CORPORATE STATUS. FAILURE TO DO SO MAY RESULT IN DISSOLUTION OF YOUR CORPORATION.

A CORPORATION ANNUAL REPORT/UNIFORM BUSINESS REPORT MUST BE FILED WITH THIS OFFICE BETWEEN JANUARY 1 AND MAY 1 OF EACH YEAR BEGINNING WITH THE CALENDAR YEAR FOLLOWING THE YEAR OF THE FILING DATE NOTED ABOVE AND EACH YEAR THEREAFTER. FAILURE TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT ON TIME MAY RESULT IN ADMINISTRATIVE DISSOLUTION OF YOUR CORPORATION.

A FEDERAL EMPLOYER IDENTIFICATION (FEI) NUMBER MUST BE SHOWN ON THE ANNUAL REPORT/UNIFORM BUSINESS REPORT FORM PRIOR TO ITS FILING WITH THIS OFFICE. CONTACT THE INTERNAL REVENUE SERVICE TO RECEIVE THE FEI NUMBER IN TIME TO FILE THE ANNUAL REPORT/UNIFORM BUSINESS REPORT AT 1-800-829-3678 AND REQUEST FORM SS-4.

SHOULD YOUR CORPORATE MAILING ADDRESS CHANGE, YOU MUST NOTIFY THIS OFFICE IN WRITING, TO INSURE IMPORTANT MAILINGS SUCH AS THE ANNUAL REPORT/UNIFORM BUSINESS REPORT NOTICES REACH YOU.

Should you have any questions regarding corporations, please contact this office at the address given below.

Valerie Ingram, Document Specialist
New Filings Section

Letter Number: 803A00042802

Division of Corporations - P.O. BOX 6827 -Tallahassee, Florida 32314

ARTICLES OF INCORPORATION

FILED

OF

03 JUL 22 AM 10:41

SONGBIRD SUBDIVISION
PROPERTY OWNERS ASSOCIATION, INC.

I, the undersigned, acting as incorporator of a nonprofit corporation under Chapter 617 of the Florida Statutes, do hereby adopt the following Articles of Incorporation:

ARTICLE I

The name of the corporation (hereinafter called the Association) is SONGBIRD SUBDIVISION PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE II

The owners of property in SONGBIRD SUBDIVISION shall be members of this Association. The legal description of the property composing SONGBIRD SUBDIVISION is described in Exhibit "A".

The specific primary purposes for which the Association is formed are to provide for maintenance of easements and common areas and architectural control of buildings on the residence lots within the SONGBIRD SUBDIVISION. Generally, the Association's purpose is to promote the health, safety, and welfare of the residents within the Association.

In furtherance of the specific and general purposes, the Association shall have power to:

(a) Perform all of the duties and obligations of the Association as set forth in restrictive covenants applicable to the Association;

(b) Affix, levy, collect and enforce payment by any lawful means of, all charges and assessments pursuant to the terms of the applicable restrictive covenants; and pay all

expenses in connection therewith, and all office and other expenses incidental to the conduct of the business of the Association;

(c) Acquire (by gift, purchase, or otherwise), own, hold and improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate to public use, or otherwise dispose of, real and personal property in connection with the affairs of the Association;

(d) Participate in mergers and consolidations with other non-profit corporations organized for the same purposes; or annex additional residential property or common areas, provided that any merger, consolidation or annexation shall have the assent by vote or written instrument of one-half (1/2) of each class of members;

(e) Have and exercise any and all powers, rights, and privileges that a non-profit corporation organized under Chapter 617 of the Florida Statutes by law may now or hereafter have or exercise.

The Association is organized and shall be operated exclusively for the purposes set forth above. The activities of the Association will be financed by assessments against members as provided in the restrictive covenants, and no part of any net earnings of the Association will inure to the benefit of any member.

ARTICLE III

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is within the property described in Exhibit "A", but excluding persons or entities holding title merely as security for performance of an obligation, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a lot.

ARTICLE IV

The period of duration of the Association shall be perpetual.

ARTICLE V

The address of the principal office of the Association, and the name of the registered agent at such address, is:

BEN C. BOYNTON
2735 Miller Landing Road
Tallahassee, FL 32312

ARTICLE VI

The affairs of the Association shall be managed by a board of directors, a president and vice president, who shall at all times be members of the board of directors, and a secretary and treasurer. Such officers shall be elected at the first meeting of the board of directors following each annual meeting of members. Directors shall be elected according to the Bylaws.

