

planning, permitting,  
design, construction,  
operation, maintenance,  
design/build, & equipment

**Weston&Sampson®**

April 24, 2009

Mr. Jonathan Hobill  
DEP Southeast Regional Office  
20 Riverside Drive  
Lakeville, MA 02347

RE: River Run Mixed Use Development  
Plymouth, MA  
Addendum to Groundwater Discharge Permit Application  
Transmittal No. W2110045

Dear Mr. Hobill:

In connection with the private wastewater treatment facility planned at the proposed River Run Project in Plymouth, Massachusetts ("River Run" or the "Project"), Weston and Sampson Engineers, Inc. (Weston & Sampson), on behalf of the Applicant, ADM Agawam Development LLC (ADM) submits this Addendum to its pending application for a Groundwater Discharge Permit, BRP W06, originally filed with DEP in June 2008 (the "Application"). As discussed in greater detail below, this Addendum provides the following information to supplement that provided in the Application: (A) enhancement of the nitrogen reduction strategy to include the cessation of nitrogen-based fertilizers at an additional 61 acres of bogs; (B) information provided in accordance with Energy and Environmental Affairs Secretary Bowles's October 8, 2008 Certificate on the Final Environmental Impact Report ("FEIR Certificate"); and (C) supplemental technical support documents.

#### A. NITROGEN REDUCTION STRATEGY:

In light of ongoing discussion and input from various stakeholder groups, this Addendum incorporates ADM's proposal to cease use of nitrogen based fertilizers on an additional approximately 61 acres of bogs located to the south of the Project site. These bogs are currently identified on Figure 1 (attached), with the understanding that a suitable substitution may be made if approved by the DEP. Application of such fertilizers on these bogs will cease in phases equivalent to 30 acres at the construction of the 750<sup>th</sup> residential unit and 31 acres at the full Project buildout.

As demonstrated below and in the accompanying technical Appendix E, the cessation of nitrogen based fertilizer application to an additional 61 acres of bogs will result in mitigation of the entire nitrogen impacts from River Run, without requirements for additional offsets. Nonetheless, ADM remains committed to including all nitrogen mitigation/offsets proposed in the original Application, as well as the proposed change in agricultural practices at an additional 61 acres of bogs presented in this Addendum. As shown in Appendix E, the net nitrogen load associated with the development of the Project is estimated at 1,242 pounds per year. As a result of the offsets and mitigation proposed in the original Application and in this Addendum, the Project will not only be nitrogen neutral but will result in a net reduction of the existing nitrogen load of 1,242 pounds per year.

2. *The GWDP Application should include more details on strategies to maximize the participation of existing sources that have the most significant impact in the project area, and describe a proposed system to quantify and verify tie-ins of sources outside the project and related nutrient reductions.*

The River Run WWTF will not be part of the municipal sewer system, and as such the owner/operator will not have authority to require existing homes to connect to the WWTF, to create sewer districts or to impose betterments outside of the landowners in the River Run community. However, ADM has committed to provide funding up to \$ 500,000 for connection of existing homes to the WWTF or for other septic system upgrades in the Agawam River sub-basin. The funds will be administered and managed such that both Plymouth and Wareham will be encouraged to participate in identifying sources and assist with outreach and distribution of the funding for either tie-ins or upgrades to existing systems incorporating nitrogen reduction technologies. ADM expects to engage a third party non-government organization to administer the funds and prepare a public outreach plan for effective public participation and facilitation of the equitable distribution of the funds.

The Special Permit governing River Run requires that ADM provide annual updates to the Plymouth Planning Board. These updates will also include information about sewer tie-ins and septic system upgrades.

ADM is committed to working closely with the Town of Wareham to evaluate the feasibility of connecting existing neighborhoods in Wareham to the River Run WWTF. In order to effectuate the connection of off-site sources, ADM will work with the Town, through its elected and appointed officials to identify or establish the appropriate legal mechanisms and public processes. This effort will be initiated once a Final Groundwater Discharge Permit is issued.

3. *The GWDP Application should include additional information on the cost of sewer infrastructure for the tie-ins and potential funding sources*

Based on discussions with engineering department staff in the Town of Wareham, ADM has determined that the Town of Wareham assessed a betterment fee of \$16,500 per residential connection in association with recent expansion of the sewer collection system, based on 2007 construction data.

Based on discussions with engineering department staff in the Town of Plymouth, ADM learned that the Town of Plymouth has no expansion plans for its sewer system and, accordingly, does not have a betterment system in place to fund sewer system expansion. The Town of Plymouth does have a connection fee structure for new connections within the existing sewer service area. The connection fees are comprised of an approximately \$1,500 administration fee, plus a "Sewer Connection Privilege Permit Fee" of \$16.00 per gallon per day based on Title 5 flows.

Funding for the cost of sewer infrastructure for the off-site tie-ins will be borne in part by ADM. Specifically, ADM will absorb the cost of extending adequately sized sewer infrastructure to the Project limits, on ADM property, in the vicinity of the School and the southern extent of the Project. In addition, ADM will fund up to \$500,000 worth of grants that could be used to defray off-site sewer infrastructure costs related to the potential sewer connections, or for septic system improvements elsewhere in the Agawam River sub-basin for existing properties outside of River Run. This funding could, in turn, be used

- ADM will approach the Town of Wareham regarding existing wastewater sources not covered by the Wareham Comprehensive Waste Water Master Plan that may provide feasible opportunities for connection to the WWTF.
- ADM will approach the Town of Plymouth regarding identification of opportunities to provide support, where feasible, for treating existing sources higher up in the watershed.
- ADM will undertake Low Impact Development practices which will comply with the Town of Plymouth storm water bylaw, which will result in a reduction of nitrogen load resulting from storm water of between approximately 200 and 360 pounds per year, dependent on specific measures and location of those measures. Credit for this reduction of nitrogen loads has not been accounted for in the Project's nitrogen impact analysis (presented in Appendix E), and therefore represents an added environmental benefit.
- ADM will work with the towns of Plymouth and Wareham to craft and get passed bylaws limiting nitrogen percentages in yard fertilizers in their designated watershed areas.
- ADM will approach the Town of Wareham regarding creation of a specific work plan and proposed process to identify opportunities, where feasible, for treating existing sources closest to the Wareham River Estuary.
- ADM will approach the Towns of Plymouth and Wareham regarding identification of opportunities to maximize water conservation strategies.
- ADM has already proposed in the Application that the \$500,000 of funding could be used to upgrade existing septic systems or support connections to either the River Run WWTF or the Wareham WWTF.
- ADM has already committed, as part of the Application, to the phased change in agricultural practices at 69 acres of bogs – including the White Island Pond Bogs - that will eliminate the use of phosphorous and nitrogen based fertilizers. As a result of consultations with both the DEP and non-government conservation organizations, and as presented in this Addendum, ADM will commit to the phased change in agricultural practices at an additional 61 acres of cranberry bogs, to be located in the lower reaches of the Agawam River sub-basin.
- DEP has recently promulgated new regulations regarding the use of treated wastewater for irrigation. ADM is currently evaluating the feasibility of utilizing such regulations. ADM has already committed to installing a return conduit "purple pipe" at the time of installation of the WWTF to facilitate such re-use.

7. *The GWDP application should include a revised proposed Section 61 Findings (sic) that includes all mitigation commitments, including nitrogen mitigation and offsets.*

See Appendix A.

If you have any questions regarding either this Addendum or other matters relating to the pending Application, please do not hesitate to contact me at 978-532-1900.

Very truly yours,

WESTON & SAMPSON

A handwritten signature in black ink, reading "Michael J. Scipione". The signature is fluid and cursive, with the first name "Michael" and last name "Scipione" clearly legible.

Michael J. Scipione, P.E.  
President

cc: Mr. Michael P. Hogan, A.D. Makepeace  
Ms. Judith T. Kohn, RLA, A.D. Makepeace  
Mr. Tom Melehan, A.D. Makepeace  
Ms. Lauren A. Liss, Rubin and Rudman

O:\A.D. Makepeace\Agawam Parcel\Wastewater\Groundwater Discharge Permit\GWDP Addendum\Final version\Addendum Letter 4-24-09.DOC

# **Addendum 1**

## **Groundwater Discharge Permit Application (BRP WP 06)**

**TX W2110045**

**ADM Agawam Development LLC**

River Run Development

Plymouth, MA

April 2009

Prepared for:

ADM Agawam Development LLC

158 Tihonet Road

Wareham, MA 02571

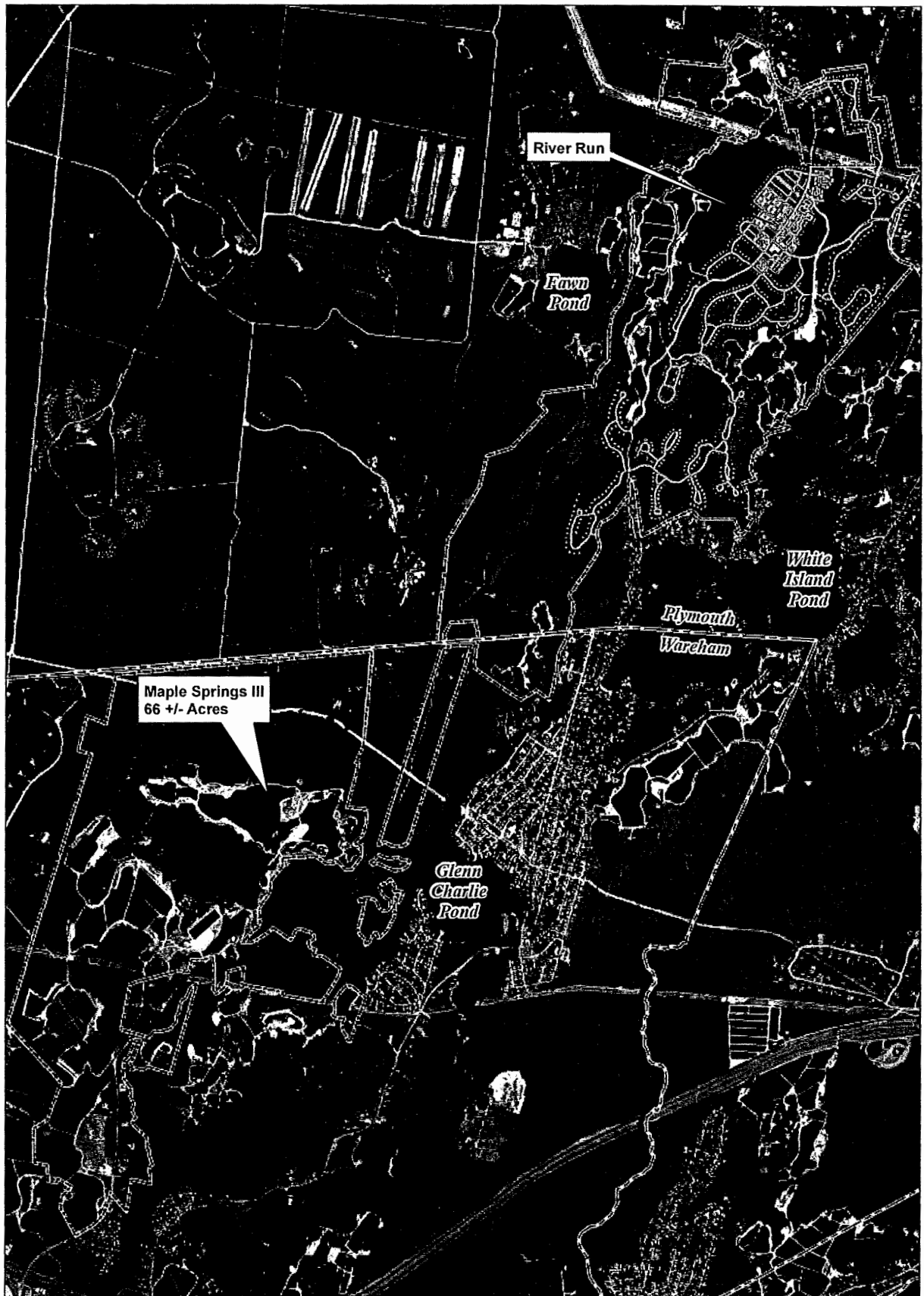
Submitted to:

Department of Environmental Protection –  
Southeast Region

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# **Legend**

- Town Boundary
- Maple Springs III Cranberry Bogs
- ADM Parcel Boundaries

0 1,000 2,000 Feet

Vanasse Hangen Brustlin, Inc.

Figure 1

Groundwater Discharge Permit Application  
Addendum 1





*Appendix A*

*Proposed Section 61 Finding*



**D R A F T**

**MASSACHUSETTS DEPARTMENT  
OF ENVIRONMENTAL PROTECTION  
DIVISION OF WATER POLLUTION CONTROL  
M.G.L. CHAPTER 30, SECTION 61**

**PROJECT NAME:** River Run

**PROJECT LOCATION:** Plymouth, Massachusetts

**PROJECT PROPONENT:** ADM Agawam Development LLC

**EOEA NUMBER:** 13580

**I. Project Description**

ADM Agawam Development LLC (the "Proponent" or "ADM") proposes to construct a traditional rural village community with 1,175 new residential units, up to 60,000 square feet (SF) of community based retail, office and service space and an up to 75,000 SF community recreational facility sited on approximately 381 acres of the project site.

The wastewater system will be built in phases and will include temporary individual Title 5 septic systems, a temporary shared Title 5 septic system and a permanent wastewater collection, treatment and disposal system. The initial phase of development consisting of up to 65 residential units will be temporarily served by Title 5 septic systems. An additional 35 multi-family units will initially be served by a shared Title 5 septic system. Upon completion of the 101st housing unit, the wastewater system will become operational and these initial 100 units and all future development will be connected to one wastewater treatment facility (WWTF). The WWTF has been designed with a permitted capacity of 395,000 gallons per day (GPD, maximum daily flow) and will incorporate Membrane Bioreactor technology with denitrification filters. The proposed design of the wastewater system, including a phased construction approach and a WWTF with groundwater discharge through open sand beds, is consistent with current state policy and guidance for maintaining basin health and minimizing impacts.

The Project will require a BRP WP 06 Groundwater Discharge Permit (Major) and a BRP WP 71 Sewer System Extension Permit issued by the Division of Water Pollution Control (DWPC) of the Department of Environmental Protection (DEP) in accordance with the requirements of the Massachusetts General Law Chapter 21 Section 43 and 314 CMR 5.00.

A Groundwater Discharge Permit (Major) is required to protect public health and the environment by controlling pollutant discharges to surface waters and ensuring that the water quality criteria and water use prescribed in the

no other development in the immediate area, impacts will be contained to the project site.

III. Mitigation Measures

ADM has determined that the River Run project will result in a net new load of approximately 1,242 pounds per year of nitrogen to the Agawam River. In order to offset this load in its entirety, ADM will eliminate the use of nitrogen-based fertilizers on 130 acres of existing cranberry bogs. In addition, ADM will reserve 52,000 GPD in excess treatment capacity at the WWTF and in the associated collection systems for existing properties outside of River Run for potential future connection. ADM will also create a fund up to \$500,000 to pay for septic system upgrades and sewer connections in the Agawam river sub-basin.

The Proponent has committed to using several water conservation measures, such as low-flow plumbing fixtures, as required by the plumbing code. The Proponent will incorporate Best Management Practices (BMPs) to address temporary construction impacts associated with the proposed wastewater system. The Proponent will incorporate proper site planning and facility design to avoid any potential impacts.

IV. Findings

For the reasons stated above, the DEP/DWPC hereby finds that, with construction of the on-site wastewater collection, treatment and recharge system described above all practicable means and measures will be taken to avoid or minimize adverse wastewater discharge impacts to the environment relating to the River Run project. The DEP/DWPC will include appropriate conditions in the above listed wastewater permits to ensure implementation of the Project measures described herein.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Commissioner



***Appendix B***

***WWTF Phase I –  
60% Design Documents***

(Note: Complete drawing set submitted separately. Cover sheet with drawing index enclosed herein for reference. Drawings D-2 & D-3, approved for construction, enclosed herein.)



**ADM Agawam Development LLC  
River Run WWTF**

**Design Memorandum  
60% Design Progress**

**Design Criteria and Process Selection**

***Design Criteria***

The WWTF is intended to treat sanitary wastewater from the proposed River Run development (the Project) and to discharge highly treated effluent to an on-site open sand bed disposal field. The Project will be developed over a 10 to 12 year timeframe, and total wastewater flows from the Project are estimated to be approximately 395,000 gallons per day (maximum daily flow) based upon Title 5 calculations.

