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**Declarant: MMS One Loudoun Center, LLC  
Tax Residential Parcel No.: 057-10-2844**

## **One Loudoun Residential Declaration**

### **Loudoun County, Virginia,**

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Box 99

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**MMS One Loudoun Center, LLC**, a Delaware limited liability company (the “Founder”, as further defined in Chapter 7 of this Declaration) makes this Declaration as of the 28~~th~~ day of NOVEMBER, year of 2007.

#### STATEMENT OF PURPOSE

One Loudoun is a mixed-use community in Loudoun County, Virginia, and is subject to the One Loudoun Community Operating Agreement recorded immediately prior hereto in the Clerk’s Office of the Circuit Court of Loudoun County (the “Clerk’s Office”) (the “Community Operating Agreement”). The plan for One Loudoun and the relationship between the various recorded instruments is described in the Community Operating Agreement.

The Founder records this One Loudoun Residential Declaration (the “Residential Declaration”) and establishes the One Loudoun Neighborhood Association (the “Neighborhood Association”) to enhance community life, to institute and enforce certain covenants and restrictions, to provide for further maintenance of One Loudoun and the Neighborhood Commons, including parks, recreational facilities and the swimming pool, amphitheater, community buildings, paths, trails, identified streets, alleys, walks and utility facilities, and to allow for self-governing of One Loudoun by its Owners. This Residential Declaration is intended to provide for the needs of residential property wherever located within the Residential Neighborhood.

A separate declaration for the Business District within One Loudoun (the “Town Center Declaration”) has been or will be recorded to create a business owners association (the “Town Center Association”) and to regulate and maintain the commercial portions of One Loudoun. In addition, a third declaration (the “Master Declaration”) has been or will be recorded to create a master property owners association (the “Master POA”)

#### DECLARATION

The Founder hereby establishes the Project as all of that property in Loudoun County, described on Exhibit A and submits to this Residential Declaration that portion of the Project described in Exhibit B (the “Residential Neighborhood”).

The Founder hereby declares that this Residential Declaration, including Appendix I of this Residential Declaration, shall run with the land and be binding upon all parties having any right, title or interest in the Residential Neighborhood, and which shall inure to the benefit of every Owner in the Residential Neighborhood or any portion of it and to the benefit of the Founder.

Except to the extent expressly provided in this Residential Declaration and any Supplemental Declaration, all of the rights, powers, and duties of the Neighborhood Association and the Owners, who are Members of the Neighborhood Association, including the Owner’s voting rights, shall be governed by the Articles and Bylaws of the One Loudoun Neighborhood

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Association. The Neighborhood Association shall also have all of the rights, powers, and duties provided in the Virginia Property Owners' Association Act.

# 1 Overview

One Loudoun, situated at the crossroads of Route 7 and Loudoun County Parkway, is a mixed use development located in Eastern Loudoun County, just three miles from Washington Dulles International Airport and twenty-five miles from the Nation's Capital, Washington, D.C.

When complete, One Loudoun will have single-family detached houses, town homes, and condominiums. Some condominiums will be located above shops and offices; others will be in multi-family buildings of varying sizes. Eventually, One Loudoun will incorporate retail space for shops that will meet the needs of the residents of the community and surrounding area. Similarly, One Loudoun's commercial space will provide employment for the residents of the community and the region. Open space and parks will provide a variety of places for families to gather, play and relax.

While One Loudoun is village-like in its design, it is not incorporated as a town. One Loudoun does not have a town government. The neighborhood needs of One Loudoun are met primarily by the Master Property Owners Association and other associations such as the Residential Association, the Town Center and Business Declaration and separate condominium associations. Three of the associations are established by the Founder by separate recorded declarations:

- Under the terms of the Master Declaration, the One Loudoun Master Property Owners Association, Inc. (the "Master POA") is responsible for architectural control and review in One Loudoun and may provide certain shared services in One Loudoun. The Master POA also helps preserve neighborhood harmony by enforcing covenants in One Loudoun. The Master POA is an umbrella organization to which the Neighborhood Association and the Town Center Association will belong. The Associations, rather than individual Owners of residential or commercial property in One Loudoun, are the members of the Master POA.
- Under the terms of the Residential Declaration, the One Loudoun Neighborhood Association (the "Neighborhood Association") maintains all of the common areas in the Residential Neighborhood (the "Neighborhood Commons") including, but not limited to, the private roads, alleys, and sidewalks within the Residential Neighborhood and the parks, amphitheater, recreational facilities and swimming pool, and community buildings in One Loudoun. The Neighborhood Association may enforce the covenants in the Residential Neighborhood as necessary.

- One Loudoun Town Center Association, Inc. (the “Town Center Association”) meets the special needs of the commercial properties and residents within the Town Center and other commercial areas in One Loudoun. As provided by the One Loudoun Town Center and Business Declaration, the Town Center Association provides commercial-type maintenance and services appropriate to the Business District including maintaining all of the Business District common areas or “Business Commons,” which include, but are not limited to, the Public Plaza and the private roads, alleys, and sidewalks within the Business District. The Town Center Association may also function as a merchants’ association for advertising and business development. Together, the Neighborhood Commons and the Business Commons shall constitute the “One Loudoun Commons.”

Membership in the Associations may change from time to time as the use of a property changes. The owners of all property within One Loudoun will be members of either the Neighborhood Association or the Town Center Association and subject to either the Residential Declaration or the Town Center Declaration, depending on the use of the property. All single family and townhouse residential property owners will be members of the Neighborhood Association. Condominiums in the Business District, owners of units in mixed-use buildings (if they are not part of a condominium that is itself a Member of the Association), and multi-family building owners in the Business District will be members of the Town Center Association. This separation is built into the documents primarily because each Association has different interests and focus.

Despite this legal separation, the entire community is united in many ways. The provisions of the Community Operating Agreement, particularly the architectural control provisions, are intended to facilitate the completion of the Concept Development Plan and allow One Loudoun to retain its design principles as it matures.

While each entity operates independently, certain entities may work together and may enter into contractual agreements or may have certain relationships. In particular, the Town Center Association makes contributions to the Neighborhood Association for the shared use and maintenance of certain facilities. The chart at the end of this Chapter describes some of the roles and characteristics of the different entities.

## How the *One Loudoun Residential Declaration* Document Works

This Residential Declaration looks significantly different from most property owners’ association documents. It is based on the premise that communities have personalities just like people, and that the personality is usually established at the beginning of the community’s life. Typical documents, which tell everyone what they have to do and

what they can't do, teach property owners to enforce rules. This document takes a different approach by teaching people the principles behind running their community.

This Residential Declaration begins with an overview of the community and ends with a look at the future. In between are four chapters concerning Community Life, Physical Surroundings, Design Standards and Finance. Each of these four middle chapters has two parts. The first part considers the issue from a community-wide viewpoint, while the second part brings the issue to the level of the resident.