The names of the officers who are to serve until the first election are:

BEN C. BOYNTON
DOUG TURNER
ANNE R. BOYNTON

President
Vice-President
Secretary/Treasurer

ARTICLE VII

The number of persons constituting the first board of directors of the Association shall be three (3), and the names and addresses of the persons who shall serve as directors until the first election are:

BEN C. BOYNTON
2735 Miller Landing Road
Tallahassee, FL 32312

DOUG TURNER
508-A Capital Circle SE
Tallahassee, FL 32301

ANNE R. BOYNTON
2735 Miller Landing Road
Tallahassee, FL 32312

Inst:0000200039 Date:07/29/2000 Time:10:19
DC, West Thurmond, WAKULLA County 31497 P:76

ARTICLE VIII

The Architectural Control Committee for SONGBIRD SUBDIVISION shall consist of three (3) or more members. The names and addresses of the persons who shall serve as members are:

BEN C. BOYNTON
2735 Miller Landing Road
Tallahassee, FL 32312

DOUG TURNER
508-A Capital Circle SE
Tallahassee, Florida 32301

MICKEY HARBIN
1048 Fla. Ga. Highway
Havana, Florida

ARTICLE IX

The Bylaws of the Association may be made, altered, or rescinded at any annual meeting of the Association, or at any special meeting duly called for such purpose, on the affirmative vote of two-thirds (2/3) of each class of members existing at the time of and present at such meeting except that the initial Bylaws of the Association shall be made and adopted by the board of directors.

ARTICLE X

Amendments to these Articles of Incorporation may be proposed by any member of the Association. These Articles may be amended at any annual meeting of the Association or at any special meeting duly called and held for such purpose, on the affirmative vote of a majority of each class of members existing at the time of, and present at such meeting or voting by proxy.

ARTICLE XI

The Association shall have two (2) classes of voting members as follows:

Instr:0000200639 Date:07/29/2003 Time:10:19
DC, Brent Thurmond, HARRIS County #:497 P:77

Class A — Class A members shall be all owners of property within the Association with the exception of Declarant, and shall be entitled to one (1) vote for each unit owned as defined in the restrictive covenants. When more than one (1) person holds an interest in any lot, all such persons shall be members. The vote or votes for such lot shall be exercised as such members may determine among themselves.

Class B — The Class B member shall be the Declarant, as such term is defined in the Declaration of Restrictive Covenants of SONGBIRD SUBDIVISION, who shall be entitled to two (2) votes for each lot within the Association owned by Declarant. The Class B membership shall cease and be converted to Class A membership as provided in the Declaration of Restrictive Covenants of SONGBIRD SUBDIVISION.

ARTICLE XII

On dissolution, the assets of the Association shall be distributed to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event such distribution is refused acceptance, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust, or other organization organized and operated for such similar purposes.

ARTICLE XIII

Incorporator: Ben C. Boynton
2735 Miller Landing Rd.
Tallahassee, Fl. 32312


Incorporator

I, Ben C. Boynton, accept my position as registered agent.


Registered Agent

FILED
03 JUL 22 AM 09:41
TALLAHASSEE, FLORIDA

EXHIBIT "A"

SONGBIRD SUBDIVISION

All Lots, Easements, and Common Areas located within Blocks A, C, D, E, and F as more fully described on the Plat of Songbird Subdivision Phase I and all Lots, Easements, and Common Areas located within Blocks G, H, I, J and K as more fully described in the Plat of Songbird Subdivision Phase II.

Instr:0000200039 Date:07/29/2003 Time:18:19
DC, Brent Thurmond, VANILLA County 3:497 P:79

covenants encumbering Lands described in Exhibit "B", and known as the BUNTING NEIGHBORHOOD located in SONGBIRD SUBDIVISION.

Section 4. "Easement" shall mean the land described on the Plat for SONGBIRD SUBDIVISION for the purposes of roadway, stormwater and utility use and shall include real property interests conveyed to Wakulla County or Talquin Electric Cooperative.

Section 5. "Lot" shall mean any parcel of land contained in the property described in Exhibit "A" and sold by the Declarant to any one individual or groups of individuals.

Section 6. "Maintenance" shall mean the exercise of reasonable care to keep common area improvements in good repair, normal wear and tear excepted.