The design of the WWTF is based on the following influent and effluent parameters:

	<u>Influent</u>	<u>Effluent</u>
BOD (mg/L)	250	≤10
TSS (mg/L)	250	≤10
TKN (mg/L)	50	---
Total Nitrogen	---	≤5
Oil & Grease	50	≤10
Turbidity (NTU)	NA	≤2
Fecal Coliform (CFU/100 ml)	NA	≤100

***Process Selection***

The selected process for the WWTF is a Membrane Biological Reactor (MBR) based on a Modified Ludzack Ettinger (MLE) process which includes an anoxic tank, aeration tank, solids removal via membrane separation, post-denitrification via sand filters and UV disinfection. This process was selected based on its performance advantages, its ability to reliably produce a very high quality effluent, and its inherent flexibility during construction and operations. The flexibility of the MBR design and the modular construction approach it affords was key factor in its selection, given the multi-year development of the Project and the desire to phase construction of the WWTF to meet the needs of the Project.

Membrane systems can be classified into two main groups, immersed and external systems. Both types of systems have proven track records and are viable options. The membrane system selected for use in the MBR process is an external membrane, known as a pressurized cross flow, low energy membrane separation system. This system offers the following benefits:



Once the flow to the WWTF exceeds approximately 80,000 gpd, it is anticipated that Phase II would be constructed. Phase II will entail constructing a 130,000 gallon above grade, stainless steel, covered tank to be utilized as an EQ tank. Three additional 60,000-gallon tanks would be constructed in the yard adjacent to the WWTF building for use as aeration and anoxic tanks. The polyethylene process tanks inside the building would be removed to make space for additional membrane skids. Phase II construction will be carried out with minimal interruption to the existing plant operations as the majority of work involved will be constructing new above ground tanks outside the WWTF building.

### **Process Description**

#### ***Primary Treatment***

Wastewater from the main pump station will enter the EQ tank via a force main. The EQ tank (for Phase I) will consist of a covered 60,000 gallon bolted stainless steel tank. For Phase II, the EQ tank will consist of a covered 130,000 gallon bolted stainless steel tank. An ultra-sonic level sensor will be installed to monitor the level of the tank and control the EQ transfer pumps. Two EQ transfer pumps will be installed (one per train) and an uninstalled spare unit will be supplied for Phase II. The EQ transfer pumps will be sized for the Phase II design flow and will have a capacity of 150 GPM each. The pumps will be progressive cavity type pumps and will be controlled by variable frequency drives (VFDs) to allow for automatic flow control. The EQ transfer pumps will be housed in the WWTF building allowing for easy maintenance access. The EQ transfer pumps will pump the sewage to the screening system at a rate set by the operator via the main control system. A level sensor in the screened sewage tank will prevent the EQ pumps from over-filling the tank. The screening system will remove non-soluble BOD and inorganic solids greater than 0.7 mm. The screen system will include conveyor/compactor and automatic bagging system to capture the solids. Screened sewage will then flow to a sump tank where it will be pumped to the process trains. The screened sewage pumps (one per train) are 5 HP submersible pumps controlled by VFD's. The pump flow rate will be based on the permeate flow for each train as set by the operator.

#### ***Secondary Treatment***

The treatment process is based on a Modified Ludzack Ettinger (MLE) process which includes an anoxic tank, aeration tank and solids removal via membrane separation. The wastewater will undergo BOD reduction as well as nitrification/de-nitrification as it progresses through the process. Each process train is identical in design and operation. The following is a brief description of operation. Refer to the attached P&ID drawing for reference.

#### ***Anoxic Stage***

Wastewater will be fed to the anoxic tank from the screen sump pump. The anoxic zone is required in order to achieve nitrogen removal. Nitrogen removal is accomplished in the anoxic zone by the conversion of nitrates to nitrogen gas (which purges to atmosphere). Although the anoxic zone is maintained with zero dissolved oxygen it does contain oxygen in the form of nitrates contained in the mixed liquor that is recycled from the membrane skid. The carbon source required for biological denitrification is provided by

Within the recirculation loop, mixed liquor (biomass) is pumped under pressure through the membrane bank by the recirculation pump. Permeate is pulled across the membrane barrier, and the concentrated biomass passes along the inside of the membrane tubes and is returned to the anoxic tank/tanks. Permeate pumps will be utilized to assist the withdrawal of permeate from the membrane modules. There will be one permeate pump for each bank of membrane modules. The permeate pump/pumps operation will be dependent on the level in the anoxic tank/tanks. The permeate pumps will operate at a constant speed. A modulating control valve will be installed on the discharge of each permeate pump in order to set the desired flow rate of the permeate system. This set point will govern the flow set points of the screened sewage transfer pumps also.

In order to maintain a high flux rate, each membrane bank will be backwashed based on permeate pump run time. The frequency and duration of backwash for each membrane bank can be set within certain parameters. Typical frequencies and durations range between 10-30 minutes frequency and 30-60 seconds duration. Backwash water will be supplied from a backwash tank that is replenished by the permeate pumps. The operation of the membrane system is completely automatic.

Periodically (every 4-6 weeks of operation) it will be necessary to clean the membrane modules to remove accumulated fouling. The membrane system includes a complete 'in-situ' cleaning system incorporating a cleaning solution make-up tank, a cleaning circulation pump and associated instruments and controls. One bank of membranes can be taken off-line for cleaning while the remaining membrane banks remain in operation. The cleaning process requires minimal operator effort such as changing the position of valves and turning the cleaning pumps on/off. Addition of chemicals into the cleaning tank will be accomplished with metering pumps.

### **Turbidity Monitoring**

Flow from the denite filters will pass through a turbidity meter prior to the backwash tank fill connection. The turbidity meter will monitor the clarity of the effluent.

### **Post Denitrification**

Permeate from the membrane system will be pumped to one of two denitrifying sand filters. One filter will be installed during Phase I and the second filter will be added in Phase II. The sand filters are continuous upflow filters and operate automatically. Each filter produces approximately 8 GPM of backwash while the filter is receiving permeate. Backwash water flows by gravity to the sump pump system where it is returned to the EQ tank. Carbon (in the form of Micro C or Methanol) will be added to the permeate prior to the sand filter. The carbon addition system consists of a chemical metering pump and ORP controller which will monitor the ORP of the filter effluent to determine the correct dosage of chemical.

### **Disinfection / pH Monitoring**

Permeate flow from the denite filters will be directed towards the final effluent tank and will pass through ultra-violet disinfection and pH monitoring prior to entering the final effluent tank.

# **ADM Agawam Development LLC**

## **River Run WWTF**

### **Process Calculations**

#### **Overview**

The following process calculations are for the ADM Agawam Development LLC River Run Wastewater Treatment Facility (WWTF). The process calculations are divided into two phases as the WWTF will be constructed in two phases. Phase I construction will include building a plant designed to treat 100,000 GPD of sanitary wastewater from the development and phase II will expand the WWTF capacity to 395,000 GPD. The WWTF in both phase I and phase II will be designed to achieve effluent total nitrogen (TN) levels at or below 5 mg/l.

The overall design incorporates a Membrane Biological Reactor (MBR) followed by denitrification filters. In phase I, the MBR process tanks have been sized in order to achieve TN levels below 7 mg/l. A denitrifying sand filter will reduce the TN from 7 mg/l to 5 mg/l by removing additional nitrates from the effluent. The denitrification filter in phase I is conservatively sized and will provide approximately 72 minutes of dry bed retention time at full design flow.

The phase II process calculations are shown for reference only. It is our understanding that the phase II design will be subject to review and approval by MADEP prior to phase II construction, and we anticipate the possibility of design and process modifications in phase II to reflect phase I operational data, technology changes and potential design criteria changes. The current phase II design approach includes MBR process tanks which are very conservatively sized. The dry bed detention time of the denitrification filters in the phase II design is less than that of phase I; however, given the MBR process tank sizing (specifically the anoxic tanks), the nitrate removal capabilities of the MBR process will be more robust and will most likely be able to provide lower nitrate levels to the denitrification filters as compared to the phase I design. Phase I operating data and WWTF performance will be evaluated and this information will be used to finalize the phase II design.

#### **Process Design Calculations Phase 1**

##### **I. Design Conditions – Influent**

Flow (Q)	100,000 GPD	
MLSS	12,000 to 14,000 mg/l	
BOD <sub>5</sub>	250 mg/l	(Equivalent to 208.5 lb/day)
TSS	250 mg/l	(Equivalent to 208.5 lb/day)
TKN	50 mg/l	(Equivalent to 41.7 lb/day)
Temp	10°C	

$$\begin{aligned}
&= 442 / (0.4) \left( \frac{((0.95 * 11.16 * 1.1) - 2.0) * 1.024^{(10-20)}}{(9.09 * 1.1)} \right) \\
&= 442 / 0.304 \\
&= 1,454 \text{ lb O}_2/\text{day}
\end{aligned}$$

Where:	Alpha	0.4
	Beta	0.95
	Theta	1.024
	Temp (T <sub>w</sub> )	10 deg. C
	Elevation	300 ft.MSL
	C <sub>20</sub>	9.09
	C <sub>walt</sub>	11.16
	D <sub>c</sub>	1.10
	C <sub>1</sub> residual D.O.	2.0

Oxygen transfer efficiency (OTE) for fine bubble diffuser – 20%

Process Air Required (SCFM)

$$= (1,454 \text{ O}_2/\text{day}) / (0.20 * 0.0176 \text{ lb O}_2/\text{ft}^3 * 1,440 \text{ min/day})$$

≅ **286 SCFM**

Three (3) 30HP air blowers each capable of providing 440 SCFM will be provided (one per train and one standby) to maintain a 2.0 mg/l D.O. residual. The blowers are sized for the phase 2 design flow requirements. The blowers will be controlled with VFD's on a D.O. control loop; therefore the operating HP for each blower at design flow for phase 1 will be approximately 10 HP.

### **Alkalinity Addition**

Alkalinity addition is recommended to maintain the pH in the range required for nitrification. Nitrification will consume 7.14 mg alkalinity per mg TKN nitrified. If no denitrification occurs in the anoxic zone no alkalinity will be recovered. This is shown in the first calculation below. Under complete denitrification conditions half of the alkalinity consumed in the aeration zones during nitrification is regained. This is shown in the second calculation. These two calculations provide the range of typical chemical addition required at the treatment plant.

Nitrification alkaline lost:

$$(50 \text{ mg TKN influent} - 0 \text{ mg TKN remaining}) \times 7.14 \text{ mg alkalinity} = 357 \text{ mg/l alkalinity.}$$

### **Micro-C (Carbon) Addition**

Micro-C is added into the anoxic tank as additional carbon source for the Denitrification process. The feed rate will be governed by the nitrate and oxygen concentration in the tank. The following equation from Metcalf and Eddy is utilized to calculate the amount of additional carbon to be added to the anoxic tank to promote the denitrification process. This formula is based on utilizing methanol for the carbon source. An adjustment for Micro C is provided. The anticipated permit limit would allow effluent nitrate not to exceed 5 mg/l; however, the calculations assume complete denitrification is required.

$$C_m = 2.47N_o + 1.53N_1 + 0.87D_o$$

Where:

$C_m$  = required methanol concentration, mg/l

$N_o$  = initial nitrate nitrogen concentration, mg/l

$N_1$  = initial nitrite nitrogen concentration, mg/l

$D_o$  = initial dissolved oxygen concentration, mg/l

$$C_m = 2.47(45 \text{ mg/l}) + 1.53 (0\text{mg/l}) + 0.87(2 \text{ mg/l}) = 113 \text{ mg/l}$$

$$\text{Methanol lb/day} = 113 \text{ mg/l} \times .1 \text{ MGD} \times 8.34 = 94 \text{ lb/day}$$

$$\text{GPD} = 94 \text{ lb/day} / 6.6 \text{ gal/lb} = 14 \text{ GPD methanol}$$

Micro C will be utilized as the additional carbon source. Per field studies the quantity of Micro C required is 1.5 times the amount of methanol.

$$\text{Micro C GPD} = 14 \text{ GPD Methanol} \times 1.5 = \mathbf{21 \text{ GPD}}$$

Note:

The above calculations are based on no BOD being available from the influent wastewater into the system which is extremely conservative. A realistic assumption would cut the value shown above by up to 60-70%.

An ORP controller will be provided for automatic addition of sucrose to ensure the adequacy of carbon source for the anoxic reaction.

### **Sludge Wasting Estimation (For Estimating Purposes Only)**

Sludge production is difficult to estimate as there are many unknown factors such as the amount of TSS that will actually be removed by the screening system and how much of this TSS will be biodegradable and non biodegradable. The observed yield is also difficult to estimate as the SRT of the system is not a constant value since sludge will not be wasted on a daily basis rather it will be withdrawn in bulk fashion as the system reaches a maximum operating level (estimated to be

At an accumulation rate of 148 lb solids/day, wasting will be required approximately every 4-5 days:  $(700 \text{ lb} / 148 \text{ lb/day}) \text{ days} = 4.7 \text{ days}$

### **Bioreactor Tank Sizing**

At the design F/M's of 0.12 lb BOD/lb MLVSS, 0.13 lb NH<sub>3</sub>/lb MLVSS, and 0.05 lb NO<sub>3</sub>/lb MLVSS, the volume of the various zones can be determined. Because removal of oxygen is critical to the operation of the anoxic zone this must be considered. The F/M ratio for oxygen removal is considered to be the same as for BOD removal under aerobic conditions.

$$178 \text{ lb BOD} / 0.12 \text{ lb BOD/lb MLVSS} = 1,483 \text{ lb MLVSS}$$

$$38 \text{ lb NH}_3\text{-N} / 0.13 \text{ lb NH}_3\text{-N/lb MLVSS} = 292 \text{ lb MLVSS}$$

$$38 \text{ lb NO}_3\text{-N} / 0.05 \text{ lb NO}_3\text{-N/lb MLVSS} = 760 \text{ lb MLVSS}$$

#### **Aeration Tank Sizing:**

The minimum volume of aeration is based on lb of MLVSS required for BOD removal and nitrification at the design MLVSS concentration of 10,000 mg/l.

$$(1,483 \text{ lb MLVSS}) / (10,000 \text{ mg/l} \times 8.34) = 0.018 \text{ MG or } 18,000 \text{ gal}$$

The system will provide the following total aeration capacity of two- 10,500 gallon tanks:

**Aeration – 21,000 gallons**

#### **Anoxic Tank Sizing:**

The anoxic zone volume is based on the MLVSS needed to remove dissolved oxygen and nitrate.

The mass of oxygen in the recycle stream can be calculated after first determining the recycle rate, given that the recycle will contain a maximum of 3.0 mg/l DO.

$$\text{Recycle rate} = \frac{(50 \text{ mg/l TKN} - (213 \text{ mg/l BOD} \times 0.02_{\text{synthesis rate}}) - 6 \text{ mg/l Nitrate}_{\text{eff}})}{6 \text{ mg/l NO}_3} = 7$$

A recycle rate of 7 times is the minimum rate that will reduce the effluent nitrate to less than 6 mg/l from the MBR. A recycle rate of up to 15 times the influent flow is included in the design as this is the required membrane cross flow rate being returned to the anoxic tanks.

