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2 **Article I- Meetings**
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4 **Section 1. Annual Meetings.**
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- 6 a) **TIME.** The annual meetings of the members of the Duck Creek Ridge Owner's
7 Association, a Utah Corporation, shall be held in or in the vicinity of the Color Country
8 Subdivision, in Kane County, Utah at such place as the Board of Directors designates, at
9 the hour of ten o'clock a.m. on the first Saturday of the Memorial Day weekend in May,
10 commencing with the year 2006.
11
- 12 b) **NOTICE.** Written or printed notice of meeting to members stating the place, day and
13 hour of the meeting, and in case of a special meeting, the purpose or purposes for which
14 the meeting is called shall be given by the Secretary, not less than ten (10) nor more
15 than thirty (30) days before the date of the meeting, either personally or by mailing the
16 same to the member's last known place of residence. If mailed, such notice shall be
17 deemed to be delivered when deposited in the United States Mail, addressed to each
18 member at his address as it appears on the books of the corporation, with postage
19 thereon prepaid.
20
- 21 c) **QUORUM. POWER TO VOTE.** Except as otherwise provided by the laws of the State of
22 Utah, the members present shall constitute a quorum who will nominate and elect
23 candidates for the Duck Creek Ridge Owner's Association (DCROA) Board, and act on
24 business that concerns the membership as presented at the annual meeting. The
25 members present shall nominate and affirm the proposed candidates, who must be
26 members in good standing of the Association. These candidates shall be elected by a
27 mail-in ballot unless, in such case wherein the number of candidates is the same as the
28 number of open Board positions, the candidates shall automatically be elected to the
29 Board. If a mail-in ballot is necessary, it will be certified by an outside agency approved
30 by the Board. Then all DCROA members shall be notified of the results in a subsequent
31 mailing. This constitutes the fair ballot procedure and it obviates the problem associated
32 with proxy votes and personal conflicts of interest.
33
- 34 d) **CONDUCT OF MEETING.** In the conduct of the annual meeting, the Board may use
35 Robert's Rules of Order to facilitate the management of Group discussion if the Board
36 deems it necessary to ensure an orderly, open, and fair discussion on issues addressed
37 at the meeting.
38
- 39 e) **PRESENTATION MATERIALS:** The Board shall present a budget and a statement of
40 the assets of the corporation at the annual meeting.
41
- 42 f) **ADJOURNMENTS.** The members present may adjourn such meeting to such future time
43 as shall be agreed upon by a majority vote of those present, and notices of such
44 adjournment shall be mailed, postage prepaid, to each member at least five (5) days
45 before such adjourned meeting, unless such adjournment be from day to day, in which
46 event no notice need be given.
47
- 48 g) **CONCURRENCE.** Written concurrence by a member in any action taken at a meeting at
49 which said member is not present shall be equivalent to an affirmative vote at the
50 meeting.

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Section 2. Special Meetings of the Membership.

- a) TIME. Special meetings of the members may be called by the President, the Board of Directors, or not less than ten percent (10%) of all of the members entitled to vote at the meeting. When a special meeting is called as above, the Secretary shall be notified of such special meeting in writing and appropriate notice given as set forth in the following sub-paragraph.
- b) NOTICE. Notice of such special meeting shall be given by the Secretary as provided in Section 1, subparagraph (b) of this Article of the Bylaws.

Article II- Directors

Section 1. Election.