Section 7. "Member" shall mean every person or entity that holds membership in the Association.

Section 8. "Common Area" shall mean all real property and /or easement rights (including the improvements thereto) owned and held by each Association in Section 3 for the common use and enjoyment of the respective Owners. The Common Area which will be owned by the respective Association shall consist of the real property and easement rights described in this Declaration and any areas depicted on the Plat of Songbird Subdivision as Common Areas with regard to a particular Association and which have not been dedicated and accepted by the local governmental authority, and shall also include any grants of easements to the respective Association and related common lands and water bodies in proximity to Songbird Subdivision. The Declarant shall deed any Common Areas to the Association on or before such time as seventy-five (75%) of the lots have been sold, or sooner, if required by law. The Association shall have the right to transfer to any governmental body at any time, all interest in all or part of the Common Areas, including roadways and access ways, after first obtaining approval at a meeting of the Association by seventy-five percent (75%) favorable vote of each class of members.

Section 9. "Owner" shall mean the record owner, whether one (1) or more persons or entities, of legal or beneficial interest in a lot and shall include purchasers under contracts for deed but not include those holding title as security for the performance of an obligation.

Section 10. "Unit" is an arbitrary designation for annual and special assessment purposes and to determine voting rights. A unit is one residential lot.

Section 11. "Properties" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association and known as "Songbird Subdivision".

**DECLARATION OF RESTRICTIVE
COVENANTS OF SONGBIRD SUBDIVISION PHASE I**

BEN C. BOYNTON, the owner of that certain land in Wakulla County, Florida described in Exhibit "A" attached hereto and made a part hereof, hereafter "Songbird Subdivision Phase I" by this instrument does make, declare and impose upon the lands described in Exhibit "A" for the benefit of all present and future owners of the land, the following conditions, restrictions, and limitations which shall be covenants running with the land, binding upon the owner, its successors and assigns, and all persons claiming any right, title or interest in the land and all subsequent purchasers of the land, their heirs, personal representatives and assigns.

**ARTICLE I
DEFINITIONS**

Section 1. "Declarant" shall mean and refer to BEN C. BOYNTON, his heirs or assigns.

Section 2. "Plat of Songbird Subdivision Phase I" shall mean and refer to the Plat of Songbird Subdivision Phase I recorded in Plat Book 3, Pages 88-92 of the Public Records of Wakulla County, Florida and particularly those properties identified thereon as Songbird Subdivision Phase I.

Section 3. "Association Phase I" shall mean and refer to SONGBIRD SUBDIVISION PHASE I PROPERTY OWNERS ASSOCIATION, a Florida corporation not for profit, to be formed to administer these covenants, initially related to land in Exhibit "A" only. SONGBIRD SUBDIVISION PHASE II and BUNTING NEIGHBORHOOD ASSOCIATION are property owner associations that have common area properties in close proximity to SONGBIRD SUBDIVISION PHASE I, but no interest therein.

There shall be three (3) property owner associations.

- a. "Association Phase I" shall mean and refer to SONGBIRD SUBDIVISION PHASE I PROPERTY OWNERS ASSOCIATION, a Florida not for profit corporation, formed to administer these covenants, encumbering Lands described in Exhibit "A".
- b. "Association Phase II" shall mean and refer to SONGBIRD SUBDIVISION PHASE II PROPERTY OWNERS ASSOCIATION, a Florida not for profit corporation, that will be formed to administer other covenants.
- c. "BUNTING NEIGHBORHOOD ASSOCIATION" shall mean and refer to BUNTING NEIGHBORHOOD PROPERTY OWNERS ASSOCIATION,

a Florida not for profit corporation, that will be formed to administer other covenants encumbering Lands described in Exhibit "B", and known as the BUNTING NEIGHBORHOOD located in SONGBIRD SUBDIVISION PHASE I.

Section 4. "Easement" shall mean the land described on the Plat for SONGBIRD SUBDIVISION PHASE I for the purposes of roadway, stormwater and utility use and shall include real property interests conveyed to Wakulla County or Talquin Electric Cooperative.

Section 5. "Lot" shall mean any parcel of land contained in the property described in Exhibit "A" and sold by the Declarant to any one individual or groups of individuals.

Section 6. "Maintenance" shall mean the exercise of reasonable care to keep common area improvements in good repair, normal wear and tear excepted.