A recycle rate of 15 times is used in the following calculations.

$$(3 \text{ mg/l DO}) (0.1 \text{ MGD})(15)(8.34) = 37.5 \text{ lb DO}$$



Filter Bed Depth – 80" (6.66')

Bed Volume – 753.2 ft<sup>3</sup>

Dry Bed Detention Time. – **72.8 minutes**

Maximum air volume required – 5 scfm @ 40 psig per filter

**Influent to Filter**

TSS	<5mg/l
BOD	<5 mg/l
Nitrate	<6 mg/l
Ammonia	<1 mg/l
Organic Nitrogen	< 2 mg/l

Methanol Required – 13.8 lbs/day

$$C_m = 2.47(6 \text{ mg/l}) + 1.53 (0\text{mg/l}) + 0.87(2 \text{ mg/l}) = 16.6 \text{ mg/l}$$

$$\text{Methanol lb/day} = 16.6 \text{ mg/l} \times .1 \text{ MGD} \times 8.34 = 13.8 \text{ lb/day}$$

$$\text{GPD} = 13.8 \text{ lb/day} / 6.6 \text{ gal/lb} = 2.1 \text{ GPD methanol}$$

**Effluent from Filter**

TSS	<5mg/l
BOD	<5 mg/l
Nitrate	<1 mg/l
Ammonia	<1 mg/l
Organic Nitrogen	< 2 mg/l

Influent Nitrogen to be oxidized =  $50 - (250 \times 0.02) = 45 \text{ mg/l or } 148 \text{ lb/day}$

The oxygen required to treat a wastewater having 702 lb/day BOD and 148 lb/day  $\text{NH}_3$  is calculated based on 1.5 lbs oxygen per lb BOD and 4.6 lbs oxygen per lb TKN.

$$\begin{aligned}\text{Actual Oxygen Rate (AOR)} &= (1.5 \text{ lb O}_2/\text{lb BOD/day}) + (4.6 \text{ lb O}_2/\text{NH}_3\text{-N lb/day}) \\ &= [(1.5)(702) + (4.6)(148)] \text{ lb/day O}_2 \\ &= (1053 + 681) \text{ lb/day O}_2 \\ &= 1734 \text{ lb/day O}_2\end{aligned}$$

$$\begin{aligned}\text{Standard Oxygen Rate (SOR)} &= \text{AOR}/(\text{Alpha}) \frac{((\text{Beta} * C_{\text{walt}} * D_c) - C_l) * \text{Theta}^{(T_w-20)}}{(C_{20} * D_c)} \\ &= 1734/(0.4) \frac{((0.95 * 11.16 * 1.15) - 2.0) * 1.024^{(10-20)}}{(9.09 * 1.15)} \\ &= 1734/0.307 \\ &= 5,648 \text{ lb O}_2/\text{day}\end{aligned}$$

Where:	Alpha	0.4
	Beta	0.95
	Theta	1.024
	Temp ( $T_w$ )	10 deg. C
	Elevation	300 ft.MSL
	C20	9.09
	Cwalt	11.16
	Dc	1.15
	C <sub>l</sub> residual D.O.	2.0

Oxygen transfer efficiency (OTE) for fine bubble diffuser - 28.0%

Process Air Required (SCFM)

$$= (5,648 \text{ lb O}_2/\text{day}) / (0.28 * 0.0176 \text{ lb O}_2/\text{ft}^3 * 1,440 \text{ min/day})$$

$\cong 795 \text{ SCFM}$

Three (3) 30HP air blowers each capable of providing 440 SCFM will be provided (one per train and one standby) to maintain a 2.0 mg/l D.O. residual.

**Note, blower sizing includes a 10% SF.**

### **With Denitrification**

$$118 \text{ mg/l alkalinity} \times \frac{1 \text{ mg/l NaOH}}{1.25 \text{ mg/l alkalinity}} = 94.4 \text{ mg/l NaOH}$$

At 395,000 gpd and an alkalinity addition rate of 238 mg/L, less than 25.0 GPD of a 50 percent sodium hydroxide solution (S.G. 1.53 or 12.76 lb/gal) is needed.

$$50\% \text{ NaOH (lb/day): } [(94.4/1,000,000) \times 395,000 \times 8.34] = 311 \text{ lb/day}$$

$$50\% \text{ NaOH (gal/day): } (311/12.76) = \mathbf{24.4 \text{ gal/day}}$$

A pH controller will be provided for automatic addition and prevent overfeeding of sodium hydroxide. Based on past experience with the existing plant, this calculation is extremely conservative. Therefore, the pH system will be adequately sized to handle the design flow rate.

### **Micro-C (Carbon) Addition**

Micro-C is added into the anoxic tank as additional carbon source for the Denitrification process. The feed rate will be governed by the nitrate and oxygen concentration in the tank. The following equation from Metcalf and Eddy is utilized to calculate the amount of additional carbon to be added to the anoxic tank to promote the denitrification process. This formula is based on utilizing methanol for the carbon source.

$$C_m = 2.47N_o + 1.53N_1 + 0.87D_o$$

Where:

$C_m$  = required methanol concentration, mg/l

$N_o$  = initial nitrate nitrogen concentration, mg/l

$N_1$  = initial nitrite nitrogen concentration, mg/l

$D_o$  = initial dissolved oxygen concentration, mg/l

$$C_m = 2.47(45 \text{ mg/l}) + 1.53 (0\text{mg/l}) + 0.87(2 \text{ mg/l}) = 113 \text{ mg/l}$$

$$\text{Methanol lb/day} = 113 \text{ mg/l} \times .395 \text{ MGD} \times 8.34 = \mathbf{369 \text{ lbs/day}}$$

$$\text{GPD} = 369 \text{ lb/day} / 6.6 \text{ gal/lb} = 60 \text{ GPD methanol}$$

Micro C will be utilized as the additional carbon source. Per field studies the quantity of Micro C required is 1.5 times the amount of methanol.

$$\text{Micro C GPD} = 60 \text{ GPD Methanol} \times 1.5 = \mathbf{90 \text{ GPD}}$$

$$I_s = 1,495 (150\text{mg/l} - 75\text{mg/l})(1 \text{ kg} / 10^3 \text{ g}) = 112 \text{ kg/d} = \mathbf{246 \text{ lb/d}}$$

$$\mathbf{\text{Total Solids per Day} = 342 + 246 = 588 \text{ lb/d}}$$

Based on 12,000 mg/l -14,000 mg/l operating range, 2,000 mg/l of solids can be accumulated between waste cycles. This means that a total of 4003 pounds of dry solids can be accumulated, based on a total process tank volume of 240,000 gallon, which includes the anoxic tank (120,000 gal) and aeration tanks (120,000 gal)

$$\text{Solid holding capacity: } [(2,000/1,000,000) \times 240,000 \times 8.34] \text{ lb solids} = 4003 \text{ lb solids}$$

At an accumulation rate of 588 lb of solids per day, wasting will be required approximately every 7 days:  $(4003 \text{ lb}/588 \text{ lb/day}) \text{ days} = 6.8 \text{ days}$

### **Bioreactor Tank Sizing**

At the design F/M's of 0.12 lb BOD/lb MLVSS, 0.13 lb NH<sub>3</sub>/lb MLVSS, and 0.05 lb NO<sub>3</sub>/lb MLVSS, the volume of the various zones can be determined. Because removal of oxygen is critical to the operation of the anoxic zone this must be considered. The F/M ratio for oxygen removal is considered to be the same as for BOD removal under aerobic conditions.

$$702 \text{ lb BOD}/0.12 \text{ lb BOD/lb MLVSS} = 6,430 \text{ lb MLVSS}$$

$$148 \text{ lb NH}_3\text{-N}/0.13 \text{ lb NH}_3\text{-N/lb MLVSS} = 1138 \text{ lb MLVSS}$$

$$148 \text{ lb NO}_3\text{-N}/0.05 \text{ lb NO}_3\text{-N/lb MLVSS} = 2,960 \text{ lb MLVSS}$$

### **Aeration Tank Sizing:**

The minimum volume of aeration is based on lb of MLVSS required for BOD removal and nitrification at the design MLVSS concentration of 10,000 mg/l.

$$(6,430 \text{ lb MLVSS})/(10,000 \text{ mg/l} \times 8.34) = 0.077109 \text{ MG or } \mathbf{77,100 \text{ gal}}$$

The system will provide the following total aeration capacity:

**Aeration – 120,000 gallons**

### **Anoxic Tank Sizing:**

The anoxic zone volume is based on the MLVSS needed to remove dissolved oxygen and nitrate.

The mass of oxygen in the recycle stream can be calculated after first determining the recycle rate, given that the recycle will contain a maximum of 3.0 mg/l DO.

Six banks of membranes modules (three per train) will be installed. Two of the banks (from phase I) will contain 6 membrane modules each and the 4 additional banks being installed in phase II will contain 7 membrane modules each for a total of 40 modules.

**Denitrification Filter Sizing – Two - 12 ft dia x 21 ft high (80" bed depth)**

Flow – 395,000 GPD

Reject – 23,040 GPD

Total - 418,040GPD (290 GPM)

Filter Diameter – 12' each

Filter Area – 226 ft<sup>2</sup> (total)

Design flow loading rate -290 GPM/226 ft<sup>2</sup> = 1.28 GPM/ ft<sup>2</sup>

Filter Bed Depth – 80"

Filter Bed Volume – 1,506.4 ft<sup>3</sup>

Dry Bed Detention Time – **38.9 minutes**

Maximum air volume required – 5 scfm @ 40 psig per filter

**Influent to Filters**

TSS	<5mg/l
BOD	<5 mg/l
Nitrate	<6 mg/l
Ammonia	<1 mg/l
Organic Nitrogen	< 0 mg/l

$$C_m = 2.47(6 \text{ mg/l}) + 1.53 (0\text{mg/l}) + 0.87(2 \text{ mg/l}) = 16.6 \text{ mg/l}$$

$$\text{Methanol lb/day} = 16.6 \text{ mg/l} \times .395 \text{ MGD} \times 8.34 = 54.7 \text{ lb/day}$$

$$\text{GPD} = 54.7 \text{ lb/day} / 6.6 \text{ gal/lb} = 8.3 \text{ GPD methanol}$$

**Effluent from Filter**

TSS	<5mg/l
BOD	<5 mg/l
Nitrate	<1 mg/l
Ammonia	<1 mg/l
Organic Nitrogen	< 2 mg/l





**Table 1**  
**Factors Used In Nitrogen Impact Analysis**  
**River Run Development, Plymouth, MA**

<b>Nitrogen Source Concentrations</b>		mg/L
Road Runoff		1.5
Roof Runoff		0.75
Natural Area Recharge		0.072
Title 5 Discharge Coefficient		23.63
Direct Precipitation on Embayments and Ponds		1.09

<b>Nitrogen Loads</b>		
Lawn Fertilizer (lbs/ac/yr)		9.41
Gross Cranberry Bog Load (lbs/ac/yr)		31
Cranberry Bog attenuation factor		0.34
Net Cranberry Bog Load (lbs/ac/yr)		20.46

<b>Recharge Rate</b>		in/yr
Impervious Surfaces		40
Natural and Lawn Areas		27.25

<b>Water Use</b>		
Residential Developed Parcels (gpd)		212
Commercial (gpd/1000 sq. ft)		98
Industrial (gpd/1000 sq. ft)		16

<b>WWTF Nitrogen Load</b>		lbs/yr
at 5 mg/L & 245,480 gpd		3736

<b>Buildout Flow</b>		gpd
Residential		227,900
Assisted Living		7,500
YMCA		4,200
Commercial		5,880
WWTF Avg.		
Daily Flow		245,480

Prepared by: KAM  
 Checked by: BAM, HO  
 Date: 3/12/09



*Appendix D*

*Revised Engineer's Certification Statement*



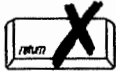
Massachusetts Department of Environmental Protection  
Bureau of Resource Protection – Groundwater Discharge Permits

# Certification Statement

For Forms BRP WP05, 06, 08, 10, 11, 12, 42

## A. Engineer Information

**Important:**  
When filling out  
forms on the  
computer, use  
only the tab key  
to move your  
cursor - do not  
use the return  
key.



Michael J. Scipione

Engineer Name

Weston & Sampson Engineers, Inc.

Company

5 Centennial Drive

Street Address

Peabody

City

MA

State

01960

Zip Code

## B. Certification

I, Michael J. Scipione  
Name

attest under the pains and penalties of perjury:

- (i) that I am a registered professional engineer in the State of Massachusetts and am employed by

Weston & Sampson Engineers, Inc.

Name of Company/Firm

- (ii) that the plans and specifications for

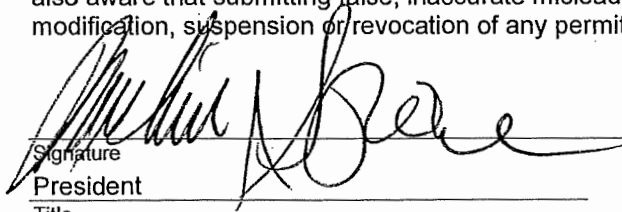
River Run Wastewater Treatment Facility, Plymouth, MA

Name of Facility

have been prepared in accordance with modern sanitary engineering practice and all applicable federal, state, and local laws, regulations, and standards, except where otherwise approved by the Department, including, but not limited to the current editions of TR-16 (Guides For The Design Of Wastewater Treatment Works), and the Massachusetts State Building Code; and

- (iii) that the facility, as designed, is capable of meeting the required effluent standards described in the Engineering Report included as part of this permit application.

I am aware that there are significant penalties including, but not limited to possible fines and imprisonment for willfully submitting false, inaccurate, misleading or incomplete information. I am also aware that submitting false, inaccurate misleading or incomplete information could lead to modification, suspension or revocation of any permit granted pursuant to this application.

  
Signature  
President  
Title

Date

4/16/09



*Appendix E*

*Revised Nitrogen Impact Analysis*



Explanation of Nitrogen Impact Analysis Tables  
GWDP Addendum #1  
River Run Development, Plymouth, Massachusetts

An analysis of the potential nitrogen impacts from the River Run project was presented in the Application for the Project. Based on input from DEP technical staff, a revised analysis has been completed using a spreadsheet model initially developed by DEP and revised by mutual agreement. The spreadsheet model identifies the various sources of nitrogen loads within the watershed under existing and proposed conditions. The model also assigns unit concentration values to the various source loads to allow calculation of annual nitrogen loads based on the current or proposed conditions.

The nitrogen impact analysis for the Project is performed to determine the net nitrogen impact of the Project on the lower Agawam River basin. In order to determine the impacts to this location, the model incorporates various attenuation factors to reflect the fate and transport of nitrogen from the source to the area of concern.

The following tables comprise the spreadsheet model used in the nitrogen impact analysis for the Project. The baseline assumptions, nitrogen load input parameters and attenuation calculations provided are based on several months of discussions, meetings and development of this spreadsheet model approach with DEP staff. The following discussion provides an explanation of the underlying assumptions and methods associated with each table.

**Table 1: Factors Used in Nitrogen Impact Analysis**

Table 1 provides nitrogen loading input values for the various land use patterns and sources of nitrogen within the Project area. The values are based on discussions held with DEP and are consistent with the Massachusetts Estuaries Program (MEP) evaluations currently being undertaken in southeastern MA. These input values are represented as unit concentrations or unit annual loads for the various sources of nitrogen. They are used in subsequent calculations to determine total annual nitrogen loads (lbs/year) for each source.

**Table 2: Nitrogen Loading Calculations for Existing Conditions**

Table 2 provides the calculated values for annual nitrogen loads from each source under existing conditions. Nitrogen loads are calculated for undeveloped natural areas and agricultural areas (cranberry bogs). Nitrogen loads for existing Title 5 systems, roof runoff, road runoff and lawn fertilization are set to zero in this table as there are no existing residential units. The sum of the nitrogen inputs for each basin are shown in the far right hand column. In the Agawam River basin, the total unattenuated nitrogen load is 2,496 lbs/yr. In the White Island Pond Area (Red Brook Sub basin) the unattenuated nitrogen load is 1,139 lbs/yr.