Although the meanings of most words should be apparent from the context, definitions are provided in Chapter 7.

Appendix I concerns development issues and is an integral part of the Residential Declaration during the community's early years. The Appendix is no longer necessary after the Founder no longer controls the development.

Most chapters contain two types of information: Descriptive text and "Quick View" information.

The text that begins each chapter provides the philosophical framework that the Owners need to make decisions. Not every issue and concern can be anticipated, and the text does not try to cover every possible situation. Instead, the text helps the community through the decision-making process.

**Quick View** outlines some of the basic issues discussed in the chapter in the format of a table or grid. Although it sometimes summarizes information presented in the text, Quick View may also present new information. Quick View helps to define roles and to draw distinctions between related ideas.

One Loudoun relies on the covenants – agreements between neighbors – set out in this Residential Declaration. By taking title to property within One Loudoun, Owners agree to these covenants, which are legally binding and enforceable against both the Owner and the property.

We hope that an association that follows the guidance outlined in this Residential Declaration will avoid many of the disputes and conflicts that can divide a neighborhood. However, in the event of legal action, the descriptive text and Quick View portions of this Residential Declaration, including information set out in table form, are to be interpreted as legally binding. As Quick View often abbreviates information from the descriptive text, any apparent conflict should be resolved in favor of the descriptive text.

## Quick View: The Master POA, Neighborhood Association and Town Center Association

	Master POA	Neighborhood Association	Town Center Association
Purposes	Responsible for architectural control, review and enforcement. May provide certain shared services for One Loudoun.	Maintain the Neighborhood Commons, support the covenants, and provide resources for residents.	Maintain and support the Business Commons, provide resources for non-residential entities, residential owners within mixed-use and multi-family buildings and prevent or resolve conflicts between commercial neighbors or commercial and residential neighbors.
Legal Status	Nonstock corporation	Nonstock corporation	Nonstock corporation
Members	The Neighborhood Association, the Town Center Association, and the Founder.	Certain individuals or entities owning residential property within One Loudoun as identified in the Residential Declaration.	Property owners in the Business District and owners of commercial property as identified in the Town Center Declaration.
Primary Source of Funds	Design review fees; assessments on Neighborhood Commons and Business Commons.	Assessments on certain residential property within One Loudoun, secured by a lien on those properties.	Assessments on non-residential property and certain residential property within One Loudoun, secured by a lien on those properties.

# 2.1 Community Life, Part I: The Neighborhood Association

All Owners of Residential Parcels in One Loudoun are automatically Members of the Neighborhood Association during the period of their ownership. Membership in the Neighborhood Association is a legal right and obligation attached to the property. New Residential Parcel owners become Members in the Neighborhood Association upon transfer of title to the land. Except as expressly provided, when Owners vote on matters addressed in this Residential Declaration, their vote is weighted in the same way as relative values are assigned to Residential Parcel types, as discussed in Chapter 5, Part II. Owner votes on matters set forth in the Bylaws or Articles of Incorporation may be on a different basis, as provided in those documents.

This Chapter contains some of the most important provisions concerning Neighborhood Association operation and voting procedure. Additional provisions are contained in the Neighborhood Association's Bylaws and Articles.

## Neighborhood Association Operation

The operation of the Neighborhood Association relies on the following individuals:

- The Board of Directors ("Board"). Most decisions about the Neighborhood Association are the responsibility of the Board, acting on the Owners' behalf. Unless specifically provided otherwise, the Board has the authority to act on behalf of the Neighborhood Association and to make all decisions necessary for the operation of the Neighborhood Association, the care of the Neighborhood Commons and the enforcement of covenants contained in this Residential Declaration. The Founder initially appoints the directors. Owners begin electing some of the directors when at least 350 Residential Parcels in One Loudoun have been sold to Owners other than the Founder or its designated entities. Directors that are elected by the Owners are known as Class A Directors. Class A Directors must own property in One Loudoun.
- President. The President, who is elected by the Board, is the chief executive of the Neighborhood Association and is empowered to make decisions within the scope of authority described by the Board and this Residential Declaration. The President executes the details of projects authorized by the Board and handles matters that arise

between Board meetings, within the scope of authority established in the Bylaws or by the Board. The President must be a Member of the Board. Candidates for President must be sitting on the Board with time remaining equal to the term of the President's office.

The Board will also elect a Vice President, a Secretary, a Treasurer and other such officers as described in the Bylaws. These officers have the following responsibilities:

- **Vice President.** A Vice President takes the place of the President and performs the duties of the President whenever the President is absent or unable to act. If neither the President nor a Vice President is able to act, the Board shall appoint some other Member of the Board to act in the place of the President on an interim basis. A Vice President also performs such other duties as required by the Board or by the President and, except as specified, has all of the general powers and duties of a Vice President of a corporation organized under the Virginia Nonstock Corporation Act. If there is more than one Vice President, the Board determines which Vice President acts.
- **Secretary.** The Secretary (i) keeps the minutes of all meetings of the Neighborhood Association and of the Board; (ii) has charge of such Residential Declarations and papers as the Board directs; (iii) maintains a register listing the place to which all notices to Owners and Mortgagees are to be delivered; (iv) upon request delivers statements of all unpaid assessments applicable to a particular Residential Parcel to be conveyed; (v) executes notices of delinquent assessment(s); (vi) executes notices of and releases of liens for delinquent assessments, and (vii) performs the duties of a Secretary described in the Bylaws and the Virginia Nonstock Corporation Act.
- **Treasurer.** The Treasurer is responsible for managing (i) the Neighborhood Association's funds and securities; (ii) keeping full and accurate financial records and Residential Declarations of account showing all receipts and payments; (iii) preparing all required financial data; (iv) depositing money and valuables in the appropriate bank or other institution as designated by the Board; and (v) in general, performing all the duties of a treasurer of a corporation organized under the Virginia Nonstock Corporation Act.

The President and Directors are not paid for their services; however, they are reimbursed for actual expenses.

### Election Procedure

The Board regulates election procedure and sets policy concerning voter registration and the casting of ballots. The Bylaws contain additional provisions concerning the election procedure.

**Elections, Casting Votes.** Once the Owners have the right to elect Class A Directors, then the Owners directly elect the relevant directors to the Board.

- **The Board.** An Owner may cast his votes for as many candidates as there are Directors to be elected. An Owner is not required to use all his votes; however, no cumulative voting shall be permitted. For example, if there are three seats to be filled and the Owner has one vote, the Owner may cast one vote each for one, two or three candidates, but shall not cast more than one vote for any particular candidate. If the Owner is eligible to cast two votes, the Owner may cast two votes a piece for each of up to three candidates. The candidates receiving the highest number of votes shall be declared elected. Directors may be elected by a plurality; a majority is not required.