- a) DIRECTORS. The Directors of the Board of the Duck Creek Owner's Association are the officers of the corporation.
- b) ELECTION AND NUMBER. There shall be elected by the members, five Directors to serve two year terms, with election of two Directors and three Directors occurring on alternate years. Candidates shall be nominated at the annual meeting; individuals may nominate themselves.
- c) VACANCY ON THE BOARD. In case of death, resignation or for any other reason, the office of Director shall become vacant, the remaining Directors shall appoint an individual, who is a member in good standing, to fill such vacancy until the next annual meeting, at which time the vacancy shall be filled by election by the membership. The electee shall then serve out the remainder of the vacated Director's term of office.
- d) OFFICERS TO BE CHOSEN. The President will be notified of the election results by the DCROA Secretary or by the agency assigned to collect and count the election ballots. The President or Secretary will notify those candidates as to their standing. A meeting will be scheduled within 30 days of the final ballot count for purpose of confirmation of the election results and the selecting of new officers. The Directors shall choose from among themselves a President, Vice President, and Treasurer. These officers shall serve for a period of two years subject to the following provisions: (1) an officer may serve no more than two consecutive terms in a single position unless all other Board members decline the opportunity to serve in that position; and (2) should a Board member with one year of elected service remaining be chosen to serve as President, that member's elected period of service shall be extended by one year.
- e) SECRETARY. In addition, the Board shall appoint a Secretary to the Board; such position shall be a paid position, with the Board setting the salary. The Secretary may be a Board member, a member of the Duck Creek Ridge Owner's Association, or the Board may hire someone from outside the association. The Secretary shall serve until such time as a successor is named by the Board of Directors.

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Section 2. Meetings.

- a) Meetings of the Board of Directors, regular or special, shall be held at such place and time as the Board of Directors designates. A minimum of one regularly scheduled meeting shall be held each quarter.
- b) The Board shall establish its meeting schedule sufficiently in advance to ensure attendance by all members. In scheduling meetings, the Board will ensure the opportunity for all Board members to participate in the meeting. Participation by telephone shall be arranged if requested.
- c) If a member of the Board does not actively participate, as evidenced by lack of attendance of at least half of the regularly scheduled meetings, that Board member shall forfeit said position on the Board.

Section 3. Special Meetings.

- a) Special meetings of the Directors may be called by any two members thereof by giving to the balance of the Board at least five days notice, delivered personally, either orally or in writing, or by giving sufficient notice of the time and place of such meeting in writing, by ordinary mail, postage prepaid. If the subject of the meeting is considered to be of emergency importance, the time of notice shall be two days, and it shall be incumbent upon those calling the meeting to ensure that the full Board has been notified.

Section 4. Ratification of Majority Action.

- a) Any action and the record thereof taken by and assented to in writing by all of the Board shall be as valid and effective in all respects as if passed by the Board in regular or special meeting.

Section 5. Waiver of Notice.

- a) Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully convened or canceled. Neither the business to be transacted, nor the purpose of any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 6. Quorum.

- a) A majority of the number of Directors as fixed by these Bylaws shall constitute a quorum for the transaction of business. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 7. Power of Board.

- a) Its Board of Directors shall manage the business and affairs of this Corporation. The Board shall exercise all powers, which may be exercised and performed by the Corporation and the Bylaws. The Board shall have authority to cause to be executed all

151 deeds, bonds, mortgages, liens, notes and contracts, not to exceed \$5,000.00 for any
152 one expenditure, and any amount over \$5,000.00 to have membership approval before
153 acting upon the property of the Corporation.
154

155 **Section 8. Liability and Indemnification.**
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- 157 a) **LIABILITY AND IMDEMNIFICATION.** The Board of Directors, members, officers and
158 employees of the Corporation shall not be individually or personally liable for the debts
159 or obligations of the Corporation and shall be indemnified by the Corporation against all
160 financial loss, damage, costs and expenses (including attorney's fees) reasonably
161 incurred by or imposed upon them in connection with or resulting from any civil or
162 criminal action, suit, proceeding, claim or investigation in which they may be involved by
163 reason of any action taken or admitted to be taken by them in good faith as such
164 Director, member, officer or employee of the Corporation
165
- 166 b) **PRUDENT CARE.** Indemnification is subject to the condition that a majority of a quorum
167 of the Board of Directors or members comprised of those Directors or members are not
168 parties to such action, suit, proceeding, claim or investigation or, if there be no such
169 quorum, independent counsel selected by a quorum of the entire membership, shall be
170 of the opinion that the person involved exercised and used the same degree of care and
171 skill a prudent man would have exercised or used under the circumstances, or that such
172 person took or admitted to take such action in reliance upon advice of counsel for the
173 Corporation or upon information furnished by an officer or employee of the Corporation
174 and accepted in good faith by such person.
175
- 176 c) **BENEFIT.** Indemnification provided herein shall inure to the benefit of the heirs,
177 executors, or administrators of any Director, member, officer or employee and shall not
178 be exclusive of any other rights to which such party may be entitled by law or under any
179 resolutions adopted by the Board of Directors or membership.
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182 **Article III- Notice**
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- 184 a) Whenever any notice is required to be given by virtue of the laws of Utah and relating to
185 corporations, or required to be given by these Bylaws, a waiver thereof in writing signed
186 by the person or persons entitled to such notice, whether made before or after the time
187 stated therein, shall be deemed equivalent to such notice duly and regularly given.
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190 **Article IV- Officers**
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192 **Section 1. Duties.** The duties of the officers of the corporation shall be as follows:
193