**Table 3: Nitrogen Loading Calculations for the Full Buildout**

Table 3 provides the calculated values for annual nitrogen loads from each source under the proposed development conditions at full build-out of the Project. In the Agawam

**Table 2**  
**Nitrogen Loading Calculations for Existing Conditions**  
**River Run Development, Plymouth, MA**

Agawam Reservoir North, Agawam Reservoir South, Glen Charlie Pond Watersheds

Natural Load				Impervious Load				Title 5 Systems				Total Load
				Road Runoff		Roof Runoff						
Area (sq. ft.)	Load (lb/yr)	Area (Acres)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Residences	Load (lb/yr)	Area	Load (lb/yr)	
56,950,344	581	94	1,915	0	0	0	0	0	0	0	0	2,496

White Island Pond Watershed											
Natural Load				Impervious Load		Title 5 Systems				Total Load	
				Road Runoff		Roof Runoff					
Area (sq. ft.)	Load (lb/yr)	Area (Acres)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Residences	Load (lb/yr)	Area	Load (lb/yr)
23,435,280	239	44	900	0	0	0	0	0	0	0	0
											1,139

Prepared by: KAM  
 Checked by: BAM, HO  
 Date: 3/12/09

Weston & Sampson

**Table 3**  
**Nitrogen Loading Calculations for Full Buildout**  
**River Run Development, Plymouth, MA**

*Boys Basin*

*Low Fertilizer*

**Agawam Reservoir North, Agawam Reservoir South, Glen Charlie Pond Watersheds**

Natural Land				Impervious Load		Title 5 Systems				Total Load	
				Road Runoff	Roof Runoff						
Area (sq. ft.)	Load (lb/yr)	Area (Acres)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Residences	Load (lb/yr)	Area (ac)	Load (lb/yr)
56,758,680	579	69	1,412	639,810	200	611,900	95	0	0	90	847
											3,133

*303*

**White Island Pond Watershed**

Natural Land				Impervious Load		Title 5 Systems					
				Road Runoff	Roof Runoff						
Area (sq. ft.)	Load (lb/yr)	Area (Acres)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Area (sq. ft.)	Load (lb/yr)	Residences	Load (lb/yr)	Area (ac)	Load (lb/yr)
21,692,880	221	0	0	2,475,460	772	1,166,500	182	0	0	181	1,703
											2,792

*448*

*(448)*

*90*

Prepared by: KAM  
 Checked by: BAM, HO  
 Date: 3/12/09

3736 → 32.87

Table 4  
Summary of Nitrogen Impacts  
Agawam River Basin  
River Run Development, Plymouth, MA

Boggy Boggy

Net Surface

	Wareham River System N Loads by Input (lbs/y):									% of Pond Outflow	Present N Loads			Buildout N Loads			
Name	Title 5 Systems (exist.)	WWTF (buildout)			Fertilizers (existing)	Fertilizers (buildout)	Impervious Surfaces (existing)	Impervious Surfaces (buildout)			UnAtten N Load	Atten %	Atten N Load	UnAtten N Load	Atten %	Atten N Load	
Wareham River	0	3506	2815	1412	0	128	0	1249	820	800	2504		1138	5103		2380	
Agawam Reservoir North, Agawam Reservoir South, Glen Charlie Pond Watersheds	0	3058	1915	1412	0	42	0	295	581	579	82	3054	50	1388	6223	50	2982
White Island Pond Watershed	0	448	900	0	0	85	0	954	239	221	49	1139	50	570	1709	50	854

**Assumptions for Loading Analysis:**

WWTF Average Daily Flows 245,480 gpd  
 WWTF Discharge Concentration 5 mg/l  
 Discharge split in groundwater 88%-AG / 12%-RB  
 Flow from WIP to GCP TRUE  
 GCP Split 82%-AG/18%-RB  
 WIP Split 49%-AG/51%-RB  
 Upper Agawam Attenuation 7%  
 Natural Area Loading Rate 0.072 mg/L & 27.25 lb/yr  
 Agricultural Loading Rate 20.48 lbs/ac/yr  
 Roof Loading Rate 0.00045 lb/st/yr  
 Lawn Loading Rate 5% of 9.41 lbs/ac/yr  
 Existing Title 5 Systems 0

Net Impact (Buildout - Existing) 2380-1138	1242 lbs/yr
Equivalent bog acreage (@ 20.46 lbs/ac/yr)	61 Acres
Equivalent residential load (@ 12 lbs/home/yr)	252 Title 5 systems
Equivalent capacity required at WWTF	53,520 gpd

whyd for

MEP

800

12th Aug  
Hornet Spangy  
Cahilly

Prepared by:  
Checked by:  
Date:

KAM  
BAM, HO  
3/12/09



*Appendix F*

*Proposed Lawn Fertilization Restrictions*

## TECHNICAL MEMORANDUM

**TO:** MA DEP – Southeast Region  
**FROM:** Blake A. Martin  
**DATE:** March 2009  
**SUBJECT:** Compliance with Water Use Restrictions

---

Compliance with municipal water use restrictions would be analogous to compliance with fertilization restrictions. Accordingly, the Groundwater Discharge Permit Application Addendum uses documented rates of compliance for water use restrictions as a proxy for the expected rate of compliance with the River Run lawn fertilization restrictions.

This memo estimates the rate of compliance with municipal lawn watering bans. Weston & Sampson conducted an informal survey of several municipal water systems. The survey included municipalities in southeastern Massachusetts and Cape Cod, as well as several other municipalities in the state. Several respondents requested confidentiality as the survey and data analysis was informal and/or records for documentation are not formally developed. In fact, it is apparent from our discussions with water suppliers that detailed data on the percentage of people that comply with water use restrictions is not kept by most municipal water purveyors. Nonetheless, several important similarities were revealed based on the survey conducted.

- Most municipalities have developed bylaws which provide the Water Department or the Department of Public Works the ability to fine a residential customer should they fail to comply.
- The municipalities generally do not police their customers but instead rely on neighbors calling in with complaints.
- Repeat offenses are rare.
- Even a small monetary fine structure is an effective deterrent.
- Well publicized restrictions, education, and a well understood regulation/bylaw or rules are important factors in obtaining compliance.
- Over time, there is generally a broad acceptance to rules or restrictions which manifests as declining violations as the program matures.





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- Initial compliance was “poor”; almost 200 calls in a summer. Five years later, less than 5 calls per month for a 9,000-9,500 customer system.
- Public education program
- Never had to fine anyone more than twice
- Fine structure is low (\$10, \$20, etc.)

6. Southeastern Massachusetts, Municipality (confidential)

- Ban generally consists of 90 minute maximum lawn watering
- Neighbors are the primary method of policing
- Estimates 5 calls per week with a 12,500 customer system
- Well understood program; sewer rates also deter non-essential or outdoor use

Conclusions

In communities with clear guidelines and restrictions for water use, along with regularly updated education efforts, non-compliance values under 5% were typical. “Peer pressure” is an effective deterrent and a viable and effective way of policing water use restrictions. A structure for the imposition of fines, even with minimal monetary penalties, is a significant deterrent and minimizes repeat offenses. Compliance levels increase over time as the water use restriction programs are continued. Initial compliance levels are estimated to be above 95% (5% non-compliance) and are estimated to increase to 98-99% (1-2% non-compliance) with a mature water use restriction program.

---

**MASTER**  
**DECLARATION OF COVENANTS, CONDITIONS, AND**  
**RESTRICTIONS**

**FOR**  
**RIVER RUN**  
**PLYMOUTH, MASSACHUSETTS**

**DATE:** \_\_\_\_\_, 20\_\_

---

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"A"	Property Description	1.1
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"C"	By-Laws of River Run Landowner's Association, Inc.	2.39
"D"	Initial Permits	2.25
"E"	Calculation of Assessments	2.27
"F"	Concept Plan	2.38
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also is intended to preserve the rich agricultural history of the Plymouth area by supporting and cooperating with the continued use of surrounding land for cranberry cultivation.

River Run is shown on and described in the Master Concept Plan Special Permit for a Traditional Rural Village Development granted by the Plymouth Planning Board dated May 13, 2008, recorded in the Registry in Book 36034, Page 13-47 (as the same may be amended from time to time, the "Special Permit").

#### Section 1.3 Binding Effect; Enforcement.

All property described in Exhibit "A" shall be owned, conveyed and used subject to the provisions of this Declaration, which shall run with title to such property. Declarant and the Association (as defined herein) shall have the right to enforce this Declaration by proceeding at law or in equity.

#### Section 1.4 Term.

The easements and rights granted in this Declaration shall be perpetual. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

The restrictions established in this Declaration applicable to the Property (the "Property Restrictions") shall be perpetual to the extent enforceable under applicable law. To the extent that perpetual restrictions may not be enforceable under applicable law, the Property Restrictions are imposed for a period of ninety (90) years and it is intended that the enforceability of the Property Restrictions be extended beyond thirty (30) years from the date of recording of this Declaration in the Registry. As provided under Massachusetts General Laws, Chapter 184, Section 27, as amended, the term of the Property Restrictions may be extended, for additional periods not exceeding twenty (20) years each, by the recording in the Registry before the expiration of thirty (30) years and before the expiration of any subsequent twenty (20) year extension period, as applicable, of an instrument of extension executed by the then Owners of fifty percent (50%) or more of the Property. By becoming an Owner in River Run, each Owner consents to the recording of any and all instruments of extension and grants to the Board a power of attorney to execute and record any and all such instruments of extension at the appropriate time on its behalf.

#### Section 1.5 Governing Documents; Conflicts between Documents; Severability.

The River Run Governing Documents create a general plan of development for River Run which may be supplemented by additional covenants, restrictions, and easements applicable to particular Use Areas and Neighborhoods within River Run. In the event of a conflict between or among River Run's Governing Documents and any such additional covenants or restrictions, and/or the provisions of any other governing documents or policies governing any Use Area or Neighborhood, the River Run Governing Documents shall control.

Nothing in this Section shall preclude the recording of a Supplemental Declaration or other instrument applicable to any portion of River Run containing additional restrictions or more restrictive provisions and, in such case, the more restrictive shall control. The Association

the Association or the Neighborhood Association or providing other benefits and services to Parcels within the Neighborhood which are not provided to all Parcels within River Run, (iii) establishing covenants, easements and/or restrictions, including design restrictions, which are not applicable to all Parcels within River Run, or (iv) electing a Voting Member for each Voting Group within the Neighborhood as provided in Section 6.5(b). A Neighborhood may be comprised of more than one (1) Unit type or type of Use Area, and may include noncontiguous parcels of property.

Neighborhood boundaries may be established and modified and new Neighborhoods may be established by recording a Supplemental Declaration as provided in Section 6.5.

If the Association or a Neighborhood Association provides benefits or services to less than all Units within a particular Neighborhood, then the benefited Units shall constitute a Sub-Neighborhood for purposes of determining and levying Neighborhood Assessments for such benefits or services.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Association.

Section 2.20 "Neighborhood Assessments". Assessments levied against the Parcels in a particular Neighborhood to fund Neighborhood Expenses, as described in Section 8.3.

Section 2.21 "Neighborhood Association". The neighborhood governance committee established in accordance with the Supplemental Declaration for such Neighborhood. A Neighborhood Association may be a condominium association or non-profit corporation having jurisdiction over any Neighborhood concurrent with (but subject to) the jurisdiction of the Association.

Section 2.22 "Neighborhood Expenses". The actual and estimated expenses which a Neighborhood Association incurs or expects to incur for the benefit of Owners of Parcels within a particular Neighborhood(s), as may be authorized pursuant to the Supplemental Declaration(s) applicable to such Neighborhood(s).

Section 2.23 "Owner". One or more Persons who hold the record title to any Parcel, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

Section 2.24 "Parcel(s)". A term referring to the land underlying the Unit(s), individually or collectively, as the context appropriately would admit or require.

Section 2.25 "Permits". The initial governmental permits and approvals identified in Exhibit "D", as they may be supplemented, modified, extended and repealed, and other requirements of applicable federal, state, county or municipal laws, regulations, or approvals of any governmental entity, including, but not limited to, the Special Permit, a Special Permit for Inclusionary Housing granted by the Plymouth Planning Board pursuant to Section 205-71 of the Zoning Bylaw simultaneously with the grant of the Special Permit (the "Inclusionary Housing Special Permit"); the Ground Water Discharge Permit # \_\_\_\_\_, issued by the Commonwealth of Massachusetts, Department of Environmental Protection (including any and

Section 2.33 "Special Assessment". Assessments levied in accordance with Section 8.5.

Section 2.34 "Special Permit". The Master Concept Special Permit for a Traditional Rural Village Development granted by the Plymouth Planning Board dated May 13, 2008, recorded in the Registry at Book 36034, Page 13-47, as may be amended.

Section 2.35 "Specific Assessment". Assessments levied in accordance with Section 8.6.

Section 2.36 "Supplemental Declaration". An instrument executed and recorded pursuant to Section 6.5, which accomplishes one or more of the following purposes: (i) designates a Neighborhood and designates Limited Common Area, Limited Access Common Open Space or Facilities or Restricted Access Common Open Space or Facilities assigned to such Neighborhood, (ii) imposes, expressly or by reference, additional restrictions and obligations and/or creates additional easements on the land described in such instrument; and/or (iii) provides for a Neighborhood to receive other benefits or services from the Association or the Neighborhood Association and/or provides other benefits and services to Parcels within the Neighborhood which are not provided to all Parcels within River Run.

Section 2.37 "Unit". A portion of River Run, whether undeveloped or developed, which may be independently owned and is intended for development, use, and occupancy. The term "Unit" shall refer to the land, if any, which is part of the Unit as well as any improvements thereon, as the context appropriately would admit or require.

Each Unit shall be classified as one of the following Unit types based on its primary usage.

(1) "Residential Unit(s)" which may consist of single family home(s), attached or town house style home(s) and condominium unit(s), or undeveloped Parcels intended for such development. Each Residential Unit permitted under a Use Area Plan or, if a lesser number, under the Deed to the Owner, to be developed on a Parcel shall constitute one Residential Unit.

An undeveloped Parcel shall be deemed to contain the number of Units designated by the applicable Use Area Plan for development of Residential Units on such Parcel, until such time as a subdivision plan (or an "Approval Not Required" or ANR plan) is recorded on all or a portion of the Parcel. Thereafter, the portion encompassed by such plan shall contain the number of Units determined as set forth thereon. The total number of Residential Units for River Run shall not exceed the number of Residential Units permitted under the Special Permit.

In the case the Owner of two or more Parcels builds only one (1) principal residential structure thereon, such Parcels shall be considered as a single Residential Unit.

(2) "Commercial Unit(s)" which may include sub-types consisting of uses such as retail uses, and other commercial uses permitted in the Village Mixed Use Area under the Master Plan, or undeveloped Parcels intended for such development. A multi-family residential building which is owned by a single Owner shall be classified as a Commercial Unit (a



Declarant Control Period, and, thereafter, directly by the Owner Members. The term "Voting Member" shall also refer to alternate Voting Members acting in the absence of Voting Members.

Section 2.43 "Water Conservation Plan". The water conservation restriction contained in the Water Management Act Permit issued by DEP applicable to all water usage in River Run and attached hereto as Exhibit "G".

Section 2.44 "Zoning By-Law". The Town of Plymouth, Zoning By-Law, as in effect from time to time.

## **PART TWO: CREATION AND MAINTENANCE OF RIVER RUN STANDARDS**

*The standards for use and conduct, maintenance, architecture and landscaping and other aesthetic matters at River Run are what give River Run its identity as a place people want to live and visit. This Declaration establishes procedures for adopting, modifying, applying and enforcing such standards.*

### **Article III. Maintenance and Repair**

#### **Section 3.1 Maintenance of Units.**

Each Owner shall maintain such Owner's Unit, including all landscaping and improvements on the Unit Parcel, in a manner consistent with the River Run Standards and all applicable covenants, unless such maintenance responsibility: (i) pertains to Common Open Space or Facilities included within a Unit whose maintenance responsibility has been assumed by the Association pursuant to Section 3.3, or (ii) is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to this Declaration, any Supplemental Declaration or other declaration of covenants applicable to such Unit, or Board resolution (such as maintenance of on-site and shared septic systems which has been assumed by the Association as provided in Section 7.2).

Unless such responsibility has been assumed by or assigned to the Association or a Neighborhood pursuant to this Declaration, any Supplemental Declaration or other declaration of covenants applicable to such Unit, or Board resolution, each Owner shall also be responsible for maintaining the landscaping within that portion of any adjacent Common Area or right-of-way lying between the Unit boundary and any wall, fence or curb located on the Common Area or right-of-way within 10 feet of the Unit boundary; provided, there shall be no right to remove vegetation from this area without prior approval pursuant to Article V.

#### **Section 3.2 Maintenance of Neighborhood Property.**

Each Neighborhood Association shall maintain its property and any other property for which it has maintenance responsibility as set forth in such Neighborhood's Supplemental Declaration or by resolution of the Board, in a manner consistent with the River Run Standards and all applicable covenants.

As set forth in such Neighborhood's Supplemental Declaration or by resolution of the Board, the Owners within each Neighborhood shall be responsible for paying, through

insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising such Owner's Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article V. Alternatively, the Owner shall clear the Unit Parcel and maintain it in a neat and attractive, landscaped condition consistent with River Run Standards. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Neighborhood Association responsible for its property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit.

#### **Article IV. Use and Conduct.**

##### **Section 4.1 Framework for Regulation**

The River Run Standards establish, as part of River Run's general plan of development, a framework of covenants, easements and restrictions which govern River Run. Use of the Units and Common Area shall be conducted in accordance with requirements of the River Run Standards applicable to Units and such Common Area.

The River Run Standards include compliance with the Permits. Permits issued with respect to development of River Run as of the date of this Declaration include the Special Permit and the other permits identified on Exhibit "D." So long as Declarant owns any property described in Exhibit "A" for development as part of River Run, it may apply for modification of a Permit or a supplemental Permit with respect to development of River Run, and each Owner of a Parcel hereby unconditionally and irrevocably appoints the Declarant as his/her true and lawful attorney-in-fact, coupled with an interest, for the purpose of filing any application for such modification of a Permit or supplemental Permit. Any modification of any Permit or supplemental Permit shall be binding upon the applicable Unit and Common Area whether or not recorded, provided that such modification or supplemental Permit is issued to the Declarant or the Association as permit-holder or that notice of issuance of such modification of or supplemental Permit is given to the Association. Copies of the Permits and/or a summary of the provisions of the Permits in effect at any time may be obtained from the Association.