Section 7. "Member" shall mean every person or entity that holds membership in the Association Phase I.

Section 8. "Common Area" shall mean all real property and /or easement rights (including the improvements thereto) owned and held by each Association in Section 3 for the common use and enjoyment of the respective Owners. The Common Area which will be owned by the respective Association shall consist of the real property and easement rights described in this Declaration and any areas depicted on the Plat of Songbird Subdivision Phase I as Common Areas with regard to a particular Association and which have not been dedicated and accepted by the local governmental authority, and shall also include any grants of easements to the respective Association and related common lands and water bodies in proximity to Songbird Subdivision Phase I. The Declarant shall deed any Common Areas to the Association Phase I on or before such time as seventy-five (75%) of the lots have been sold, or sooner, if required by law. The Association Phase I shall have the right to transfer to any governmental body at any time, all interest in all or part of the Common Areas, including roadways and access ways, after first obtaining approval at a meeting of the Association Phase I by seventy-five percent (75%) favorable vote of each class of members.

Section 9. "Owner" shall mean the record owner, whether one (1) or more persons or entities, of legal or beneficial interest in a lot and shall include purchasers under contracts for deed but not include those holding title as security for the performance of an obligation.

Section 10. "Unit" is an arbitrary designation for annual and special assessment purposes and to determine voting rights. A unit is one residential lot.

Section 11. "Properties" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association Phase I and known as "Songbird Subdivision Phase I".

ARTICLE II MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION PHASE I

Section 1. Membership: Any person who owns property that is subject to these restrictions shall automatically be a member of the Association Phase I provided, however, that where any lot is owned by more than one (1) person, one (1) of the owners shall be designated to cast the vote on matters to come before the Association Phase I on behalf of all the owners of the lot.

In the event the owner of a lot is a corporation or partnership, a partner or corporate officer shall be designated to cast the vote on behalf of the partnership or corporation.

Section 2. Voting Rights: The Association Phase I shall have two (2) classes of voting members as follows:

"Class A" - Class A members shall be all owners with the exception of Declarant, and shall be entitled to one (1) vote for each unit of property owned.

"Class B" - The Class B member shall be the Declarant, who shall be entitled to exercise two (2) votes for each unit owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals seventy-five (75) % of the total votes outstanding in the Class A and Class B membership.

Section 3. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and Facilities to the members of his immediate family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

Section 1. Liens and Personal Obligation of Assessments: Each "Class A" owner of a lot by acceptance of his deed for such lot, whether or not it is expressed in his deed, agrees to pay the assessments as provided in this article.

Section 2. Duties of Declarant: The Declarant shall pay for the entrance sign on U.S. 319 and the initial landscaping and construction of the entrance ways for Blocks A, E, and F.

Instr: 0000165754 Date: 02/20/2002 Time: 08:52:04

DC, Brent Thurmond, WAKULLA County B:434 P:764

Section 3. Annual Assessments: Annual assessments shall be paid by each "Class A" lot owner to the Association Phase I. The assessment for the year 2002 shall be one hundred and fifty dollars (\$150.00) for each unit assessed to an owner. After 2002, the annual assessment may be increased by vote of the Board of Directors of the Association Phase I, not to exceed ten percent (10%) over the assessment of the previous year. The assessments levied by the Association Phase I shall be used exclusively to promote the recreation, health, safety, and welfare of the residents on the property and for:

- (a) the enforcement of the provisions of this Declaration on behalf of the Association Phase I;
- (b) the improvements and maintenance of the Common Areas;
- (c) water and electrical usage for the Common Areas; (Note: When there has been sufficient money collected from annual assessments, money paid by the Declarant for deposits, fees, usage, etc. will be refunded to him upon presentation of proper documentation.)
- (d) liability insurance for officers and directors;
- (e) insurance for Association Phase I; and,
- (f) management fees for professional association management.