- 194 a) **PRESIDENT.** The President shall preside over all meetings of the members and shall
195 have primary responsibility in carrying out the purposes of the corporation. The
196 President shall also cooperate, consult with and advise the other officers of the
197 corporation in the discharge of their function.
198
- 199 b) **VICE PRESIDENT.** The Vice President shall have full authority to act for the President in
200 an absence or incapacity.

201
 202 c) TREASURER. The Treasurer of the Corporation shall keep correct and complete books
 203 and records of accounts, keep an account of all monies of the Corporation received
 204 and/or disbursed, and shall deposit all monies or valuables in the name of the
 205 Corporation or to the credit of the Corporation in such bank or depository as the Board of
 206 Directors may designate. The Treasurer shall support the Board in its responsibilities for
 207 the investments and general fiscal policy of the Corporation.
 208

209 **Section 2. Support.** The Board shall be supported in the operation of the corporation by a
 210 Secretary, the duties of which shall be as follows:
 211

212 a) SECRETARY The Secretary shall be responsible for maintenance and destruction under
 213 DCROA record retention schedule of all DCROA files, records, books, manuals,
 214 electronic files, and software. The Secretary is also responsible for maintaining accurate
 215 and up to date records with the State of Utah Division of Corporations. The Secretary
 216 shall be responsible for proper follow-up of the plans, activities, and projects of the
 217 Corporation, shall keep a record of the minutes of the meetings of members and
 218 Directors and shall give notice as required by these Bylaws of all such meetings.
 219

220 **Section 3. Bond.**
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222 a) The Treasurer of the Corporation shall, upon resolution of the Board, but not otherwise,
 223 furnish the company such bond as the Board may from time to time require but the
 224 requirement of furnishing bond, except where otherwise required by the laws of the State
 225 of Utah, is discretionary with the Board of Directors.
 226

227 **Section 4. Books, Records, Depository, and Retention.**
 228

- 229 a) The Treasurer of the Corporation shall keep correct and complete books and records of
 230 accounts.
- 231 b) The Secretary of the Corporation shall keep minutes of the proceedings of its members
 232 and Board of Directors; and shall keep at the registered office or principal place of
 233 business a record of the Corporation's members, giving the names and addresses of all
 234 members, and giving the number(s) of the lot(s) owned by these members. It shall be
 235 the members' responsibility to notify the Secretary of change of address.
 236
- 237 c) All funds of the Corporation shall be held and maintained at a bank or depository
 238 approved by the Board of Directors. The Secretary shall have the custody of all records
 239 and papers of the Corporation, except such as shall be in the charge of some other
 240 persons authorized to have the custody and possession of the same by resolution of the
 241 Board or Directors.
 242
- 243 d) The Secretary shall keep at the registered office or principal place of business a record
 244 of the Corporation's members, giving the names and addresses of all members, and
 245 giving the number of the lot(s) owned by these members. When called upon to do so,
 246 the Secretary may act as the authorized authority for the Directors and/or Association as
 247 a whole in signing letters and/or legal documents.
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Section 5. Act in Capacity of Officer.

- a) Whenever it shall become necessary for some member or members of the Board to act in the capacity of a principal officer of this Corporation, and which action would otherwise be done or taken by a President, the Board shall select one from among its members to so act concerning the matter then under consideration by the Board.