This Article establishes procedures for modifying and expanding the initial Use Restrictions and Rules set forth in Exhibit "B". Any modification or expansion shall be effective whether or not recorded.

##### **Section 4.2 Rule Making Authority**

(a) Subject to the terms of this Article, the Board may make and enforce reasonable rules and regulations governing the use of the Common Area and the Parcels, which rules and regulations shall be consistent with the rights and duties established by this Declaration, and may modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules,

The Use Restrictions and Rules shall be binding upon all Owners, tenants, occupants, invitees, and licensees, subject to the provisions of Section 4.2. All Owners are hereby given notice that use of their Parcels and the Common Area is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. All purchasers of Parcels are on notice that changes from the initial Use Restrictions and Rules set forth in Exhibit "B" may have been adopted by the Association. Copies of the Use Restrictions and Rules in effect at any time may be obtained from the Association.

#### Section 4.4 Protection of Owners and Others.

Except as may be contained in this Declaration either initially or by amendment or in the initial Use Restrictions and Rules set forth in Exhibit "B", all Use Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; provided, the Use Restrictions and Rules may vary by Neighborhood and as to Unit types and sub-type.

(b) Displays. The rights of Owners of Residential Units or tenants of Residential Commercial Units to display religious and holiday signs, symbols, and decorations inside structures in their Units of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. No rule shall interfere with the freedom of Owners of Residential Units or tenants of Residential Commercial Units to determine the composition of their households.

(d) Activities Within Dwellings. No rule applicable to Residential Units or Residential Commercial Units shall interfere with the activities carried on within the confines of dwellings, including use of the Unit for a home office by the occupant of such dwelling but not including use by employees or invitees. The Association may prohibit activities not normally associated with property restricted to residential use, and may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, that create an unreasonable sources of annoyance, or that are in violation of Permits.

(e) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use of privileges to those who abuse the Common Area or violate River Run Standards. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

Design Guidelines. The Design Guidelines shall be made available by the Association to Owners and Builders seeking to engage in development of or construction upon the Property.

No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme, to rebuild in accordance with originally approved plans and specifications, or for interior remodeling. Any Owner may remodel, paint or redecorate the interior of a Unit without approval; however, construction to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure and remodeling of a Residential Unit and a Residential Commercial Unit which increases the number of rooms or converts a room into a bedroom shall be subject to approval.

All structures and improvements shall be designed and built in accordance with the plans and specifications of a licensed architect or licensed building designer, and shall be designed consistent with all design provisions of the Master Plan, except that landscaping shall not be required to be designed by a professional landscape architect.

Landscaping shall comply with the requirements of the Permits, including, with respect to plant selection and maintenance, the Water Management Act Permit. No nitrogen based fertilizers shall be permitted with respect to landscape maintenance. All lawn irrigation restrictions shall be observed.

#### Section 5.2 Design Review.

The Association shall establish a Design Review Committee for design review of Work within the scope of this Article.

The Design Review Committee shall consist of at least three (3) and no more than five (5) persons. During the Declarant Control Period, the Declarant retains the right to appoint all members of the Design Review Committee. Thereafter, members of the Design Review Committee shall be appointed by and serve at the Board's discretion. Members of the Design Review Committee may include architects or similar professionals who are not Owners and may be compensated in such manner and amount, if any, as the Board may establish. The Design Review Committee may adopt detailed application and review procedures.

#### Section 5.3 Design Guidelines and Procedures.

(a) Design Guidelines. Declarant shall prepare the initial Design Guidelines in accordance with the requirements of the Special Permit and all other Permits, which may contain general provisions applicable to all of River Run as well as specific provisions which may vary from Neighborhood to Neighborhood. After establishment of the Design Review Committee, the Design Review Committee shall have the full authority thereafter to amend the Design Guidelines with the consent of the Board, subject to the requirements of the Special Permit. Copies of the Design Guidelines in effect at any time may be obtained from the Association. In the discretion of the Declarant, the Design Guidelines, and amendments thereto, may be recorded in the Registry. All Persons shall conduct their activities in strict accordance with the Design Guidelines in effect as of the date of commencement of the construction or modification.

not be obligated to do. Any construction not completed within the required time shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

The Design Review Committee, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

In addition, any Neighborhood may adopt Supplemental Design Guidelines applicable to such Neighborhood, subject to the requirements of the Special Permit and the approval of the Board, and may establish Design Review Committee(s) for Neighborhoods (a "Neighborhood Design Review Committee") and/or for a sub-type of Units, or any combination of such Units. The structure, policies, procedures, and standards set forth in this Article shall apply to each such Neighborhood Design Review Committee, unless otherwise provided in a Supplemental Declaration applicable to such Neighborhood.

#### Section 5.4 No Waiver of Future Approvals.

Each Owner acknowledges that the Design Review Committee will change from time to time and that opinions on aesthetic matters may vary accordingly. Approval of applications or plans for any activity done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right of any Design Review Committee to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### Section 5.5 Variations from Design Guidelines.

A Design Review Committee may authorize a variation from compliance with any guidelines and procedures (i) in circumstances where the design meets the intent of the provision sought to be varied and where granting of the variation would enhance design innovation and excellence, or (ii) when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require. A variation may be granted only when special circumstances so dictate and no variation shall (a) be effective unless in writing; (b) be contrary to this Declaration; (c) be contrary to the River Run Standards (unless, in the case of the Master Plan and Permits, variances have been duly received from the applicable governmental agency); or (d) preclude the Design Review Committee from denying a variation in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships. Declarant, so long as Declarant owns any property described in Exhibit "A", shall have ten (10) days after receipt of the notice issued pursuant to Section 5.3 to veto any such action taken by the Design Review Committee, in its sole discretion, by written notice to the Design Review Committee and the applicant.

#### Section 5.6 Limitation of Liability for Design Review.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of River Run; they do not create any duty to any Person. The Design Review Committee shall not bear any responsibility for ensuring (i)

The Association is the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the River Run Standards. The Association shall perform its functions in accordance with River Run Governing Documents and the laws of the Commonwealth of Massachusetts.

#### Section 6.2 Membership.

Every Owner shall have a membership in the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in writing provided to the Clerk of the Association.

#### Section 6.3 Voting.

During the Declarant Control Period, the Association shall have two classes of membership: Owner and Declarant. Thereafter, the Association shall have one class of membership: Owner.

(a) Owners. Owner Members shall be all Owners, except the Declarant during the Declarant Control Period. Owner Members shall have one vote for each Unit owned. No vote shall be exercised for any property which is exempt from Base and Special Assessments under Section 8.10. All Owner votes shall be cast as provided in Section 6.3(c) below.

(b) Declarant. During the Declarant Control Period, the Declarant reserves the right to approve, or withhold approval of, actions of the Association proposed under the Declaration and the By-Laws, and shall be entitled to appoint the members of the Board of Directors and to cast all votes with respect to the "Statutory Decisions" as defined in the By-Laws. Upon termination of the Declarant Control Period, Declarant shall be an Owner Member entitled to Owner votes for each Unit which it owns determined as set forth in Section 6.3(a).

Following the expiration of the Declarant Control Period, the Declarant shall have a right to disapprove actions of the Board which, in the sole judgment of Declarant, would tend to impair rights of Declarant or Builders under the Declaration or interfere with development, construction or marketing of any portion of the Property, or diminish the level of services being provided by the Association. Such rights of Declarant shall terminate upon the earlier of:

- (1) two years after expiration of the Declarant Control Period; or
- (2) when, in its discretion, Declarant so determines and declares in an instrument recorded in the Registry.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration and except with respect to the "Statutory Decisions" as defined in the By-Laws, the vote for each



Supplemental Declaration applicable to a specific Neighborhood, Declarant may unilaterally amend this Declaration or record or amend any Supplemental Declaration to establish Neighborhoods and/or to redesignate Neighborhood boundaries. In addition, any grouping may be removed from the Neighborhood within which it is located and either combined with a different existing Neighborhood or established as an additional Neighborhood by recording or amending any Supplemental Declaration, subject to the following: (i) during the Declarant Control Period, the approval of the Declarant, and (ii) the approval of a majority of the Owner Members of each Voting Group in the affected Neighborhood(s).

Any Neighborhood, acting through a Neighborhood Association, may provide a higher level of service than that which the Association generally provides to all Neighborhoods or may provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood (including vote or consent by the Declarant with respect to the Units which the Declarant shall own), the Neighborhood Association shall provide the requested services.

The cost of such services provided by the Neighborhood, which may include a reasonable administrative charge in such amount as the Neighborhood Association deems appropriate, shall be assessed against the benefited Units within such Neighborhood as a Neighborhood Assessment.

(b) Voting Members. Each Neighborhood having the right to vote shall elect Voting Member(s) as follows: (i) a Residential Group Voting Member, who shall be responsible for casting all votes attributable to any Units within the Residential Group owned by Owner Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws and except as to the "Statutory Decisions" as defined in the By-Laws, with respect to which votes shall be cast directly by the Declarant during the Declarant Control Period, and, thereafter, directly by the Owner Members; and (ii) if the Neighborhood contains Commercial Units, one or more (as specified in the Neighborhood Association By-Laws) Commercial Group Voting Member, who shall be responsible for casting all votes attributable to any Units within the Commercial Group owned by Owner Members in the Neighborhood on all Association matters requiring a membership vote, except as otherwise specified in this Declaration or the By-Laws and except as to the "Statutory Decisions" as defined in the By-Laws, with respect to which votes shall be cast directly by the Declarant during the Declarant Control Period, and, thereafter, directly by the Owner Members. In addition, each Neighborhood shall elect an alternate Voting Member for each of the Residential Voting Group and the Commercial Voting Group, as applicable, who shall be responsible for casting such votes in the absence of the Voting Member for such Voting Group.

In voting on any matters under the Declaration, the Residential Group Voting Member for each Neighborhood shall cast his/her votes as such Residential Unit Voting Member shall determine, and the Commercial Group Voting Member for each Neighborhood shall cast his/her votes for the Commercial Units as such Commercial Unit Voting Member shall determine.

The Voting Member and alternate Voting Member for each Voting Group from each Neighborhood shall be elected on a basis as set forth in the By-Laws.



adjustments in property lines, including any Common Area or Common Open Space or Facilities which is being converted by Declarant to buildable area as permitted under the Master Plan.

(c) The Association shall be responsible for management, operation and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association and in any Supplemental Declaration applicable to such property. The Board may adopt such reasonable rules regulating the use of Common Area as it deems appropriate.

(d) The Association shall accept a member interest in the PSTF Owner, and shall assume and perform all obligations and responsibilities in connection therewith as required by the Ground Water Discharge Permit.

(e) The Association shall be responsible for enforcing the Water Management Act Permit, including without limitation the Water Conservation Plan, the Water Use Restriction and Drought Management Plan, and shall take all actions required thereby including, but not limited to, enforcing lawn irrigation restrictions, and responding to the order of Agawam Springs Corporation or the DEP to issue a State of Water Supply Conservation or a State of Water Supply Emergency.

(f) The Association shall be responsible for maintenance of the storm water system.

(g) The Association shall be responsible for compliance with and enforcement of the Transportation Demand Management Program required by the Commonwealth of Massachusetts MEPA permit.

(h) The Association shall be responsible for compliance with and enforcement of the obligations contained in all other Permits.

#### Section 7.2 Association Responsibility for Area of Common Responsibility.

The Association shall maintain and keep in good repair in accordance with the River Run Standards and provide services relating to the portion of the Area of Common Responsibility which is not made by Supplemental Declaration or resolution of the Board the responsibility of a particular Neighborhood under Section 3.2, such maintenance and services to be funded as hereinafter provided. The Area of Common Responsibility may include, but need not be limited to, the following:

- (1) all portions of and structures situated on Common Area (including without limitation, private streets, structures, furnishing, equipment, common landscaped areas, rain sensors, signage, street lights, sidewalks, and bicycle and pedestrian pathways/trails);
- (2) landscaping within or adjacent to public rights-of-way within or abutting River Run;

The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own, except to the extent that it has been grossly negligent in the performance of its maintenance responsibilities hereunder.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing sixty-seven percent (67%) of the Owner votes in each Voting Group in the Association and, during the Declarant Control Period, the Declarant, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with the prior written approval of Declarant as long as Declarant owns any property described in Exhibit "A" of this Declaration.

Except as provided above with respect to costs of services which are to be assessed as Specific Assessments only against the Parcels to which such services are provided, the costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units subject to Base and Special Assessments; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other covenants recorded in the Registry, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Limited Common Areas, Limited Access Common Open Space or Facilities, and portions of the Area of Common Responsibility within or adjacent to a Neighborhood pursuant to a Supplemental Declaration or a Board resolution adopted as provided in Section 3.2, shall be a Neighborhood Expense assessed to the Neighborhood(s) to which the Limited Common Areas or Limited Common Open Space or Facilities are assigned or as provided in the Supplemental Declaration or Board resolution, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

### Section 7.3 Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "all risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that Association has assumed responsibility in the event of a casualty, regardless of ownership. All property insurance policies obtained by the Association shall contain an inflation guard endorsement and an agreed amount endorsement and shall have policy limits sufficient to cover one-hundred percent (100%) of the replacement value of the insured improvements under then current building ordinances and codes;

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

- (i) be written with a company that has a Standard & Poor's key rating of (A) or better and that is authorized to do business in the Commonwealth of Massachusetts which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;
- (ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas and Common Open Space or Facilities shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;
- (iii) written as primary insurance, without contribution from insurance purchased by Owners, occupants or their Mortgagees, individually;
- (iv) contain an inflation guard endorsement on the property policies;
- (v) include an agreed amount endorsement on the property policies;
- (vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);
- (vii) provide a waiver of subrogation under the policy against any Owner or household member of a Owner;
- (viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and
- (ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Owners of Units within the insured Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Voting Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

#### Section 7.4 Compliance and Enforcement.

Every Owner or occupant and the Owner's or occupant's agents, guests, invitees, employees, servants, licensees, lessees or visitors shall comply with the River Run Governing Documents, the River Run Standards, and the requirements of all Permits. The Board may impose sanctions for violation of the River Run Standards, the River Run Governing Documents and the Permits, after notice and a hearing in accordance with the procedures, if any, set forth in the By-Laws. Such sanctions may include, without limitation:

- (1) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. In the event that such a fine is imposed, the Owner shall pay the fine immediately upon receipt of notice from the Board;
- (2) suspending an Owner's right to vote;
- (3) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- (4) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) days delinquent in paying any assessment or other charge owed to the Association;
- (5) exercising self-help or taking action to abate any violation of River Run Standards in a non-emergency situation;
- (6) requiring an Owner, at the Owner's expense, to remove any structure or improvement on such Owner's Unit in violation of Article V and to restore the Unit to its previous condition; upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed;
- (7) without liability to any Person, prohibiting any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of Article V from continuing or performing any further activities in River Run; and

incurred by or imposed upon such Indemnatee in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, Member, employee, or agent. The Association shall indemnify Declarant and other named holders of any Permit (collectively, the "Indemnatee") against any and all liability and expenses, including counsel fees, reasonably incurred by or imposed upon such Indemnatee in connection with any violation of such Permit attributable, directly or indirectly, to an action of or failure to act by the Association or any Member. Each Neighborhood Association shall indemnify the Association and every officer, director, Member, employee or agent (collectively, the "Indemnatee") against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such Indemnatee in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board) to which it, he or she may be a party in connection with any contract or other commitment made or action taken by such Neighborhood.

The Indemnitees shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance or bad faith. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

#### Section 7.7 Safety and Security.

Each Owner or occupant and the Owner's or occupant's agents, guests, invitees, employees, servants, licensees, lessees or visitors of a Unit shall be responsible for their own personal safety and the security of their property in River Run. The Association may, but shall not be obligated to, maintain or support certain activities at River Run designed to enhance the security of River Run. Neither the Association nor Declarant are insurers or guarantors of security at River Run, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

#### Section 7.8 Powers of the Association Relating to Neighborhoods.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or the Members or to be inconsistent with River Run Standards. The Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with the Neighborhood's obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated or requiring that a proposed budget include certain items and that expenditures be made therefor. A Neighborhood Association shall take the action specified by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to take such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs thereof, as well as an administrative charge and sanctions.

Any establishment of a Neighborhood as a gated community shall specifically require the approval of the Board.