### Board Meetings

The Board usually meets on a monthly basis but may meet more or less often depending on the community's needs. The Board must meet at least four times a year. Notice of Board meetings is to be posted or Owners otherwise notified of the meeting schedule. Owners are welcome to attend Board meetings, but their right to participate in discussion may be limited by meeting rules established and published by the Board. The Board may go into executive session as provided for under Section 55-510.1 of the Virginia Property Owners' Association Act, to discuss certain issues including possible or pending litigation and personnel matters.

**Voting.** Voting at a Board meeting requires presence of at least a majority of the Directors, in person or by telephone conference or, if allowed by law, by proxy. While face to face meetings are beneficial and should be conducted when practicable, it may be difficult at times to get a quorum of Directors together in a timely manner. With the approval of all Directors and if permitted by law, meetings may be conducted by telephone. Rules about quorums and voting procedures are provided in the Bylaws and may be affected by applicable statutes.

### Neighborhood Meeting and Voting

Although the elected Board makes most decisions, election of the Board and certain other decisions require the participation of all Owners. Notice of each annual or regularly scheduled meeting of the Neighborhood Association must be sent or delivered personally at least fourteen (14) but not more than sixty (60) days before each meeting. The notice must state the time and place of the meeting.

Notice of any other Neighborhood Meetings must be sent at least ten (10) but not more than sixty (60) days before such a meeting. This notice must state the time, place and purpose of the meeting. Notice of any meeting at which Owners are to vote on amendments to the Articles, a plan of merger, a proposed sale of assets under Section 13.1-900 of the Virginia Code or the dissolution of the Neighborhood Association must be given as required by Section 13.1-842 of the Virginia Code.

Rules about notice of meetings for amending articles of incorporation and other actions, quorums and voting procedures are provided in the Bylaws and may also be affected by applicable statutes.

For those decisions requiring Owners' approval, a Neighborhood Meeting provides a public opportunity for discussion and voting. As a convenient reference and not as a limitation, actions which may under the terms the Residential Declaration require a vote of the Owners, or assent in writing, include the following:

Election of the Board .....	Chapter 2, Part I
Repeal of Rules and Regulations adopted by the Board.....	Chapter 2, Part II
Conveyance or dedication of the Neighborhood Commons.....	Chapter 3, Part I
Approval of General Assessments when increased more than 15%.....	Chapter 5, Part I
Ratification of expenditures for capital improvements.....	Chapter 5, Part I
Approval of Zone expenses .....	Chapter 5, Part I
Repeal of additional services .....	Chapter 6
Amendment or termination of Residential Declaration .....	Chapter 6

## Records

The Board must keep a record of all Board meetings and other Neighborhood Association meetings. For each action taken, the record should state the vote and a description of the action approved and, where applicable, the reasons why the action was considered necessary and a summary of the information on which the decision was based. Any Owner has the right to review the Neighborhood Association's records, at reasonable times, and can make copies or pay to have copies made for a reasonable fee. To the extent permitted by law, certain records may not be made available to Owners if genuine privacy considerations exist.

The Neighborhood Association should use available technology for effective, timely communication to Owners.

## Use of Professional Management

The Board may hire a professional manager, either an individual or a management company, for the Neighborhood Association. Some typical duties of the manager are as follows:

- Determining day-to-day maintenance needs and dispatching personnel or service providers as necessary (although major contracts would go through the Board and possibly a bidding process as well),
- Supervising vendors, employees and service providers and making payment to them,

- Collecting assessments (including past-due notices as necessary),
- Keeping the books and records of the Neighborhood Association and preparing budgets and financial statements (and working with an accountant as necessary),
- Mailing or posting notices of meetings, election information and other communications to Owners, and
- Answering inquiries from Owners (and referring some questions to the Board or its attorney as necessary).

In contrast, Board members are not paid (except to be reimbursed for expenses). The Board selects the manager and must work with the manager and provide guidelines. Board members make such policy decisions as adopting the budget and determining assessment levels, making significant employment decisions and approving major contracts. They decide what major repair or replacement projects will be undertaken and the general level of service to be provided.

# 2.2 Community Life, Part II: Neighbors

This Residential Declaration doesn't have long lists of rules. Instead, the concept is simple: neighbors shouldn't create unreasonable disturbances or unsafe conditions *and* neighbors should tolerate a certain amount of activity, noise, pets and exuberant children as part of a vibrant community.

## Use of the Residential Parcel

**Residential and Business Uses.** One Loudoun is intended as a mixed-use community where, in addition to single and multi-family residences, townhouses, offices, retail and civic uses thrive. Non-residential uses, mixed-use buildings, and multi-family buildings in the Business District are subject to the Town Center Declaration, the Master Declaration and the Community Operating Agreement. These commercial and civic uses are an integral part of a pedestrian-friendly community and allow people to obtain some goods and services and interact without having to use an automobile. Businesses must use reasonable measures to dispose of garbage properly and to minimize the impact of noise and odor on the surrounding area. However, residents near businesses need to recognize that a certain amount of noise and odor may be unavoidable.

**Home Occupation.** Subject to the Loudoun County Zoning Ordinances, a home occupation that does not generate significant noise, odor, parking demand or traffic is permitted in the Residential Neighborhood. The Board may establish reasonable hours of operation for home-based businesses that are visited by individuals.

**Garage Sales.** Garage sales, estate or yard sales, sample sales and similar kinds of sales activity from Residential Parcels is permitted on an occasional basis. The holding of frequent sales from a particular residence will be considered a business and may be regulated, limited or prohibited by the Neighborhood Association.

**Leasing.** Residential Parcels or separate residential units within a Residential Parcel, such as an outbuilding apartment may be rented, so long as the Tenants and Occupants comply with the covenants for neighborhood life contained in this chapter. The Neighborhood Association may establish a minimum lease term. Tenants and associated Occupants may use the Neighborhood Association's recreational facilities through a limited number of recallable recreational memberships. The Neighborhood Association may prohibit the leasing of any Residential Parcel

while the Owner is in default in the payment of Assessments and may attach rentals if the Residential Parcel is leased while the default exists.

### Safety and Appearance

**Generally.** Each Owner must keep his Residential Parcel in good order and repair and free from debris. The Design Standards or the Master POA may regulate placement and maintenance of garbage and trash containers and fuel or gas storage tanks (including the prohibition of such tanks) and other matters affecting the attractiveness or safety of Residential Parcels.

**Signage.** No sign, advertisement or notice of any type (other than those erected by the Founder or the Neighborhood Association or those specifically approved by the One Loudon Design Review Committee (“DRC”)) shall be erected or displayed on any Residential Parcel. “For Sale” or “For Rent” signs are allowed but are limited to a uniform size, style, design and placement as specifically permitted by the DRC. Political campaign signs are permitted, subject to reasonable regulation.

**Vehicles:** The Design Standards or the Master POA may regulate or prohibit the parking of trailers, recreational vehicles, nonfunctioning, oversized or excessive number of vehicles or equipment, and may require that garage doors be kept closed except when entering or leaving the garage. Boats, if stored in any yard in One Loudoun must be stored so that they are not visible from outside of the Residential Parcel.