Article V- Membership

Section 1. Eligibility.

- a) Each lawful lot owner, as such owner is defined by the Articles of Incorporation, owning a lot or lots within the area known as Color Country Subdivision in Kane County, Utah, is entitled to and required to become a member and hold membership in this Corporation. When a specified lot or lots are owned by more than one individual, or by co-partners or a group forming an association of any kind, such individuals, copartners or the said group shall be entitled, in the aggregate, to the membership benefits of an individual, and may designate from time to time which of said group may have the vote and right of representation thereof. There shall be one vote per lot.
- b) A member shall be a member in good standing so long as fees and other monies owed to the Association are paid within the period allowed, and no liens or other legal action has been taken against the member by the Board or the Association

Section 2. Termination of Eligibility.

- a) The right of membership as in the preceding section set forth shall be held by such lot owner only so long as the title thereto remains in the lot owner's name. The lot owner will lose membership in this Corporation and all interest in the Corporation when the lot owner has parted with the title to the lot mentioned therein, and the grantees to whom title to said lot has passed shall thereby, upon surrender of said title be entitled to a membership in this Corporation and as owner of said lot, with the same rights and benefits as the predecessor may have had.

Section 3. Transfer of Eligibility and Membership.

- a) Whenever a lot has been sold or otherwise disposed of by an appropriate conveyance or whenever the title to a lot has descended through a probate proceeding, the person acquiring the succeeding title shall be entitled to membership and then be subject to the terms and provisions of the Articles of Incorporation and these Bylaws.

Section 4. Right and Privileges of Members.

- a) Members of the Duck Creek Ridge Owners Association in good standing shall have the right or privilege to:
 - i. Vote on issues addressed by the Association

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- 301 ii. Call for a special meeting in accordance with Article I, Section 2.
302
303 iii. Be informed of the actions of the Board of Directors in the management of the
304 affairs of the Duck Creek Ridge Owners Association. The Board shall disseminate
305 information to the membership through effective means including, but not limited to
306 annual meetings, newsletters, and electronic distribution through e-mail or a web
307 site. Such dissemination will be coordinated by volunteers from the membership,
308 with reimbursement by the Board for expenses incurred.
309
310 iv. Volunteer to participate in independent audits of the monetary affairs of the Board,
311 and report the results of such audits to the membership
312
313 v. Present issues to the Board for their action.
314
315 vi. Use the Association parking lot consistent with Association rules.
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Article VI- Architectural Committee

Section 1. Review Board

- 321
322 a) There shall be established an Architectural Committee, reporting to the Board of
323 Directors, to ensure that all construction in the Color Country subdivision conforms to
324 and is consistent with the natural setting of Color Country and Southern Utah.
325
326 b) No construction shall take place in Color Country unless and until plans for the
327 construction have been submitted to the Architectural Committee for review and have
328 been approved.
329
330 c) Members of the Architectural Committee shall be elected by the Membership. The
331 Board shall consider any volunteers for three Architectural Committee positions, or solicit
332 for Committee members from the membership.
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334 d) The members of the Architectural Committee shall appoint a chairman
335
336 e) The Chairman shall attend Board meetings, or send a delegate, to at least one meeting
337 each quarter.
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Section 2. Duties

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341 a) Members of the Architectural Committee shall review building plans and drawings
342 submitted to the Secretary, and, if appropriate, recommend that the Board allow
343 construction.
344
345 b) A positive recommendation by a quorum of the committee finding the plans and
346 drawings to represent construction that is consistent with the CC&Rs and has no
347 undesirable elements constitutes approval by the Board and can be communicated to
348 the owner or owner's representative directly, with notification to the Secretary for the
349 Corporation's records.
350

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Duck Creek Ridge Owner's Association

- 351 c) Should the Architectural Committee find the plans and drawings to represent
352 construction that is not consistent with the CC&Rs or has undesirable elements, they
353 shall inform the owner or his representative and recommend to the Board that approval
354 be denied.