- (b) the amount of all assessments, fees, or charges then owed by the seller of the Unit;
- (c) a statement regarding whether any portion of the Unit or is covered by insurance the Association maintains;
- (d) a statement regarding whether the Association has any knowledge of any alterations or improvements to the Unit or Parcel that violate any provision of this Declaration;
- (e) a statement as to whether the Association has any knowledge of any violations of Permits, including local health or building codes, with respect to the Unit or Parcel;
- (f) a statement of case names and case numbers for pending litigation with respect to the Unit or Parcel filed by the Association against the Member or, to the knowledge of the Association, filed by the Member against the Association;
- (g) identification of the Neighborhood within which the Parcel is located; and
- (h) a statement setting forth the assessment of a conservation land management fee equal to one-quarter of one percent (1/4%) of the purchase price to be paid by the purchaser of a Residential Unit at closing.

The Association may charge a fee to cover the costs to the Association in preparing any document required by this Section. Any statement required by this Section shall be certified to the best knowledge and belief of the Association, but may be relied upon by the purchaser, its Mortgagee, and their successors and assigns.

## **Article VIII. Association Finances and Assessments**

### **Section 8.1 Creation of Assessments.**

Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Article and elsewhere in the River Run Governing Documents. There shall be three types of assessments: (a) Base Assessments to fund Common Expenses; (b) Special Assessments; and (c) Specific Assessments. In addition, the Association is authorized to collect and forward to Makepeace Conservation Trust, Inc., or its successor in interest (the "Conservation Trust") as manager of the conservation land as shown on the Master Plan, a conservation land management fee of one-quarter of one percent (1/4%) assessed on all Residential Unit sales, and such other fees as required by that certain Agreement Imposing Covenants, Conditions and Restrictions and Notice of Lien, by and between the Declarant and the Conservation Trust, dated \_\_\_\_, 200\_\_, and recorded with the Registry at Book \_\_\_\_, Page \_\_\_\_\_. Upon resolution of the Board, the Board may require that assessments levied by the Association be collected by the Neighborhood Association and remitted to the Board.

In addition, each Neighborhood Association is hereby authorized to levy Neighborhood Assessments as provided for in this Article and elsewhere in the River Run Governing Documents. The structure, policies, procedures, and standards set forth in this Section shall apply to each Neighborhood Association and such Neighborhood Assessments, unless otherwise

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

During the first three (3) fiscal years after the initial budgeted year of the Association, the Board shall not levy a Base Assessment or Special Assessment which exceeds the "Maximum Authorized Base Assessment," unless first approved by a majority of the total Owner votes in each Voting Group in the Association subject to assessment and by the Declarant. The "Maximum Authorized Base Assessment" in any such fiscal year following the initial budgeted year shall equal not more than the escalation, if any, for the first day of the fiscal year in comparison to the first day of the prior fiscal year in the Consumer Price Index for all Urban Consumers (CPI-U): U.S. City Average, All Items (unadjusted) (1982-84=100), published monthly by the Bureau of Labor Statistics, U.S. Department of Labor, and first so published in 1988, or, if the Consumer Price Index shall ceased to be published, a comparable index published by the Bureau of Labor Statistics or by a responsible financial periodical or recognized authority designated by the Association.

### Section 8.3 Budgeting and Allocating Neighborhood Expenses.

The following provisions shall govern Neighborhood Assessments except to the extent modified in any Supplemental Declaration applicable to a particular Neighborhood:

At least sixty (60) days before the beginning of each fiscal year, each Neighborhood Association shall prepare a separate budget covering the estimated Neighborhood Expenses for the Neighborhood during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.5(a). The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood Assessments against the Units in such Neighborhood.

The Neighborhood Associations are hereby authorized to levy Neighborhood Assessments, in accordance with the formula set forth the Supplemental Declaration governing a particular Neighborhood, against all Units in the Neighborhood which are subject to assessment at a level which is reasonably expected to produce total income for the Neighborhood Association equal to the total budgeted Neighborhood Expenses. In determining the Neighborhood Assessments per Unit, the Neighborhood Association may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

The Neighborhood Association shall deliver a copy of the Neighborhood budget including notice of the amount of the Neighborhood Assessment for the coming year to each Owner in the Neighborhood at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood Association by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment applies and by the Declarant, during the Declarant Control Period.



(a) to cover the costs, including overhead and administrative costs, of maintenance, repair and replacement of individual and shared on-site septic systems for the particular Parcel, and payment of fees and charges owed by a Parcel to a River Run Utility Company.

(b) if other utility services are provided to a Parcel through the Association upon request of an Owner, to cover the costs, including overhead and administrative costs, of providing such other utilities to a Parcel including, but not limited to, telecommunication, electricity, gas, and cable service. Specific Assessments for such special services may be levied in advance of the provisions of the service.

(c) to cover the costs, including overhead and administrative costs, of providing services to a Parcel upon request of an Owner pursuant to any menu of special services which may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the requested service.

(d) to cover costs incurred in bringing a Unit into compliance with the River Run Standards, or costs incurred as a consequence of the conduct of the Owner of a Unit or occupants of a Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, except with respect to costs incurred in any emergency situation, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (d).

The Association may levy a Specific Assessment against all Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the River Run Standards, provided, except with respect to costs incurred in any emergency situation, the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard as provided in the By-Laws before levying any such assessment.

#### **Section 8.7 Time of Payment.**

Except as set forth in Section 8.10 with respect to exemption of certain Parcels from assessments, the obligation to pay assessments shall commence for each Unit on the first day on which: (a) the Board first determines a budget and levies assessments pursuant to this Article; or, if later, (b) the Unit is made subject to this Declaration, if such Unit is not included in the property described in Exhibit "A", provided, if any recorded Supplemental Declaration specifies a different date for the commencement of assessments against a portion of the Property, such date shall control with respect to the property covered by such recorded Supplemental Declaration. The first annual Base Assessment by the Association and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of days remaining in a month and the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at the closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the

priority over any lien for assessments asserted by any other community or property owners association, including, without limitation, any Neighborhood Association.

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

The sale or transfer of any Parcel shall not affect the assessment lien or relieve such Parcel from the lien for any subsequent assessments. However, the sale or transfer of any Parcel pursuant to foreclosure of a Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Parcel shall not be personally liable for assessments on such Parcel due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all properties subject to assessment, including such acquirer, its successors and assigns.

#### Section 8.10 Exempt Property

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, Special Assessments and Specific Assessments:

- (a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility pursuant to Section 7.2, excluding any Common Open Space or Facilities included within a Unit Parcel;
- (b) Any property owned by the Association;
- (c) Any and all property owned by a governmental entity, and any and all property owned by a non-profit conservation entity and dedicated to conservation or maintenance of the environment;
- (d) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common;
- (e) Residential Unit Parcels owned by a Builder until a Subdivision Plan or so-called Approval Not Required Plan ("ANR") establishing the individual building lots is approved by the Planning Board of the Town of Plymouth and the appeal period (twenty (20) days from the date of recording the decision with the Town Clerk in the case of a Subdivision Plan, and of sixty (60) days from the date of action by the Planning Board in the case of an ANR Plan) has passed without the filing of an appeal, or any appeal filed is resolved upholding the Subdivision or ANR Plan;

remains delinquent, and (B) for a period not to exceed thirty (30) days for a single violation or for a longer period in the case of any continuing violation, of the River Run Standards after notice and a hearing pursuant to the By-Laws;

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

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

(v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public;

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

(vii) limit the use of those portions of the Common Area designated "Limited Common Areas" or "Limited Access Common Open Space or Facilities" or "Restricted Access Common Open Space or Facilities", as described in ARTICLE X to the exclusive use of certain Owners.

Any Owner may extend the rights of use and enjoyment hereunder to the members of such Owner's family, lessees, contractors, agents, employees, and invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases a Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

Declarant, so long as Declarant owns any property described in Exhibit "A", and the Association shall have the right to grant easements in and to the Common Area to any service provider or third-party contractor as may be necessary, in the sole discretion of Declarant or the Association, in connection with such service provider's or contractor's provision of services to River Run. Any such easements shall be subject to any limitations or restrictions placed upon the easement by the grantor.

Declarant hereby reserves, so long as Declarant owns any property described in Exhibit "A", the right to the right to create non-exclusive rights of easements of use, access and enjoyment as Common Area as reasonably required for the operation of the various uses within River Run with respect to property that is owned by the Declarant, the Association, or other Person, provided that the location of such easement on a parcel owned by a Person other than Declarant and the Association shall be subject to the reasonable approval of such Person, which approval shall not unreasonably be withheld, delayed or conditioned.

#### Section 9.2 Easements of Encroachment.

Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and

located, shall be subject to the approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All entry upon all Parcels and all work associated with the exercise of the easements described in this Article 9 shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Parcel, nor shall it unreasonably interfere with the use of any Parcel. Except in an emergency, entry onto any Parcel shall be made only after reasonable notice to the Owner or occupant.

(d) Special Limitation regarding Utilities. No septic systems, sewers, water lines, electrical lines, or other utilities may be installed in or under the easements described in subsections (a) and (b) of this Section, except as may be approved by the Declarant or the Board or, with respect to easements granted by the Neighborhood Board, the Neighborhood Board.

#### Section 9.4 Easements for Maintenance, Emergency and Enforcement.

Declarant hereby grants to the Association easements over such portions of River Run as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2 and its compliance and enforcement responsibilities under Section 7.4. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons to perform maintenance and to inspect for the purpose of ensuring compliance with and enforcing the River Run Standards. Such right may be exercised by the Board, its officers, agents, employees, managers, designees and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

#### Section 9.5 Easements for Pond Maintenance and Flood Water.

This Declaration hereby creates, in favor of Declarant, so long as Declarant owns any property described in Exhibit "A", and the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within Common Area and Parcels to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and (c) maintain such areas in a manner consistent with the River Run Standards. Declarant, the Association, and their successors, assigns and designees, shall have an access easement over and across any of the Property abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Declarant reserves for itself, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Unit Parcels (but not the structures thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Property in order to (a) temporarily flood and back water upon and

**Article X. Limited Common Areas; Limited Access Common Open Space or Facilities; Restricted Access Common Open Space or Facilities; Party Walls and Other Shared Structures**

**Section 10.1 Purpose of Limited Common Areas.**

Certain portions of the Common Area may be designated by Declarant or the Board as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood(s). By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, ponds and other portions of the Common Area within a particular Neighborhood(s). All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

**Section 10.2 Designation of Limited Common Areas.**

Initially, any Limited Common Area shall be designated as such by Declarant or the Board, provided, however, any such designation as Limited Common Area shall not preclude Declarant from later designating use of the same Limited Common Area to additional Units and/or Neighborhoods during the Declarant Control Period.

Thereafter, a portion of the Common Area may be designated as Limited Common Area and Limited Common Area may be re-designated to other Units and/or Neighborhoods, upon approval of the Board and the approval of the Voting Members within each Voting Group within the Neighborhood(s) affected by the proposed designation or re-designation in any amendment to this Declaration or any Supplemental Declaration by Declarant, or in any deed conveying such area to the Association.

**Section 10.3 Purpose of Limited Access Common Open Space or Facilities and Restricted Access Common Open Space or Facilities.**

Certain portions of the Common Open Space or Facilities may be designated as Limited Access Common Open Space or Facilities and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood(s), or may be designated as Restricted Access Common Open Space or Facilities and reserved for exclusive use of the Owner of the Unit. By way of illustration and not limitation, Limited Access Common Open Space or Facilities may consist of portions of pedestrian trails located within the boundaries of a Parcel, and Restricted Access Common Open Space or Facilities may consist of portions of the landscaped buffer located within the boundaries of a Parcel.

**Section 10.4 Designation of Limited Access Common Open Space or Facilities and Restricted Access Common Open Space or Facilities.**

Any Limited Common Open Space or Facilities shall be designated as such in the recorded covenant with the Planning Board for the preservation of such portion of the Property as Common Open Space or Facilities or in any Supplemental Declaration by Declarant; provided, however, any such designation shall not preclude Declarant from later assigning use of

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance or not repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

## **Article XI. Changes in Common Area**

### **Section 11.1 Condemnation.**

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least sixty-seven (67%) of the total Owner votes in each Voting Group in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) days after such taking, Declarant, so long as Declarant owns any property subject to the Declaration, and Voting Members representing at least sixty-seven (67%) of the total Owner votes in each Voting Group in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

### **Section 11.2 Partition.**

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action seeking partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

### **Section 11.3 Transfer or Dedication of Common Area.**

The Declarant or the Association may transfer or dedicate portions of the Common Area to the Commonwealth of Massachusetts, Plymouth County, Massachusetts, the Town of Plymouth, or to any other local, state, or federal governmental or quasi-governmental entity or to any non-profit organization organized for the purpose of conservation or maintenance of the



So long as the Declarant continues to have rights under this Article, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without Declarant's recorded consent. No amendment to or modification of any Use Restrictions and Rules or Design Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant owns property subject to this Declaration.

#### Section 12.5 Right To Transfer or Assign Declarant Rights.

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Registry. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

#### Section 12.6 Exclusive Rights To Use Name of Development.

No Person shall use the name "River Run" or any derivative of such name in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "River Run" in printed or promotional matter where such term is used solely to specify that particular property is located at River Run and the Association and each River Run Utility Company shall be entitled to use the words "River Run" in its name.

#### Section 12.7 Inapplicability of Certain Provisions to Declarant.

So long as Declarant owns any property described in Exhibit "A", the provisions of Sections 4.1, excluding the applicability of Permits, and 4.4 shall be inapplicable to the Declarant. Without limitation, the Declarant shall have the rights to lease any Unit owned by Declarant under any terms.

#### Section 12.8 Termination of Rights.

This Article may not be amended without the express written consent of Declarant. However, the rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded or the date to which any restrictions in this Declaration are extended as provided in Section 1.4, or (b) recording by Declarant of a written statement of termination.

### **PART FIVE: GENERAL PROVISIONS**

*River Run and the River Run Governing Documents must be able to adapt to changes in circumstances, technology, needs and desires, and laws, and other changes over time while protecting the things that make River Run unique. The growth and success of River Run requires good faith efforts to resolve disputes amicably.*



Any amendment shall become effective upon recording of the same in the Registry, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. Any amendment or modifications of this Declaration, any Supplemental Declaration, and any amendment or modification of a Supplemental Declaration authorized hereunder, as applicable, shall be deemed superior and senior to any rights, interests and estates recorded subsequent hereto and to all liens, including the lien of mortgages, with the same effect as if such instruments had been executed concurrently herewith.

#### Section 13.4 Special Approval of Certain Amendments.

So long as required by the Commonwealth of Department of Environmental Protection ("DEP") under the Ground Water Discharge Permit no changes pertaining to the following matters shall become effective without the written approval of the DEP:

- (a) authority of the Association to enforce against Parcel Owners the relevant provisions of this Declaration pertaining to discharges of wastewater and nutrient loadings, to collect Specific Assessments for utility costs relating to discharges of wastewater, and to impose private liens for failure to pay such Specific Assessments;
- (b) the requirement that the Association hold a member interest in the PSTF Owner and accept and perform all obligations and requirements as such under the Ground Water Discharge Permit; and
- (c) the responsibility of the Association for the maintenance, repair and replacement of individual and shared septic systems and for de-commissioning same when the Units serviced thereby connect to the PSTF.

#### Section 13.5 Exhibits.

Exhibits "A", "E" and "G" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

### **Article XIV. Notice Provisions**

Any notice or other communication required or permitted to be given or delivered hereunder shall be deemed properly given and delivered upon the delivery or mailing thereof by overnight or express courier or United States certified or express mail, postage prepaid, to: (i) any Member whose name appears as a Member on the records of the Association at the address shown on such records at the time of such mailing, or, in the absence of any specific address, at the address of any home owned by such Member; and (ii) the Association, at \_\_\_\_\_, or such other address as the Association shall hereafter notify Declarant and the Members of in writing; and (iii) Declarant at \_\_\_\_\_, or such other address or addresses as Declarant shall hereafter designate by like nature to the

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

This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings and approved by the Declarant during the Declarant Control Period.

Prior to the Association or any Member commencing any judicial or administrative proceeding to which Declarant is a party and which arises out of an alleged defect at River Run or any improvement constructed upon River Run by Declarant or Declarant's Affiliate, Declarant or Declarant's Affiliate, as applicable, shall have the right to be heard by the Members, or the particular Member, and to access, inspect, correct the condition of, or redesign any portion of River Run, including any improvement as to which a defect is alleged.