Section 4. Special Assessments-Other: In addition to the previous defined assessments, the Association Phase I may levy, in any assessment year, a special assessment to "Class A" owners for that year only. It is for the purpose of defraying, in whole or in part, the cost of enforcing this Declaration on behalf of the Association Phase I or the cost of construction, reconstruction, repair, or replacement of the entrance way, any entrance sign or improvement upon the Common Areas, including fixtures and personal property. Any such assessment must be approved by the majority vote of each class of membership of the Association Phase I in person or by proxy. Each "Class A" owner shall be assessed a percentage of the maintenance cost. The percentage of the cost allocated to each "Class A" owner shall be determined by the number of units assessed to each "Class A" owner. If the health and welfare of the public is at risk or if damage is done to the entrances of any of the neighborhoods in SONGBIRD SUBDIVISION PHASE I, the Board of Directors has the right to levy this special assessment without the vote of the membership; however, the repairs are limited to only what the majority vote of the members of both The Board of Directors and The Architectural Control Committee deems as necessary.

Section 6. Effects of Nonpayment of Assessments and Remedies of the Association Phase I: Any assessment not paid within sixty (60) days after the due date, shall be deemed in default and shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association Phase I may bring an action at law against the owner personally obligated to pay the same, or may foreclose the lien against the property. No owner may waive or otherwise escape liability for assessments provided for herein by abandonment of his lot.

Section 7. Subordination of Assessment Lien Mortgages: The assessment lien provided for herein shall be subordinate to the lien of the first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to a mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the assessment lien that becomes due prior to such sale or transfer. No sale or transfer shall release such lot from liability for any assessments thereafter becoming due.

Section 8. Uniform rate of Assessment and Collection. Except as otherwise set forth herein, both annual and special assessments shall be fixed at a uniform rate for all lots and be based on the calendar year. Assessments may be collected on an installment basis at the discretion of the Board of Directors. The assessments will be prorated based on the date of the deed.

ARTICLE IV PRIMARY BUILDERS' RIGHTS

Primary Builders have the authority to maintain model home(s) with appropriate on-site parking and signage as well as any off-site directional signs and flags as they deem necessary to promote the sales of their home(s). This right will stay in effect until all home(s) have been sold to first-time buyers. This right survives the cessation of the "Class B" membership. Declarant shall designate Primary Builders from time to time.

ARTICLE V

~~EASEMENTS~~

Within the easement described in the Public Records, no structure, plant or other object shall be placed or permitted to remain which may damage, interfere or change the direction or flow of drainage within the easement, or the safe passage of automobile traffic.

ARTICLE VI ARCHITECTURAL CONTROL

Nothing shall be constructed on the lot including houses, outbuildings, fencing, or any other structures or improvements nor shall any exterior addition to or change to or alteration therein be made, until the plans and specifications have been approved in writing by the Architectural Control Committee (ACC). The ACC shall be composed of three (3) or more representatives named in the Articles of Incorporation of Songbird Property Owners Association Phase I or subsequently appointed by the Board of Directors of the Association Phase I. In the event the ACC fails to act in writing within

thirty (30) days of receipt of the plans and specifications, then the party seeking approval shall send a certified letter to the attention of the President of the Association Phase I requesting action from the ACC. Should the party seeking approval fail to receive a reply within thirty (30) days from the date of the certified letter, approval will not be required and this Article will be deemed fully complied with.

ARTICLE VII USE RESTRICTIONS

The Songbird Subdivision Phase I shall be occupied and used only as follows:

Section 1. Each lot shall be used as a residence for a single family and no other purpose.

Section 2. No lot shall be divided.

Section 3. Minimum setbacks for buildings are as follows: twenty-five (25) feet front, fifteen (15) feet rear, eight (8) feet side interior and fifteen (15) feet side corner. For the purposes of this Article, eaves and steps shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building to encroach upon another lot.

Section 4. No houses, outbuildings, fences including additions to existing structures, shall be erected within the Association Phase I until the construction plans, site plans and specifications showing the location and architectural design of the structure have been approved by the ACC. Approval shall be based on compliance with these restrictions, quality of materials and location on the property. Approval shall not be unreasonably withheld. Basic architecture will be consistent, as more fully described in Section 10 below.

Section 5. No mobile homes shall be allowed on the property.

Section 6. Outbuildings shall be limited to storage sheds, boat houses, greenhouses, and structures customarily associated with single family residential homes. All outbuildings shall be approved as provided for in Section 4 and 10.

Section 7. Noxious or offensive activity shall not be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Associations. This provision also applies to the common areas. Animals shall not be kept on the property in such a manner as to cause a nuisance or annoyance because of smell or noise or to cause a health hazard. No animals shall be raised, bred or kept on the property for any commercial purposes. Animals shall be limited to domestic dogs, cats and other household pets.