355 **Section 3. Quorum**

- 357
358 a) A Quorum for approval consists of agreement of at least two members of the
359 Architectural Committee that the plans and drawings should be approved or
360 disapproved.

361 **Section 4. Operation**

- 362
363 a) The Secretary will coordinate review of the plan and drawings, and keep records of the
364 plans and drawings and approval or denial proceedings.
365
366 b) The Architectural Committee will work with Kane County Inspector's Office to ensure
367 final Architectural Committee approval of construction before Kane County issues a
368 Certificate of Occupancy.
369
370 c) Building plans drawings are to be submitted to the Secretary.
371
372 d) Attachment 1 summarizes the current provisions of the CC&Rs.
373

374 **Section 5 Appeal Process**

- 375
376 a) Should the Architectural Committee find the plans and drawings to represent
377 construction that is not consistent with the CC&R's or have undesirable elements, and so
378 inform the owner or his representative, the owner shall have an opportunity to request a
379 hearing by the Board at one of its meetings.
380
381 b) Should conditions necessitate, a special meeting may be requested, provided: a
382 convenient time for the meeting can be scheduled; at least one of the Architectural
383 Committee Members who disapproved the plans must attend; and at least two Board
384 members must attend.
385
386 c) Should the Board find the plans and drawings represent construction that is consistent
387 with the CC&Rs and have no undesirable elements, the Board may approve the
388 construction.
389

390 **Section 6. Inappropriate Construction or Use**

- 391
392 a) Initiation of construction before approval of plans shall be considered inappropriate
393 construction and shall be subject to Board action.
394
395 b) Construction that is not consistent with approved plans and drawings shall be
396 considered inappropriate construction and shall be subject to Board action.
397
398 c) Completed construction that is not consistent with approved plans and drawings shall be
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401 considered inappropriate construction and shall be subject to Board action.

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403 d) Use of property or facilities on such property that is not consistent with the rural, arboreal
404 conditions of Color Country shall not be permitted. Such use shall include but not be
405 limited to unauthorized storage, untidy or disheveled conditions, sound or light pollution,
406 or disruption of privacy. Should the Architectural Committee or the Property Manager
407 determine that inappropriate construction or use has occurred or is occurring, such use
408 shall be reported to the Board.

409

410 **Article VII- Assessments and Penalties**

411

412 **Section 1. Assessments to be Levied.**

413

414 a) Whenever, in the opinion of the Board of Directors, an assessment is necessary and in
415 the best interest of the corporation and its members, the Board is authorized to levy and
416 collect an assessment upon all of the members of this Corporation, on an equal basis
417 per lot in which title is held, for the purposes more particularly set forth in the Articles of
418 Incorporation.

419

420 **Section 2. Manner of Levying Assessments and Collection Therefore.**

421

422 a) Unless otherwise provided in the Articles of Incorporation, or these Bylaws, all
423 assessments and the collection thereof shall be as prescribed by the Corporation code
424 of Utah pertaining to assessments.

425

426 **Section 3. Penalties for Non-conformance to Architectural Standards**

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428 a) Should a Member initiate construction before approval of plans, the Board will seek to
429 have the Kane County Permitting Authorities deny permits until such time as the Board
430 had granted approval for construction.

431

432 b) Should a Member engage in inappropriate construction or inappropriate use has
433 occurred, the Board shall take appropriate action to preclude further such construction or
434 use. Such action, at the Board's discretion, may include but not be limited to levying
435 fines, placing liens, or other legal action.

436

437 c) It is the desire of the Duck Creek Ridge Owner's Association to ensure that all
438 construction and use in the Color Country subdivision, conforms to and is consistent with
439 the natural setting of Color Country and Southern Utah, and the CC&Rs. Existing
440 inappropriate construction shall be remediated to the extent that it does not cause undue
441 financial hardship. It shall become the responsibility of new owners, upon property
442 transfer, to assume the burden of remediating inappropriate construction.