In all events, the liability of the Declarant and Declarant's Affiliates for any alleged defect at River Run or any improvement constructed upon River Run, excluding any Unit, shall be subject to and limited as provided in that certain Common Area Limited Warranty from Declarant in favor of the Association of even date herewith. Further, in no event shall Declarant or Declarant's Affiliate have any liability hereunder for any alleged defect in any Unit which was not constructed directly by Declarant or Declarant's Affiliate, respectively.

#### Section 16.2 Alternative Method for Resolving Disputes.

Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each such entity being referred to as a "Bound Party") agree to encourage the amicable resolution of disputes involving River Run, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees to submit those claims, grievances or disputes described in Section 16.3 of this Article (collectively, "Claims") to the procedures set forth in Section 16.4 in lieu of filing suit in any court.

#### Section 16.3 Claims.

As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

- (a) the interpretation, application or enforcement of the River Run Governing Documents;

- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with Respondent to discuss in good faith ways to resolve the Claim.

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

(c) Mediation. If the parties do not resolve the Claim through negotiation within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties), Claimant shall have thirty (30) additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Plymouth area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim and Respondent shall be released and discharged from any and all liability to Claimant (but not third parties) on account of such Claim.

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

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in Section 16.4. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys' fees and court costs.

## **Article XVII. Mortgagee Provisions**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Parcels in the Property. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provision contained therein.

### **Section 17.1 Notices of Action**

subject to a Mortgage appertain, shall be required to terminate the Association or to amend the Articles of Organization.

(2) The consent of Voting Members representing at least sixty-seven percent (67%) of the Owner votes within each Voting Group and of Declarant, so long as it owns any land subject to this Declaration, and the approval of Eligible Holders of first Mortgages on Units representing at least fifty percent (50%) of the votes of Units within each Voting Group subject to a Mortgage, shall be required to materially amend any provisions of the Declaration, By-Laws, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of River Run;
- (vii) expansion or contraction of River Run or the addition, annexation, or withdrawal of property to or from the Association;
- (viii) boundaries of any Unit;
- (ix) lessening of restrictions on leasing of Units;
- (x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;
- (xi) any provisions included in the Declaration, By-Laws, or Articles of Organization which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

#### Section 17.4 No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Parcel in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

#### Section 17.5 Notice to Association.

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

Section 17.8 Construction of Article XVII.

Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Massachusetts law for any of the acts set out in this Article.

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**EXHIBIT "A"**

**Property Description**

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other Parcel; or (v) in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of River Run.

Such restrictions shall include, without limitation, the following: (a) there shall be no use or discharge of any radio, loudspeaker, horn, whistle, bell or other sound device so as to be audible to occupants of other Parcels, except alarm devices used exclusively for security or safety purposes; (b) there shall be no use or discharge of firecrackers or other fireworks; (c) no firearms shall be discharged upon any property within River Run; (d) no open fire shall be lighted or permitted on any Parcel within River Run except in a contained barbecue unit or fire place while attended and in use for cooking purposes; (e) there shall be no on-site storage of gasoline, heating or other fuels, except (i) storage of propane prior to the connection of natural gas service to River Run, (ii) a reasonable amount of fuel may be stored in each Parcel for use in contained barbecue units, emergency purposes and operation of lawn mowers and similar tools or equipment, and (iii) the Association and owners of Parcels other than Residential Units shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment; (f) there shall be no accumulation of rubbish, trash or garbage except between regular garbage pick ups and then only in approved containers; an approved refuse container may be placed outside at times not extending more than twelve (12) hours before a scheduled garbage or trash pickup; (g) no motorized vehicles shall be operated on unpaved pathways or trails maintained by the Association, except that maintenance vehicles may be operated by the Association on such pathways or trails, and (h) there shall be no use of snowmobiles or motorized boating equipment.

**1.1.5 *Parking of Motor Vehicles:*** Vehicles owned, operated or within the control of an Owner or tenant shall be placed in the garage or driveway of such Owner or tenant's Parcels, or in designated parking areas for particular Parcels. Guest parking may be allowed on one side of a street, not closer than forty (40) feet to any intersection. In connection with allowed functions held by a Commercial Unit, guest parking may be allowed on roadways in the proximity to the main entrance to such facility and in other areas within River Run approved by the Board. Garages shall be kept closed at all times, except as reasonably required for ingress and egress.

The following activities shall be permitted only in enclosed garages on in areas designated by the Board for such purposes: Parking or storage of commercial vehicles or equipment, mobile homes, recreational vehicles, snowmobiles, boats and other watercraft, trailers, stored vehicles or inoperable vehicles; provided, construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Parcel or the Common Area.

**1.1.6 *Restrictions on Animals:*** The raising, breeding or keeping of any animals, livestock or poultry of any kind ("Animals") shall be prohibited, except the following: (i) the keeping of a maximum of three (3) dogs, cats or other usual and common household pets, which are registered, licensed and inoculated as required by law, and are not bred or maintained for any commercial purpose, (ii) the keeping or use of any dog trained to assist persons of impaired sight or hearing, (iii) the keeping of not more than two (2) horses, or such greater number as may be approved by the Board, within a Residential Unit.



**1.3.2 Restrictions on Increase in Wastewater Design Flow or Impervious Surfaces:** There shall be no additions in the number of bedrooms in or expansions of Residential Units or of multi-family residential buildings classified as Commercial Units within River Run or other additions which result in an increase in wastewater design flow or increases in impervious surfaces except in strict compliance with the provisions of Article V of the Declaration and the River Run Standards, and with the prior approval of the Design Review Committee.

**1.3.3 Restriction on Nutrient Loading; Lawn Maintenance:** Other than as approved in the Design Review Process in accordance with the River Run Standards, no land shall be used for: wastewater discharges other than the approved on-site septic systems and the wastewater treatment plant; artificial impervious surfaces; land under water; or the raising, breeding, keeping of animals, livestock or poultry for commercial purposes. In addition, no nitrogen based fertilizer shall be used in connection with the maintenance of lawns or landscaped areas within any Parcel or Common Area.

**1.3.4 Water Supply Systems:** Water for all purposes shall be supplied by Agawam Springs Corporation. No Parcels within River Run shall have sprinklers or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within River Run.

**1.3.5 On-Site Sewage Disposal Systems:** All on-site individual or shared sewage disposal system in or on any Parcel shall be designed, located, constructed, equipped and maintained in compliance with the Permits and all applicable laws, regulations, permits and orders of local, state and federal governmental authorities. All on-site individual or shared sewage disposal system in or on any Unit shall have the prior written approval of the Declarant and/or the Association (during the Declarant Control Period) or the Association thereafter.

The following restrictions shall apply to Parcels served by on-site sewage disposal systems: (i) Shared on-site systems shall be inspected on an annual basis. Individual on-site systems shall be inspected at least once every seven (7) years; (ii) Shared on-site systems shall be pumped on an annual basis. Individual on-site systems shall be pumped every three and one-half (3 ½) years; (iii) Commercial on-site additives approved by the Department of Environmental Protection may be used subject to prior notification to and approval of the Board. All inspection and pumping shall be arranged by the Association.

All Parcels served by on-site sewage disposal systems shall connect to the PSTF as soon as such connection becomes possible. Upon such connection, use of the on-site sewage disposal system shall cease. The Association shall be responsible for the de-commissioning of any on-site sewage disposal system.

**1.3.6 Use of Water Closets and Other Water Apparatus:** No water closets or any other water apparatus in any Parcel shall be used for any purpose other than that for which they were constructed and in any manner that violates the Permits and/or any applicable law. Without limiting the generality of the foregoing provision, no sweeping, rubbish, rags, paper, ashes or other substance shall be thrown into water closets or other water apparatus.

## 2.0 PROVISIONS APPLICABLE TO UNITS AND COMMON AREA

*The provisions of this Section 2 apply only to "Units and Common Area," which consist of all types of property within River Run.*

### 2.1 Improvements to Units:

2.1.1 *Construction or Alteration of Improvements:* There shall be no construction, erection, placement or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Articles IV and V of the Declaration and the River Run Standards, and with the prior approval of the Design Review Committee. This shall include, without limitation, basketball hoops, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind; satellite dishes and antennas; and any tent, shed, shack or other temporary or portable structures excluding temporary or portable structures placed on property within River Run during the course of construction of improvements on such Unit. Any exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind permitted by the Design Review Committee must be screened from view of adjacent Units by an approved fence or other approved structure no more than six (6) feet in height. The Declarant and/or the Association shall have the right, but not the obligation, to erect or install an aerial, satellite dish, master antenna, cable system, or other apparatus for the transmission and reception of television, radio, satellite, or other signals for the benefit of all or a portion of River Run.

2.1.2 *Restrictions on Signage:* No sign, poster, billboard, advertising device or display of any kind, including, but not limited to, garage and estate sale signs shall be erected, displayed or maintained anywhere on River Run without the approval of the Design Review Committee.

2.1.3 *Landscaping:* Within one hundred eighty (180) days after the later to occur of (i) the sale of a Unit to an Owner (other than a Builder), or (ii) issuance of a Certificate of Occupancy for the building constructed on a Unit Parcel, the Owner shall install and thereafter maintain the landscaping on those portions of the front yards of the Unit in a neat and attractive condition. Rear and side yards shall be substantially complete within one (1) year following the date of conveyance of the Unit to the Owner (other than a Builder) and thereafter maintained.

"Landscaping" shall include the initial installation of all necessary landscaping and gardening, the proper maintenance of landscaping and the periodic replacement, when necessary, of trees, plants, grass and other vegetation, if any, and fencing originally placed on such Unit by Declarant, Owner or any Builder, which are visible from other Units or Common Area. In addition, each Owner shall keep free from weeds, debris and other unsightly objects all portions of the yard on its Unit. No plants or seeds infected with insects or plant diseases shall be brought upon, grown or maintained within River Run.

The foregoing provisions shall not apply to portions of a Unit which are not visible from other Units or from Common Area. The foregoing provisions also shall not apply to an Owner to

undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required. By way of example, a permitted business or trade could include accountant services, teaching of music, and services by a psychologist.

3.2.2 *Wood and Coal Stoves:* Wood and coal stoves or similar devices shall be permitted in Residential Units or Residential Commercial Units only in accordance with applicable law and fire regulations and only upon the prior written approval of the Board. The Board shall as a condition of any such approval require (i) compliance with rules and regulations promulgated by the Board as to the installation, use, maintenance, repair and cleaning of any such device and the storage and handling of wood, coal or other fuels therefor, and (ii) the right of the Board to enter any Residential Unit or Residential Commercial Units in which such a device is installed and to correct any non-compliance with such rules and regulations, all at the sole expense and risk of the Owner of such Unit. In no event, however, shall such device be permitted to be used as a source of heat.

### 3.3 Keys to Units or Personal Property

If any key for any Residential Unit or Residential Commercial Unit or an automobile, trunk, or other item of personal property is entrusted by an Owner or tenant of such Unit to the Board or any agent or employee of the Board, the acceptance of the key shall be at the sole risk of such Owner or tenant; the Board and such agent or employee shall not be liable for injury, loss, or damage of any nature whatsoever directly or indirectly resulting therefrom or connected therewith.

### 3.4 Inapplicability of Certain Rules:

Sections 3.1 and 3.2.1 above shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of River Run or its use of any Units which it owns within River Run, including the operation of a timeshare or similar program.

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Article I  
Name, Principal Office, and Definitions

1.1 Name. The name of the corporation is River Run Landowners Association, Inc. (the "Association").

1.2 Principal Office. The principal office of the Association shall be located in Plymouth, Massachusetts. The Association may have such other offices, either within or outside the Commonwealth of Massachusetts, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth below and as set forth in that certain recorded Master Declaration of Covenants, Conditions, and Restrictions for River Run as it may be amended (the "Declaration"), unless the context indicates otherwise:

1.3.1 "Builder": Any Person who purchases, in the ordinary course of such Person's business from Declarant or another Builder one or more Units for the purpose of constructing improvements for later sale to consumers or parcels of land within River Run for further subdivision, development, and/or resale.

1.3.2 "Common Area": All real and personal property, including easements, utilities, infrastructure, roads, and all other portions of River Run which the Association owns, leases, or otherwise holds possessory or use rights for the common use and enjoyment of the Owners or which the Declarant designates as being for the common use and enjoyment of the Owners. The term shall include Limited Common Area, as defined below.

1.3.3 "Declarant": ADM Agawam Development LLC, a Delaware limited liability company, or any successor or assign who takes title to any portion of the property described in Exhibit "A" of the Declaration for the purpose of development and/or sale and who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.3.4 "Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods.

1.3.5 "Master Plan": The by Master Concept Plan Special Permit for River Run issued by the Planning Board of the Town of Plymouth dated May 13, 2008 and recorded in the Registry in Book 36034, Page 13 - 47, as it may be amended, which includes all of the property described in Exhibit "A" of the Declaration, along with any and all Use Area Plans approved by the Planning Board pursuant thereto.

1.3.6 "Member": A Person entitled to membership in the Association. During the Declarant Control Period, the Association shall have two classes of Members: Owner and

1.3.14 “Unit”: A portion of River Run, whether undeveloped or developed, which may be independently owned and is intended for development, use, and occupancy. The term “Unit” shall refer to the land, if any, which is part of the Unit as well as any improvements thereon, as the context appropriately would admit or require.

Each Unit shall be classified as one of the following Unit types based on its primary usage:

(1) “Residential Unit(s)” which may consist of single family home(s), attached or town house style home(s) and condominium unit(s), or undeveloped Unit Parcels intended for such development. Each Residential Unit permitted under the Master Plan or, if a lesser number, under the Deed to the Owner, to be developed on a parcel shall constitute one Residential Unit.

In the case the Owner of two or more Parcels builds only one principal residential structure thereon, such parcels shall be considered as a single Residential Unit.

(2) “Commercial Unit(s)” which may include sub-types consisting of uses such as retail uses, and other commercial uses permitted in the Village Mixed Use Area under the Master Plan, or undeveloped Parcels intended for such development. A multi-family residential building which is owned by a single Owner shall be classified as a Commercial Unit (a “Residential Commercial Unit”). The community recreation facility also shall be classified as a Commercial Unit. A Parcel on which is permitted to be constructed not more than 1000 square feet for commercial use shall constitute a single Commercial Unit. Each additional 1000 square feet permitted under the Master Plan or under the Deed to the Owner, if lesser, to be developed on a parcel (or not less than 800 square feet in the case of development which is not a multiple of 1000) shall constitute an additional Commercial Unit. By way of example, a Parcel on which there can be constructed 29,900 square feet shall constitute 30 Commercial Units.

“Use Area(s)”. In accordance with the Zoning By-Law and the Special Permit, River Run consists of four (4) Use Areas: a “Conservancy Area”, multiple “Residential Areas”, multiple “Village Residential Areas” and a “Village Mixed-Use Area”. The Use Areas are depicted in a general manner on the plan attached to the Declaration as Exhibit “F” and are defined as follows:

#### 1.3.15 Use Area Plans.

(1) “Conservancy Area (CA)”: A Use Area which provides permanently provided open space and recreation areas, including greens, commons, fields, meadows, water bodies, wetlands, forests, trails, pathways and after parcels used for agriculture, nurseries and tree farms.

(2) “Residential Area (RA)”: A Use Area which provides locations for a variety of housing types, including single family detached and attached dwellings, located at a distance from the Village Mixed Use Area.

(3) “Village Residential Area (VRA)”: A Use Area which provided locations for a variety of housing types including single-family attached, townhouses and multi-family dwellings located at a closer distance to the Village Mixed Use Area.

(25%) of the total Owner Member votes of each Voting Group of the Association, or upon a petition signed by Owner Members holding at least five percent (5%) of the total Owner Member votes of the Association.

2.5 Notice of Meetings. Written or printed notice stating the place, day, and hour of any meeting of Voting Members and/or, if required under Section 2.3, of all Members shall be delivered, personally, electronically or by mail, to Declarant, to each Voting Member entitled to vote at such meeting, and, if required under Section 2.3, to all Members not more than fifty (50) days and not less than ten (10) days before the date of such meeting, by or at the direction of the President or the Clerk or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the respective Voting Member or Member at such Voting Member's or Member's address as it appears on the records of the Association, with postage prepaid.

2.6 Waiver of Notice.

(a) Waiver of notice of a meeting of Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may waive, in writing, notice of any meeting of Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member shall be deemed a waiver by such Voting Member of notice thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order.

(b) With respect to any meeting of Owner Members to consider Statutory Decisions after the termination of the Declarant Control Period, waiver of notice of a meeting of Owner Members shall be deemed the equivalent of proper notice. Any Owner Member may waive, in writing, notice of any meeting of Owner Members, either before or after such meeting. Attendance at a meeting by an Owner Member shall be deemed a waiver by such Owner Member of notice thereof, unless such Owner Member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings.