**Sports Equipment:** Play structures, such as basketball hoops and swing sets, must be kept in good repair and their location may be limited, in accordance with the Design Standards, to back yards or alleys. The Master POA may regulate or prohibit large play structures such as skateboard ramps that are visible from outside the Residential Parcel.

**Temporary Structures:** The Design Standards may prohibit or regulate construction trailers, tents, shacks, barns, sheds or other structures of a temporary character that are visible from outside the Residential Parcel. However, reasonable occasional use of tents for festive occasions or children’s backyard camping is part of life and should be enjoyed.

### Pets

Pets are welcome so long as the pets do not cause an unsafe condition, unreasonable disturbance or annoyance or public nuisance. Except in the case of a seeing eye dog or such similar animal used by a person with a disability, the Neighborhood Association may regulate the number, type and size of pets (including particular breeds of dogs deemed to create unreasonable danger); prohibit the keeping of animals other than customary household pets, which it may define, acting reasonably; designate specific areas within the Neighborhood Commons where pets may be walked and prohibit pets on other areas; and require pets to be on leash. The Neighborhood

Association shall also have the right to require that pet owners collect and dispose of animal waste. The Town Center Association may establish similar areas within the Business Commons.

## Rules and Regulations

The writing of rules is one way to address specific issues that arise within the community. The Neighborhood Association may adopt or amend Rules and Regulations interpreting or expanding upon the basic principles of this Chapter and other portions of this Residential Declaration. The Master POA may adopt or amend Rules and Regulations interpreting the Master Declaration, including but not limited to, rules about vehicles, sports equipment, temporary structures and satellite dishes. Rules should strive to address the problem in the least restrictive way. A copy of the current Rules and Regulations will be made available upon request.

**Rulemaking Limitations.** The Neighborhood Association's rulemaking authority must comply with the law and the following:

- Similarly situated persons must be treated similarly; but, the Rules and Regulations may vary by area or zone and land use.
- Rules or Regulations must not alter the allocation of financial burdens among the Owners to the detriment of any Owner over that Owner's written objection to the Neighborhood Association. Nothing in this provision shall restrict the right of the Board of Directors to increase the amount of Assessments as provided in Chapter 5 of this Book.
- Rules or Regulations must not interfere with the activities carried on within the confines of structures, other than structures owned by the Neighborhood Association, except that the Rules and Regulations may restrict or prohibit any activities that (i) create monetary costs for the Neighborhood Association or other Owners, (ii) pose a danger to the health or safety of Occupants of other Parcels, (iii) generate excessive noise or traffic, (iv) create unsightly conditions visible from outside of the structures, or (v) create an unreasonable source of annoyance to persons outside of the structure.
- Rules or Regulations must not prohibit the leasing or transfer of any Parcel, or require consent of the Neighborhood Association or the Board of Directors for the leasing or transfer of any Parcel; but, Rules and Regulations may require a minimum initial lease term of up to twelve (12) months and may require inclusion of specific language for the protection of the Neighborhood Association in each lease.
- New Rules or Regulations must not require an Owner or an Occupant of any Parcel to dispose of personal property that was maintained in or on the Parcel prior to the adoption of the new Rules or Regulations if the personal property in question was in compliance with all Rules and Regulations previously in force. This exemption shall apply only

during the period of the Owner's ownership or Occupant's residency of the Parcel, and shall not apply to subsequent Owners or persons who take title or occupancy after adoption of the Rules or Regulations.

- The Neighborhood Association Rules and Regulations shall not apply to Parcels owned by the Founder during the Period of Founder Control, to the extent that such Rules and Regulations would interfere with the Founder's ability to develop, market, or sell its Parcels, as determined in the sole discretion of the Founder.

Separate Rules and Regulations may also be enacted by the Founder under the Community Operating Agreement until the Master POA, the Neighborhood Association and the Town Center Association enact Rules and Regulations. Copies of these Rules and Regulations will be made available upon request.

**Effective Date.** Rules and Regulations of the Neighborhood Association take effect immediately upon approval by the Board, or at a later date selected by the Board. If requested by at least ten percent (10%) of the Owners, a special meeting must be called and, if a quorum is present, any Rule or Regulation may be repealed by majority (seventy-five percent (75%) during the Period of Founder Control) vote of the Owners, present in person or by proxy. Rules and Regulations of the Founder are effective upon their adoption by the Founder and may not be repealed or amended by the Owners during the Period of Founder Control.

The Board should review the Rules and Regulations adopted by the Neighborhood Association regularly and remove or amend those that are unnecessary or overly restrictive.

The Rules and Regulations, as adopted from time to time, are incorporated by reference into this Residential Declaration. In the event of a conflict between any provisions in the Rules and Regulations and this Residential Declaration, the provisions of this Residential Declaration control. The Rules and Regulations of each of the Master POA, the Neighborhood Association and the Town Center Association shall apply only within the areas of their ownership, their members' ownership or public areas immediately adjacent to these areas.

## Enforcement

Each Owner and the Owners' Occupants, Guests and Tenants are required to abide by the covenants contained in this Residential Declaration, which are covenants running with the land, and any Rules and Regulations adopted by the Neighborhood Association. Each Owner is responsible for assuring such compliance, and any violation by Occupants, Guests or Tenants may be considered to be a violation by the Owner. The Board is empowered, on behalf of the Neighborhood Association, to take necessary legal steps to enforce the covenants contained in this Residential Declaration.

The Board may take any of the following actions:

- Charges. The Board has the right to assess charges up to the maximum allowed by law and may restrict the resident's use of the Neighborhood Commons for up to one year (1) or until the violation is remedied, whichever is longer. However, the primary goal of this Chapter is not to punish but to resolve problems. The Neighborhood Association may suggest or approve agreements and suspend payment of a charge if the agreement is honored. Charges shall be charged against the Residential Parcel as an Individual Residential Parcel Assessment. Any charges collected shall be contributed to the general fund of the Neighborhood Association.
- Pets. If the Board finds that a pet causes an unsafe condition, unreasonable disturbance or annoyance or public nuisance, it may require the Owner, Tenant or Occupant to take steps to cure or limit the offensive condition. If such steps are ineffective, if the resident or Owner fails to cooperate or if the pet is considered to create an unsafe condition or unreasonable disturbance or annoyance, the Neighborhood Association may require that an Owner, Tenant or Occupant permanently remove the pet from One Loudoun.
- Corrective Action for Enforcement Rights. If the Board determines that any Owner is in violation of this Residential Declaration, the Design Standards, or applicable Rules and Regulations, or has failed to maintain any part of a Residential Parcel (including the yard and any wall, fence, or building for which the Owner is responsible) in a clean, attractive and safe manner, in accordance with the provisions of this Residential Declaration, the Design Standards or applicable Rules and Regulations, and if the Master POA has not taken enforcement action to correct the situation, the Board shall notify the Owner of its findings and may assess charges. If the violation continues for ten (10) days after notice to the Owner, the Neighborhood Association shall have the right without liability to enter the Residential Parcel to correct, repair, restore, paint and maintain any part of such Residential Parcel, including but not limited to landscaping, and to have any objectionable items removed from the Residential Parcel. The Board may reduce or eliminate the time for notice if it believes the condition creates a hazard. All costs related to such action are to be assessed to the Owner as an Individual Residential Parcel Assessment. The Board may also assess a management fee for activities that it must take to correct, repair, restore, paint or maintain any part of such Residential Parcel on behalf of an Owner. If, in accordance with this section, authorized agents of the Association enter upon any Residential Parcel to abate or remove a violation or breach of this Residential Declaration, the Design Standards, or the Rules and Regulations, neither the Person entering the Residential Parcel nor the Person directing the entry shall be deemed liable for any manner of trespass for such action. This paragraph shall not apply to Residential Parcels so long as they are owned by the Founder.