Section 8. No dwelling shall be constructed in the Association Phase I that contains less than one thousand one hundred (1,100) square feet of space, heated and cooled in Block F and one thousand five hundred (1,500) square feet of space, heated and cooled, in Blocks A, C, D, and E. Once construction starts, work shall be pursued diligently until completed.

Section 9. There will be no trash or any unsightly refuse allowed to be dumped on the lot permanently or temporarily. Trash, garbage or other waste shall not be allowed to accumulate over time on any lot or other part of the Properties and shall not be kept except in trash containers located and installed in the manner approved by the ACC. All equipment for storage or disposal of such material shall be kept in a clean and sanitary condition and shall not be visible from the street or from any private or common driveway except for those times designated for collection by the appropriate waste management company. Each Owner shall maintain the landscaping, including trees, shrubs, and grass within the boundaries of his lot, and the exterior of the house in a neat and attractive condition. If the Owner fails to maintain his property in such a prescribed fashion, then upon a vote of a majority of the Board of Directors, and after not less than ten (10) days' notice to the Owner, the Association Phase I shall have the right to enter upon such Lot and provide such maintenance as it deems necessary or appropriate, and the cost thereof shall be payable to the Association Phase I by such Owner within ten (10) days after delivery to the Owner of a demand for payment. Amounts due hereunder may be enforced and collected under the provisions of Bylaws of Songbird Subdivision Property Owners Association Phase I. For the purpose solely of performing the maintenance authorized by this paragraph, the Association Phase I agents and employees shall have the right, after reasonable notice to the Owner, to enter upon any such lot between the hours of 7:00 a.m. and 6:00 p.m.

Section 10. Building guidelines are as follows:

- A. The roof pitch can not be less than 6 /12 and the roof must be shingled with colors approved by the ACC.
- B. All shingles should have a useful life of a minimum of 20 years. Other roofing materials must be approved by the ACC.
- C. House siding shall be James Hardie (or comparable) lapped siding, brick, stone, or stucco.
- D. Mailboxes shall be attractive and consistent in appearance and color with the boxes used in their block.
- E. Front yards must be sodded with grass and landscaped with plants and mulch. Whenever possible a natural buffer shall exist between adjacent houses.
- F. Screen porches shall match the existing structure of the house with materials and color.
- G. Driveways shall be located when the lot is first cleared so as to minimize damage to the existing paved road. Excessive road and ditch damage must be either fixed or cost reimbursed to the

Declarant within thirty (30) days from receiving the Certificate of Occupancy. The ACC shall be the final arbitrator in any dispute that may arise. The driveway shall not be located closer than five (5) feet from an interior lot line with the exception of a backup or turn-around pad which may be located as near as one (1) foot to an interior lot line. No driveway can enter directly onto Songbird Avenue.

- H. Driveways shall be built with concrete and with proper culverts installed with concrete mitered-end sections (minimum length allowed by the County is 30 ft.).
- I. Walkways and patios must be concrete with a broom finish. Any specialty finish must be approved by the ACC.
- J. Outbuildings must be consistent with the exterior of the house in color and materials and located in the rear yard. The side-walls cannot exceed eight (8) feet in height. No metal outbuildings will be allowed. All outbuildings must get ACC approval.
- K. All fencing shall be six (6) foot "shadow box" style. It must start at the rear corners of the house unless otherwise approved by the ACC.
- L. All boats, trailers, motor homes, and campers must be parked in an enclosed garage or behind a screen fence. Pursuit of hobbies or other activities including, but not limited to, work on vehicles or other mechanical devices and woodworking, which tend to result in disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken except within an enclosed garage.
- M. Each house shall have a functional garage attached thereto which shall be designated to accommodate the parking of at least two (2) automobiles in Blocks A, C, D and E. In Block F, the owner can reduce this requirement to one (1) automobile.
- N. Pet pens and pet houses must be kept behind a fence or in the rear yard. Crop and/or vegetable gardens shall be in the rear yard only.
- O. All signs and locations must be approved by the ACC unless promoting one-day events and then the owner must remove them by the end of the following day.
- P. No tank or storage of fuel, water or other substance shall be placed or permitted to remain on the lot unless approved by the ACC.
- Q. Garages may be enclosed only on model homes and only so long as used as a model home, and not thereafter.
- R. The Architectural Control Committee shall make the final determination in any dispute that may arise involving these issues.