443

444 **Section 4. Remedies for Non-Payment.**

445

446 a) Failure of any member to pay when due, the membership fee or any assessment levied
447 by this Corporation, shall entitle the Board of Directors to impose any or all of the
448 following sanctions, in addition to any and all statutory penalties or remedies for non-
449 payment.

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Duck Creek Ridge Owner's Association

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1. Suspend the member's membership in the Corporation, with all of the rights and benefits accruing there from, from the date any of the aforementioned charges became delinquent (as defined by the Board of Directors) until such time as payment is made, or satisfactory arrangements for payment have been made with the Board of Directors
 2. Revoke the membership benefits of a member who has been delinquent for nonpayment of any of the aforementioned fees or assessments for a period of one year, provided that said member shall have been given written notice that he is delinquent, and sixty days prior to revocation given written notice by registered or certified mail that unless said delinquency is cured by a date certain the member shall be required to pay a penalty equal to the amount of the assessment owed by the member. Three months subsequent to the notice of delinquency, if no action has been taken by the member, the Board will institute legal action to place a lien against the property.
 3. The Secretary of the Corporation is empowered to file an appropriate notice of lien in the county recorder's office, listing the owner's name and lot and specifying the amount of the delinquency and/or whether the member's membership in the Corporation has been suspended or revoked and stating the consequence thereof, and such notice shall constitute a lien and interest for the Corporation against the lot listed for the amount specified. The lien may be foreclosed as provided by law for the foreclosure of mechanics liens, but this remedy shall not impair any other rights of the Association provided by law or herein.
 4. The Association shall be entitled to recover from the member for all costs incurred in enforcing those rights, including interest at the legal rate, and attorney's fee

Article VIII- Amendment of Bylaws

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484 No Bylaw adopted or amended by the members shall be altered or repealed by the Board of
485 Directors without the consent of the membership.
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490 I hereby certify that the foregoing is a full, true and correct copy of the Bylaws of the Duck Creek
491 Ridge Owner's Association.
492

493 IN WITNESS WHEREOF, the Declarant has hereunto set my hand this 19th day of July, 2007.
494
495

496 DUCK CREEK RIDGE OWNER'S ASSOCIATION, by
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Bylaws

Duck Creek Ridge Owner's Association

501 Michele Taketa / President

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512 I hereby certify that the proposed revisions and additions to the Bylaws of the Duck Creek Ridge
513 Owner's Association were presented to the membership, and were approved by a majority vote
514 at the Annual Meeting taking place on the 26th day of May, 2007.

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519 _____
Donna Roshak/ Secretary

__07_ / 19__ / 2007__

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524 This document was acknowledged in my presence on this 19th day of July, 2007.

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528 Original signatures on file

529 _____

530 Notary Public

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532 My commission expires

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Duck Creek Ridge Owner's Association

Attachment 1: Duck Creek Ridge Owner's Association Architectural Committee Architectural Standards and Evaluation Form

Lot Number:

Address:

Date Received:

Owner:

Date Reviewed:

Builder:

Evaluator:

Contact:

CC&R Section	Criteria	Comments	Approved
III.(a)	Exhibits quality construction, Not unsightly, preserves quality of natural surroundings		
III.(b), (e)	Submittal of grading plan, plot plan, floor plan, roof plan, exterior elevations, sections, color scheme, finish, design, proportions, style, materials, type and location of hedges, walls and fences, construction specifications.		
III(e) VII(a)	Harmonious and keeping with the general plan or structures erected on other sites in Color Country; protect the natural growth and setting.		
IV. (a)	One single family dwelling and appurtenant outbuildings.		
V.(a)	Outbuildings and garages shall generally conform to design, exterior material and color of main dwelling.		
V.(b)	Living area greater than 1,000 square feet.		
V.(f)	Minimum front property line setback: 15 feet		
V.(g)	Minimum side property line setback, main dwelling: 10 feet, (7.5) feet to eaves.		
V. (h)	Minimum side property line setback, auxiliary buildings: 7.5 feet		
V. (i)	Minimum rear yard setback: 20 feet		
V. (i)(1)	No building constructed closer to property lines than as shown in recorded subdivision map.		
Notes			



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