- Tenant Violations. If, after notice to both the Owner and Tenant and opportunity for a hearing, the Board determines that a Tenant has violated this Residential Declaration or Rules and Regulations, the Neighborhood Association may assess charges against the Owner. In addition, if the violation continues for ten (10) days after notice to the Owner of the findings, or if the Tenant materially violates the same covenant more than once in any one-year period, the Neighborhood Association shall have the right to take enforcement action against the Owner for any tenant violations. Each Owner by acceptance of a deed irrevocably appoints the Neighborhood Association as its agent and attorney-in-fact in such an eviction action. All costs related to such action shall be charged to the Owner as an Individual Residential Parcel Assessment. The decision of the Board is final, subject to any subsequent court action. Special provisions concerning tenants are necessary because these covenants run with the land. Under real property law, the Neighborhood Association's only power of enforcement is against those who have taken title to property. The Neighborhood Association has no direct relationship with the tenant except as granted by the Owner. By taking title subject to this Residential Declaration, the Owner is considered to have granted his or her rights of enforcement to the Neighborhood Association.
- Additional Remedies. All remedies listed in this section are non-exclusive and may be applied cumulatively. The Neighborhood Association shall also have the right to bring suit to enforce the covenants contained in this Residential Declaration, including the right to an injunction and to recover damages for any violation
- Failure to Enforce Not a Waiver of Rights. No delay or failure on the part of an aggrieved Person to invoke any available remedy in respect to a violation of any provision of this Residential Declaration shall be held to be a waiver by the Person of (or an estoppel of that Person to assert) any right available to such Person upon recurrence or continuance of such violation or the occurrence of a different violation, nor shall there be imposed upon the Founder, the Master POA or Neighborhood Association, the Master POA or Neighborhood Association's board or any DRC a duty to take any action to enforce this Residential Declaration.

### Initiation of Litigation by the Neighborhood Association

The Neighborhood Association shall not initiate any judicial or administrative proceeding without prior approval by Owners entitled to cast seventy-five percent (75%) of the total votes other than those of the Founder in the Neighborhood Association. However, no such approval shall be required for actions or proceedings:

- Initiated during the Period of Founder Control;

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

## Quick View: The Board and the President

	<i>The Board...</i>	<i>The President...</i>
<b>General Duties</b>	Makes major policy decisions concerning Neighborhood Association operation, maintenance of the Neighborhood Commons and budgeting decisions.	Makes day-to-day decisions within a scope of authority established in the Bylaws or by the Board.
<b>Role in Covenant Enforcement</b>	Has the power to enforce the covenants through charges, clean-up of Residential Parcels (billed to the Owner), or legal action if necessary.	Carries out decision of Board.
<b>Special Qualifications</b>	Class A Directors must be Owners in One Loudoun. Class B Directors are not required to be Owners.	Must be a member of the Board.
<b>Term of Office</b>	Staggered two-year terms except during the period of Founder control.	One-year term except during the period of Founder control.

# 3.1 Physical Surroundings, Part I: The Neighborhood Commons

The Neighborhood Commons include the parks, amphitheater, recreational facilities and swimming pool, community buildings, and other commonly used portions of One Loudoun and the trails, paths, private roads and alleys and associated sidewalks in the Residential Neighborhood and other areas as such may be identified in Supplemental Declarations or on recorded plats of the Residential Neighborhood. In most cases, the Neighborhood Association will hold title to the Neighborhood Commons in fee simple. In other cases, the Neighborhood Association's ownership may be in the form of easements, leases or other rights. Similarly, the Public Plaza and private roads, alleys, parking areas, and sidewalks owned by the Town Center Association are known as the Business Commons. The Town Center Association may also have an easement, lease, or other rights in the Business Commons.

## Community Areas

Most of the Neighborhood Commons in One Loudoun are intended for the mutual benefit and enjoyment of the community. The Neighborhood Commons of One Loudoun shall include the parks, recreational facilities, swimming pool, community buildings, the amphitheater, trails, paths, streets and alleys that are not publicly dedicated but are intended for public use, and sidewalks and designated on-street parking zones that are not dedicated to Loudoun County or, if dedicated, require a higher level of maintenance than Loudoun County provides. Neighborhood Commons may include areas that are privately owned, areas that are publicly owned but maintained by agreement with the Founder and other areas that are owned by the Neighborhood Association. Areas shall become Neighborhood Commons if they are shown on the survey referenced in Exhibit A as Neighborhood Commons or if shown as such in any Supplemental Declaration. The boundary or character of the Neighborhood Commons may be changed by Supplemental Declaration.

## Use of the Neighborhood Commons

Every Owner has, and is hereby granted, a non-exclusive easement for appropriate use and enjoyment of the Neighborhood Commons. This easement passes with title to the Owner's Residential Parcel and is automatically extended to Tenants, Guests and Occupants provided that (i) the Owner of the property that they occupy shall be responsible for the manner of such use, and (ii) the Owner may withdraw consent for such use by written notice to the Neighborhood

Association. The easement is subject to the Neighborhood Association's right of regulation in accordance with this Residential Declaration and is also subject to any limitations that may be contained in the conveyance of that portion of the Neighborhood Commons to the Neighborhood Association. There shall be no adverse possession of the Neighborhood Commons by any Owner. Each Owner agrees that he or she shall have no claim of adverse possession and hereby waives any and all such claims he or she may have now or in the future.

Any other member of the public, not an Owner, Occupant, Guest or Tenant, shall be deemed a guest of the Neighborhood Association when using the Neighborhood Commons and only the Neighborhood Association or its designees shall have the authority to set the rules for the privilege of use of the Neighborhood Commons or suspend or revoke such privileges.

**Open-Air Markets, Festivals and Other Events.** One Loudoun is intended to be a vibrant community with activity that brings people together. The Board may permit use of portions of the Neighborhood Commons for various events. The following are examples:

- Open-air market.
- Festivals, parades, block parties or other events intended to enrich and enliven the community.
- Private events.