(a) If any meeting of Voting Members cannot be held because a quorum is not present, a majority of the Voting Members of each Voting Group who are present at such meeting may adjourn the meeting to a time not more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Voting Members in the manner prescribed for regular meetings.



In the absence of such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise such vote.

(d) Voting Groups. There are hereby designated two (2) Voting Groups for the purposes of exercise of voting rights by Owner Members and for the purpose of electing directors to the Board: (i) the Residential Voting Group, within which is included all Residential Units; and (ii) the Commercial Voting Group, within which is included all Commercial Units, including Residential Commercial Units. All actions of the Association affecting only the residential uses within River Run shall require approval of a majority vote of the Residential Voting Group. All actions of the Association affecting only commercial uses within River Run shall require approval of a majority vote of the Commercial Voting Group. All actions of the Association affecting both residential and commercial uses within River Run shall require approval of a majority vote of both the Residential Voting Group and the Commercial Voting Group. After the expiration of the Declarant Control Period, as more fully set forth in Sections 3.4(b) and 3.5 below, each Owner Member within the Residential Voting Group and the Commercial Voting Group shall vote on a separate slate of candidates for election to the Board, with each Voting Group being entitled to elect the number of directors specified in Section 3.5.

Declarant may amend the designation of Voting Groups not later than the date of expiration of the Declarant Control Period by filing with the Association and recording in the Registry an amendment or supplement to the Declaration identifying each Voting Group by means such that the Units within each Voting Group can easily be determined.

After expiration of the Declarant Control Period, the Board shall have the right to record or amend such supplement to the Declaration upon the vote of a majority of the total number of Directors and approval of (i) a majority vote of Voting Members representing the Residential Voting Group and a majority vote of Voting Members representing the Commercial Voting Group within a majority of the total number of Neighborhoods, and (ii) a majority of the total Owner-Member votes in the Association. Such supplement shall not constitute an amendment to the Declaration, and no consent or approval of any Person shall be required except as stated in this paragraph.

The foregoing does not reflect or derogate from the right of the Declarant to elect the Board during the Declarant Control Period as provided in these By-Laws.

(f) Neighborhoods and Voting Members.

(1) Neighborhoods. Every Parcel owned by a Person other than Declarant or Declarant's Affiliate shall be located within a Neighborhood. So long as Declarant owns any property described in Exhibit "A" of the Declaration and except as may be otherwise provided in any Supplemental Declaration applicable to a specific Neighborhood, Declarant may unilaterally amend the Declaration or record or amend any Supplemental Declaration to establish Neighborhoods and/or to redesignate Neighborhood boundaries. In addition, any grouping may be removed from the Neighborhood within which it is located and either combined with a different existing Neighborhood or established as an additional Neighborhood by recording or amending any Supplemental Declaration, subject to the following: (i) during the Declarant

positions for any Neighborhood, the Board may appoint a Voting Member or Alternate Voting Member for a Voting Group to represent the Neighborhood until a successor is elected.

The Board shall call for the first election of Voting Members and alternate Voting Members for each Voting Group from a Neighborhood not later than one (1) year after the conveyance of a Unit in the Neighborhood to a Person other than a Builder. Subsequent elections shall be held each year on a date established by the Board. Each Owner Member who owns a Unit within the Neighborhood shall be entitled to cast one vote per Unit owned for the Voting Member for the applicable Voting Group. The candidate who receives the greatest number of votes shall be elected as the Voting Member for the applicable Voting Group and the candidate receiving the next greatest number of votes shall be elected as the Alternate Voting Member for such Voting Group. The Voting Member and the Alternate Voting Member shall serve until their successors are elected.

Any Voting Member may be removed, with or without cause, upon the vote or written petition of Owners of a majority of the total number of votes per Units within each Voting Group owned by Owner Members in the Neighborhood which the Voting Member represents.

Until such time as the Board first calls for election of Voting Members for each Voting Group from a Neighborhood, the Owners within such Neighborhood shall be entitled personally to cast the votes attributable to their respective Units on any issue requiring a membership vote under the River Run Governing Documents.

2.9 Proxies. Voting Members, in their capacity as Voting Members, may not vote by proxy but only in person or through their designated alternates. On any matter as to which a Member is entitled to cast the vote directly for a Unit, such vote may be cast in person or by proxy, subject to the limitations of Massachusetts law relating to use of proxies and subject to Section 3.5 herein providing that votes for Directors may also be cast by written ballot.

Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the Clerk of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast. In the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable and shall automatically cease upon: (a) conveyance of any Unit for which it was given; (b) receipt by the Clerk of written notice of revocation of the proxy or of the death or judicially declared incompetence of a Member who is a natural person; or (c) six (6) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.10 Majority. As used in these By-Laws, the term "majority" shall mean those votes, Voting Members, Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number thereof.

2.11 Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence of Voting Members or Owner Members, as applicable, representing a majority of

(b) Opportunity To Be Heard. The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Declarant, through its representatives or agents, shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, the Board, or the Association. The Declarant Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

## Article II Board of Directors: Number, Powers, Meetings

### A. Composition and Selection

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one vote. Except with respect to directors appointed by the Declarant Member, the directors shall be Members, representatives of Members (in the case of Members that are not natural persons) or residents; provided, however, no Owner and resident representing the same Unit may serve on the Board at the same time. A "resident" shall be any natural person eighteen (18) years of age or older whose residence is a Unit within River Run. In the case of a Member which is not a natural person, any officer, director, partner or trust officer of such Member who is designated in writing to the Association's Clerk by such Member as the representative of such Member shall be eligible to serve as a director; provided that no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Declarant Member.

3.2 Number of Directors. The Board shall consist of no less than four or more than \_\_\_\_ directors **[need to coordinate with number of Neighborhoods]**, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of four directors as identified in the Articles of Organization.

3.3 Directors During Declarant Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Declarant Member acting in its sole discretion and shall serve at the pleasure of the Declarant Member until the first to occur of the following:

(a) the date upon which more than ninety-five percent (95%) of the Units permitted by the Master Plan for the property described in Exhibit "A" of the Declaration have been conveyed to Persons other than the Declarant or Builders;

(b) the date upon which more than ninety five percent (95%) of the Units to be developed under the Master Plan as determined by the Declarant, if less than the maximum

ninety (90) days after termination of the Declarant Control Period, this subsection shall not apply and directors shall be elected in accordance with subsection (b) below.

(b) For the first annual meeting after the termination of the Declarant Control Period, directors shall be elected as follows. \_\_\_\_\_ ( ) directors shall be elected by Owner Members, \_\_\_\_ ( ) representing the Residential Voting Group and three (3) representing the Commercial Voting Group. Three (3) directors shall serve a term of two (2) years, and three (3) directors shall serve a term of one year, as such directors determine among themselves. Prior to the expiration of the initial term of office of each of these directors, the Owner Members entitled to elect such director shall elect a successor to serve a term of two (2) years, in the manner set forth in Section 3.5(b) above. The directors elected by Owner Members shall hold office until the next annual meeting and their respective successors have been elected.

The following diagram illustrates the manner in which the transition of control of the Board of Directors shall occur but is not intended to be a comprehensive description of such transition. In the event of a conflict between the text of these By-Laws and the following diagram, the text shall prevail.

Composition of Board of Directors	
During Declarant Control Period	Upon the Earlier of 90 Days After Termination of Declarant Control Period or the First Annual Meeting After Termination of Declarant Control Period
Four Directors: all selected by Declarant	_____ Directors : all elected by Owner Members, _____ elected by the Residential Voting Group and Three elected by the Commercial Voting Group [ <b>need to coordinate with number of Neighborhoods</b> ]

3.6 Removal of Directors and Vacancies. Any director elected by Owner Members may be removed, with or without cause, at a meeting of the association, by the vote of Owner Members of the Voting Group of the holding a majority of the votes entitled to be cast for the election of such director. Upon removal of a director at such meeting, notwithstanding the provisions of Section 3.4(b), a successor shall be elected by Owner Members entitled to elect the director so removed to fill the vacancy for the remainder of the term of such director.

Any director elected by Owner Members who is more than thirty (30) days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the remaining directors of the Voting Group represented by the removed director may appoint a successor to fill the vacancy until the next annual meeting, prior to which meeting Owner Members entitled to fill such

3.10 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Telephonic Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.12 Quorum of Board. At all meetings of the Board, a majority of the directors within each Voting Group shall constitute a quorum for the transaction of business, and the votes of a majority of those directors within each Voting Group that are present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.13 Compensation. Directors may receive compensation from the Association for acting as such, and any director may be reimbursed for expenses incurred on behalf of the Association, provided that the total compensation and reimbursement paid to each director shall be reported annually to all Members. The Association also may compensate a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that (i) such director's interest was made known to the Board prior to entering into such contract, (ii) such contract was approved by a majority of the Board, excluding the interested director, and (iii) all such contracts are disclosed at least annually to the Members.

3.14 Conduct of Meetings. The President shall preside over all meetings of the Board, and the Clerk shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.15 Notice to Owners; Open Meetings. Except in an emergency, notice of the time and place of Board meetings shall be posted at least forty-eight (48) hours in advance of the meeting at a conspicuous place within River Run which the Board establishes for the posting of notices relating to the Association. Notice of any meeting at which assessments are to be established shall state that fact and the nature of the assessment. Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless a director requests that such attendee(s) be granted permission to speak and such permission to speak is authorized by a vote of the majority of a quorum of the Board. Notwithstanding the above, the President may adjourn

such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association, provided, any reserve funds may be deposited, in accordance with the Board's business judgment, in depositories other than banks;

(f) making and amending use restrictions and rules in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing the provisions of the River Run Governing Documents, the River Run Standards, the Permits and any rules and regulations adopted pursuant thereto and bringing any legal proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule if the Board determines that the Association's position is not strong enough to justify taking enforcement action;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association or its Members and not chargeable directly to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association, specifying the maintenance and repair expenses and any other expenses incurred;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property;

(n) making available to any prospective purchaser of a Unit, any Owner and the holders, insurers, and guarantors of any first Mortgage on any Unit, current copies of the River Run Governing Documents, minutes of meetings of the Association and the Board and financial statements of the Association.

(o) indemnifying the Declarant, a director, officer or committee member, or former director, officer, or committee member of the Association to the extent such indemnity is required by Section 6.4 below, Massachusetts law, the Articles of Organization, or the Declaration;



Declarant Control Period, no Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Voting Members representing at least fifty-one percent (51%) of the total Owner votes within each Voting Group in the Association.

3.21 Enforcement. The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the River Run Standards. In the event that any occupant, tenant, employee, guest, or invitee of a Unit violates the River Run Governing Documents, or the provision of any Permit and a fine is imposed, the Owner shall pay the fine immediately upon notice from the Association.

The Association shall not be obligated to take any enforcement action if the Board determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed as a waiver of the right of the Association to enforce such provision at a later time under the same or different circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

To the extent required by the Declaration, the Board shall comply with the following procedures prior to imposition of any sanction hereunder:

(a) Notice. The Board or its management agent shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board, and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided that the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within a the allotted ten (10) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the Person who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article and without limiting any authority of the Board, the Board may elect to enforce any provision of the Declaration, these By-Laws, or the use restrictions and rules of the Association by exercising self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or by bringing suit at law or in equity to enjoin any violation, to abate nuisances or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. Any entry onto a Unit for purposes of exercising this power



tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2 Neighborhood Committees. In addition to any other committees appointed as above, each Neighborhood which has no formal organizational structure or association may elect a Neighborhood Committee to determine the nature and extent of services, if any, to be provided to the Neighborhood by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A Neighborhood Committee may advise the Board on any other issue, but shall not have the authority to bind the Board. Each Neighborhood Committee, if elected, shall consist of four (4) or six (6) Members (excluding ex officio members and any Voting Member), with an equal number of representatives from each Voting Group in the Neighborhood, as determined by the vote of at least fifty-one percent (51%) of the Owners of Units within each Voting Group in the Neighborhood.

Neighborhood Committee members shall be elected for a term of one (1) year or until their successors are elected. Any director elected to the Board from a Neighborhood shall be a non-voting, ex officio member of the Neighborhood Committee. The Voting Member(s) representing such Neighborhood shall be the chairperson of the Neighborhood Committee, shall preside at its meetings, and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each Neighborhood Committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11. Meetings of a Neighborhood Committee shall be open to all Owners of Units in the Neighborhood and their representatives. Members of a Neighborhood Committee may act by unanimous written consent in lieu of a meeting.

5.3 Advisory Committee. Within no more than ninety (90) days after the sale of twenty-five (25) Units to Persons other than Builders, and continuing until the termination of the Declarant Control Period, there shall be an advisory committee (the "Advisory Committee") which, as determined by the Board, shall be either appointed or elected, provided that if the Advisory Committee members are to be elected, they shall be elected as provided in these By-Laws for election of the Board after the expiration of the Declarant Control Period, except that the Declarant shall not be entitled to cast any votes for Units owned by Declarant. The Advisory Committee shall act as a liaison between the Unit Owners and the Declarant with respect to any matter within the jurisdiction of the Association which a Unit Owner(s) shall desire to bring to the attention of the Declarant. The Advisory Committee shall be in existence until the expiration of the Declarant Control Period. The Declarant and the Advisory Committee shall hold periodic meetings not less than quarterly to discuss any items desired by the Advisory Committee. The Advisory Committee shall not have any veto power or other legal control over the Declarant or the Association.

## Article V Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year, unless the Board establishes a different fiscal year by resolution.

In all other instances, such indemnification by the Association shall be made solely at the discretion of the Association, but only if (1) the Board of Directors, acting by a quorum consisting of Directors who are not parties to (or who have been wholly successful with respect to) such claim, action, suit, or other proceeding, shall find that such Director, president, treasurer, clerk, assistant clerk, or Designated Person has met the standards of conduct required by law or otherwise set forth in the River Run Governing Documents, or (2) independent legal counsel shall deliver to the Association their written advice that, in their opinion, such Director, president, treasurer, clerk, assistant clerk, or Designated Person has met such standards.

The termination of any claim, action, suit, or proceeding, civil or criminal, by judgment, settlement (whether with or without court approval) or conviction or upon a plea of guilty or of *nolo contendere*, or its equivalent, shall not create a presumption that such Director, president, treasurer, clerk, assistant clerk, or Designated Person did not meet the standards of conduct hereinabove set forth as entitling him or her to indemnification.

Expenses incurred with respect to any such claim, action, suit, or other proceeding shall be advanced by the Association prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount if it shall ultimately be adjudicated that he or she is not entitled to indemnification hereunder, which undertaking shall be accepted without reference to the financial ability of such person to make repayment.

Each person who shall at any time serve as such Director, president, treasurer, clerk, assistant clerk, or Designated Person shall be deemed so to serve in reliance upon the provisions hereinabove set forth, which provisions shall not be exclusive of any other rights of indemnification to which such person may be entitled pursuant to contract or to valid and applicable law, shall be separable and enforced to the extent permitted by valid and applicable law, and shall inure to the benefit of the legal representatives of such person.

The Association shall have power to purchase and maintain insurance on behalf of any person who shall be, or who shall at any time have been, a Director, officer, employee, or other agent of the Association, or who, at the request of the Association shall serve, or who shall at any time have served, as an incorporator, Director, trustee, officer, employee, agent, or member of another corporation, trust, association, firm or other organization, against any liability incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability.

#### 6.5 Amendment.

(a) By Declarant Member. Prior to termination of the Declarant Control Period, the Declarant Member may unilaterally amend these By-Laws for any purpose. Thereafter, so long as the Declarant owns property described in Exhibit A of the Declaration for development as part of River Run, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any Permit or any other applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units, (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan

CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Clerk of River Run Landowners Association, Inc., a Massachusetts corporation;

That the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof held on the \_\_\_\_ day of \_\_\_\_, 20\_\_.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this \_\_\_\_ day of \_\_\_\_, 20\_\_.

Clerk

DRAFT

## **EXHIBIT "E"**

### **Calculation of Assessments**

#### **Base Assessments:**

The percentage of assessments for all Units subject to assessment under this Declaration shall be determined based on a formula.

- The numerator of such formula shall be the number of votes attributable to such Unit.
- The denominator of such formula shall be the total number of votes attributable to all Units subject to assessment within River Run.

The calculations of such formula shall be revised not less than annually by the Board as of the first date of each fiscal year of the Association. In determining the formula, the Board may consider any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

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**EXHIBIT G**

**Water Conservation Plan**

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