As part of these events, the Board may rent or assign space for pushcarts, kiosks, stands or temporary sales structures and may permit the erection of tents and banners. Such uses may be only for special events or on a recurring basis. However, other than where specified in this Residential Declaration, no contract, shall be for a period of longer than a year, including all renewal options. Any revenue from events is to benefit the Neighborhood Association or other charitable or community-enriching organization.

**Rules of Usage of Community Areas.** Use of Neighborhood Commons must be in accordance with this Residential Declaration, and the Rules and Regulations:

- a. An Owner, Tenant or Occupant must arrange for the use of the Neighborhood Commons for any event through the Neighborhood Association. The Neighborhood Association may approve the functions in accordance with the Rules and Regulations and has the right to require evidence of compliance with the requirements of this Residential Declaration and the Rules and Regulations and the right to bar use of the Neighborhood Commons for events by anyone not complying with these provisions in advance or during an event. The Neighborhood Association may bar any Owner, Tenant, Occupant or Guest from event use of the Neighborhood Commons for a period of up to one (1) year for a violation of this Residential Declaration. After three violations, an Owner, Tenant, Occupant or Guest may be permanently barred for event use by the

Neighborhood Association. The Neighborhood Association may charge a reasonable scheduling fee to cover costs associated with its duties under this section.

b. Any Owner, Tenant or Occupant conducting an event in the Neighborhood Commons must take the steps necessary to prevent the event from precluding reasonable use by others of the Neighborhood Commons; provided that portions of the Neighborhood Commons may have limited access for a reasonable period as approved by the Neighborhood Association.

c. Any Owner, Tenant or Occupant conducting an event in the Neighborhood Commons must take the steps necessary to prevent the event or people arriving or departing from the event from unreasonably interfering with traffic in the vicinity of the event. Any Owner, Tenant or Occupant conducting an event must take the steps necessary for the removal of all trash, signs, tables, chairs or other property associated with the event promptly following the event and for generally restoring the Neighborhood Commons to its pre-event condition and may be subject to fees, charges and suspension of use privileges for failure to do so.

d. Any Owner, Tenant or Occupant conducting an event shall be responsible for providing proper trash and recycling receptacles and rest room facilities for the event and for the prompt removal of these receptacles and facilities after the event and the proper disposition of trash and recyclables and may be subject to fees, charges and suspension of use privileges for failure to do so.

e. Any Owner, Tenant or Occupant conducting an event shall not charge a fee for access to the Neighborhood Commons, though fees may be charged for concessions or otherwise in accordance with the Rules and Regulations and applicable law.

**Damage or Destruction of Neighborhood Commons.** If any Neighborhood Commons or Improvements on a Neighborhood Commons is damaged or destroyed by an Owner, Tenant or Occupant of a Residential Parcel within One Loudoun, or by family members, guests (but not including individuals in One Loudoun as customers or clients of the Owner) or agents of the Owner, Tenant or Occupant, the Owner shall be liable for such damage or destruction and the Owner must, within fifteen (15) days after it occurs, repair the damage in a good and workmanlike manner and restore any damaged Neighborhood Commons, Improvement or facility to its existing state before the damage or destruction occurred. In circumstances where the Neighborhood Association or the Founder determines that a shorter response period is appropriate, the fifteen (15) day period may be shortened. If the Owner does not repair the damage as described above, then the Founder, during the Period of Founder Control, or the Neighborhood Association may repair the damage at the Owner's expense. The Owner may also be charged a management fee if the Neighborhood Association is required to repair the damage on behalf of the Owner because the Owner does not repair the damage. If the damage is unsightly or dangerous as determined by the Founder, during the Period of Founder Control, or the Neighborhood Association at its sole discretion, the Founder, during the Period of Founder Control, or the Neighborhood Association has the right to repair the damage immediately and

charge the Owner responsible for the damage for the cost of the damage plus a management fee after the repair has been completed. The cost of the repairs becomes a Special Assessment on the Residential Parcel of the Owner and constitutes a lien on the Owner's Residential Parcel. This lien is collectible in the same manner as other Assessments set out in the Residential Declaration. The Founder, during the Period of Founder Control, or the Neighborhood Association may bring an action for damages, specific performance, declaratory decree or injunction, or any other remedy at law or in equity to enforce the provisions of this Section. In addition, the Founder or the Neighborhood Association may suspend an Owner's right to use the Neighborhood Commons for up to one (1) year in the event the Owner, an Occupant, a member of the Owner's family or a Tenant or guest of the Owner damages the Neighborhood Commons.

**Delegation of Use; Sale.** Any Owner may temporarily delegate his right of enjoyment in the Neighborhood Commons to any Tenants or Occupants of the Owner's Residential Parcel and to its customers, invitees or guests, subject to the terms of this Residential Declaration and any Rules and Regulations established from time to time. This right cannot be conveyed except as an appurtenance to Residential Parcels within the Residential Neighborhood. The Founder, the Neighborhood Association, or any owner of a portion of the Neighborhood Commons may dedicate or convey all or any part of such area to any public agency or authority with the consent of the Founder or, if the Founder no longer owns any property within One Loudoun, then with the consent of the Board.

**Limitation of Liability.** The Neighborhood Association is not an insurer of safety and makes no warranty and assumes no liability for any loss or injury in use of the Neighborhood Commons or otherwise.

### Maintenance and Capital Improvements

The Neighborhood Association is responsible for the management, control and improvement of the Neighborhood Commons. At a minimum, the Neighborhood Association must keep the Neighborhood Commons clean and in good repair. The Neighborhood Association also has the obligation to provide the following services to the Residential Neighborhood: landscaping and lawn maintenance of the Neighborhood Commons, snow removal on all private streets, garbage and trash removal services, maintenance of all recreational facilities and buildings located within the Neighborhood Commons, maintenance of all stormwater management facilities as more specifically set forth in this Declaration, maintenance of all private streets in the Residential Neighborhood, and maintenance of all sidewalks, trails, and regional bicycle trails within the Residential Neighborhood not otherwise maintained by the County or the Virginia Department of Transportation. The Neighborhood Association may also make capital improvements to the Neighborhood Commons and may modify the uses of the Neighborhood Commons. Any changes to the Neighborhood Commons must be approved in accordance with the architectural review standards of Chapter 4.

To the extent reasonably necessary, the Neighborhood Association has, and is hereby granted, an easement over each Residential Parcel for maintenance of the Neighborhood Commons. The Neighborhood Association also has, and is hereby granted, an easement with respect to any improvements constructed on the Neighborhood Commons that unintentionally encroach on a Residential Parcel, whether due to any minor deviation from the subdivision plat of the Residential Neighborhood or the settling or shifting of any land or improvements.

### Roads, Utilities, Drainage

The Neighborhood Association may manage the certain systems within the community that are part of the Neighborhood Commons. The Neighborhood Association has the benefit of certain easements, and also has the power to grant easements to others, such as granting to a utility company rights for utility installation and maintenance. The following are the Neighborhood Association's rights and responsibilities.

**Common Road Regulation.** To the extent permitted by law, the Neighborhood Association may make Rules and Regulations concerning driving and parking on private streets and alleys within the Residential Neighborhood and may construct traffic calming devices as approved by the Board, with Founder approval during the Period of Founder Control, post speed limit or other traffic signs and take any other reasonable measures to discourage excessive speed and encourage safe driving on the Common Roads. While parking requirements for all uses in One Loudoun are set forth in the Zoning Ordinance, additional parking requirements, such as limiting parking duration or requiring decals for Owners, Tenants or Occupants, may be set forth in an Owner's deed, in a Supplemental Declaration filed on a Residential Parcel, or in the Rules and Regulations. Each Owner, Occupant, and their tenants and guests shall comply with all applicable parking requirements. Any failure to comply shall be a violation of this Residential Declaration as well as a violation of the document creating the parking requirement. To the extent permitted by local government, the Neighborhood Association may enforce any violation in accordance with Chapter 2 and may tow offenders.

**Surface Water or Stormwater Management System.** Subject to the County's Stormwater Management Ordinance and the provisions of storm drainage and stormwater management easements granted to the County, the Neighborhood Association has the power to maintain proper drainage within the Residential Neighborhood. In the exercise of this power, the Neighborhood Association shall have a blanket easement and right on, over, under, and through the ground within the Residential Neighborhood to inspect, maintain, and correct drainage of surface water and other erosion controls. This easement includes the right to cut or remove any vegetation, (in accordance with restrictions set forth in Section 4.3(d) of the Master Declaration) grade soil, or take any other action reasonably necessary for health or safety or to comply with governmental requirements. The Neighborhood Association shall notify affected Owners and Occupants (except in an emergency) and shall restore the affected property to its original condition as nearly as practicable.

**Utility Easements.** The Neighborhood Association has a blanket easement upon, across, over, through, and under the Residential Neighborhood for access, installation, replacement, repair, and maintenance of all public and private utility and service systems. These systems include, but are not limited to, water, sewer, irrigation, drainage, telephone, electricity, television, security, cable, or communication lines and other equipment. By virtue of this easement the Neighborhood Association may install and maintain facilities and equipment, excavate for such purposes, and affix and maintain wires, circuits, and conduits. However, the exercise of this easement must not unreasonably disturb each Owner's reasonable use of his Parcel. If authorized by majority vote of the Board, the Neighborhood Association may assign all or a portion of its rights under this paragraph to one or more utility providers.

**Police Powers.** The Neighborhood Association has a blanket easement throughout the Residential Neighborhood for private patrol services and for police powers and services supplied by local, state, and federal governments as needed to lawfully carry out their duties, including clearing emergency vehicle access. The reservation of such easement does not imply that any such service shall be provided.

#### Automatic Termination of Certain Blanket Easements

Upon conveyance of a portion of the Residential Neighborhood to the County for public right-of-way or other public purpose, blanket easements established under this Declaration, or any Supplemental Declaration, over such portion of the Residential Neighborhood shall automatically terminate for the conveyed property. Other specifically locatable easements recorded in the Clerk's Office on or affecting the conveyed property shall not automatically terminate.

#### Purchase or Conveyance of Neighborhood Commons

**Purchase of Neighborhood Commons.** The Neighborhood Association may acquire additional Neighborhood Commons. The decision to acquire additional Neighborhood Commons (other than that added by the Founder), whether by purchase or lease or other means, shall be authorized by at least sixty percent (60%) of the Neighborhood Association Board. If the purchase or lease is costly enough to be considered a substantial capital expense, it must be approved as described in Chapter 5.

**Sale or Long-Term Lease of Neighborhood Commons.** As described elsewhere in this chapter, the Neighborhood Association Board may rent or assign space in the Neighborhood Commons on a short-term basis for events and may dedicate part or all of the Neighborhood Commons to the public. Although it would be unusual, the Neighborhood Association may sell, donate or grant long-term leases for small portions of the Neighborhood Commons or exchange parts of the Neighborhood Commons for other property inside or outside of the Residential

Neighborhood when the Neighborhood Association Board finds that it benefits the community in at least one of the following two ways:

- The conveyance is intended to benefit the community in ways other than the revenue, if any, to be derived from the transaction. For instance, the Neighborhood Association may convey or exchange property if necessary to improve access to the Residential Neighborhood or to improve utility service. The Neighborhood Association may also convey property to community-oriented organizations.
- The revenue to be derived is significant and the use and appearance of the Neighborhood Commons is not significantly impaired. For instance, the Neighborhood Association might sell or lease small amounts of space for cellular telephone transmission equipment, subject to design approval in the architectural review process; or, the Neighborhood Association might exchange small portions of the Neighborhood Commons to allow realignment of roads or Parcels.

Except as described above, the Neighborhood Association Board may not sell or exchange or otherwise dispose of any Neighborhood Commons except to a successor organization conceived and organized similarly to the Neighborhood Association to own and maintain the Neighborhood Commons.

Any decision to donate, sell, exchange or lease any portion of the Neighborhood Commons must be approved by at least sixty percent (60%) of the Neighborhood Association Board, the DRC, and for as long as the Founder owns any Residential Parcels in One Loudoun, the Founder. A transaction for sale, exchange or lease for a term of more than one year, including all tenant renewal options, cannot be completed until thirty (30) days after notice to Owners. After the Period of Founder Control, if requested by at least ten percent (10%) of the Owners within the thirty day period, a special meeting must be held. Notice requirements for special meetings are described in Chapter 2 and in the Bylaws. If a quorum is present in person or proxy, the decision to purchase, sell, exchange or lease may be rescinded by a vote of more than two-thirds (2/3) vote of the Owners present. Any contract with a third party for the purchase, sell, exchange or lease of the Neighborhood Commons should be contingent upon this right of rescission, unless the Board has previously passed a resolution describing the intended transaction and giving thirty (30) days notice.

Except as specifically permitted by this Residential Declaration, the Neighborhood Commons cannot be rented or sold.

**Corrective Instruments.** The Neighborhood Association, by approval of sixty percent (60%) of the Board, may also execute corrective instruments, settle boundary line disputes and resolve other title matters concerning the Neighborhood Commons.

## Dedication and Condemnation

Dedication is the voluntary conveyance of title to a municipality or other governmental entity, while condemnation is the taking of property by a government or other authority having the power of eminent domain. Any dedication or conveyance is subject to acceptance by the applicable governmental agency.

**Dedication.** If any portion of the Common Roads has not previously been dedicated to the public, the Board may, by majority vote, cause the Neighborhood Association to convey title to or dedicate the Common Roads to the appropriate public authority. Any other dedication of the Neighborhood Commons must be approved in the same manner as a conveyance of the Neighborhood Commons.

**Condemnation.** If all or any part of the Neighborhood Commons is taken by, or an offer is accepted in lieu of condemnation from, any authority having the power of eminent domain, all compensation and damages shall be paid to the Neighborhood Association. The Neighborhood Association Board shall have the right to act on behalf of the Neighborhood Association with respect to any negotiation or litigation relating to the offer or taking.

## Association Insurance and Reconstruction

Insurance can protect the Association's assets and financial security. However, insurance is a large and sometimes volatile item in the Association's budget. At least once each year, the Board should review types of insurance and terms and limits of coverage for insurance held by the Association. Changes in replacement costs or anticipated liabilities can make existing insurance coverage inadequate. In rare cases, if coverage becomes too expensive, the Association may make a decision to drop certain coverage or to take a higher deductible.

**Types of Insurance.** At a minimum, the Association shall consider the following types of insurance:

- **Property and Casualty Insurance.** The Board shall obtain property and casualty insurance for Neighborhood Commons including structures or other improvements that can and should be insured for damage or other loss. Some policies provide coverage for "all risks" (or "perils") not excluded. Others insure against loss from named perils such as fire, vandalism, malicious mischief, earthquake and wind. If it is available, the Board should consider obtaining flood insurance (if in a flood-prone area). Care should be taken that sufficient coverage is obtained to comply with any co-insurance percentage provided for in the policy. Preferably, the policy should stipulate an "agreed value" of the property to avoid the problems presented by co-insurance provisions altogether.

- Commercial General Liability. The Board shall obtain commercial general liability insurance in such amounts as the Board determines, insuring against liability arising out of, or incident to, the membership and use of the Community Areas and any topographic conditions or water access located on or adjoining the Neighborhood. It should seek to extend the coverage to walkways. This insurance should provide that the acts of any given insured, if excluded from coverage, should not preclude coverage for the named insured or other insureds not involved in the acts or behavior triggering the exclusion.
- Director Liability Insurance. The Board may obtain liability insurance insuring against liability for actions taken by members of the Board, officers of the Association and advisory members in the performance of their duties. The Board may also obtain fidelity insurance for its employees.
- Other Coverage. The Board shall obtain and maintain workman's compensation insurance if and to the extent necessary to meet the requirements of law and such other insurance as the Board may determine or as may be requested from time to time by a majority vote of the Owners.

**Repair and Reconstruction after Fire or Other Casualty.** If Improvements on the Neighborhood Commons are damaged, the Board shall arrange for and supervise prompt repair and restoration of the Improvements. The Board obtains funds for repair or reconstruction first from the insurance proceeds, second from reserves for the repair and replacement of such Improvements, and third from any Special Assessments that may be necessary.

# 3.2 Physical Surroundings, Part II: Private Domains

The design for One Loudoun is intended to maximize land usage and sense of community by providing gracious squares and parks while offering intimate and private yards and gardens for individual use. One Loudoun follows principles of traditional neighborhood design, which uses the individual houses and other buildings to form the streetscape. Their facades help form the walls of “outdoor rooms” - comfortable spaces where residents can enjoy walking, playing and relaxing.

This chapter enables some of the special design considerations of traditional neighborhood development through easements and other provisions concerning the buildings and lots. A related chapter, Part II of Chapter 2, provides covenants for daily living.

## Relationship Between Residential Parcels

As provided by the Design Standards, certain buildings within One Loudoun may be attached townhouses or the dwellings may be detached but placed on or near the property line. The easements in this section are intended to enable reasonable cooperation between neighboring Owners. The Master POA, rather than the Neighborhood Association, may make rules for maintenance and use of easement areas and shared Improvements that are to be uniformly applied to all similarly configured Residential Parcels.

**Residential Parcel Lines.** The re-subdivision of any Residential Parcel or the separate conveyance of any part of a Residential Parcel other than as an easement is prohibited except if performed by the Founder. The specific consent of the One Loudoun Design Review Committee (“DRC”) is required to otherwise modify or adjust the boundary lines of any Residential Parcel. Additional approval by Loudoun County may also be required.

**Structural Party Walls.** Each Owner grants to the Owner of each adjacent Residential Parcel the right and easement to maintain and to utilize any exterior or interior wall that forms a party wall between them. A wall will be considered a party wall only if it provides structural support for the buildings, or parts of a building, on more than one Residential Parcel. Maintenance of each surface of the party wall shall be the sole responsibility of the Owner whose building faces such surface. Each Owner shall be liable and responsible if, in connection with that Owner’s use and maintenance of the party wall, the Owner damages the adjacent Owner’s building or the wall itself. The cost of any other repairs to the party wall shall be shared equally by the adjacent Owners.

**Exterior Walls.** An exterior wall which supports the building on only one Residential Parcel, or which encloses a courtyard on one Residential Parcel, shall not be considered a party wall. The Master POA may make Rules and Regulations concerning use and maintenance of such walls, including assigning responsibility between the adjoining Owners for painting and repair and granting access over the adjoining Residential Parcel as reasonably necessary to maintain the wall. All such maintenance and repair shall be in accordance with the Master POA's Rules and Regulations.

**Yard Easements.** To allow the most efficient use of a Residential Parcel while complying with governmental setback requirements, a portion of a Residential Parcel along a lot line may be subject to an easement for use by the adjoining Residential Parcel Owner. The Owner of a Residential Parcel subject to such an easement will usually be the beneficiary of a similar easement burdening another Owner's Residential Parcel, unless the Residential Parcel is a corner lot or is larger than the adjoining Residential Parcel. Such easements may be designated on the plat, in the Design Standards or recorded in the deed from the Founder to the first Owner of the burdened Residential Parcel. Such easement area may be up to four (4) feet wide and shall run along a boundary line. Subject to regulation under the Design Standards, the beneficiary of such an easement shall have the use and maintenance responsibility for the easement area and, subject to this Chapter 3, may place fences, patios and other non-permanent fixtures (but not primary structures or above ground HVAC equipment, decks, or other permanent fixtures) upon the easement area.

**Roof Overhang; Footings.** For certain building types, such as side yard houses, which are to be built along a property line, the Design Standards may permit roofs, gutters, soffits, downspouts and other features to overhang this property line and may allow footings and rain leaders to intrude into the adjacent property. To the extent allowed by the Design Standards and local governmental regulations, the adjacent property shall be subject to an easement for such intrusion. However, roofs, gutters, downspouts and rain leaders may not discharge water onto the surface of the adjacent property as a point source.

**Townhouse or Row House Roof.** If a townhouse or row house wall or parapet exists along or very near a property line, the Owner of the townhouse or row house to be constructed on the adjacent property shall have the right to flash into the existing building in accordance with industry standards in order to make the new building watertight. This right includes the right to make minor cuts on the existing building and to secure flashing or other materials to the existing building, so long as the structural integrity and water tightness of the existing building is not impaired. The cost of this flashing shall be borne by the Owner of the new building, but the maintenance of this connection shall be a shared expense between adjacent property Owners.

**Zero Lot Line Easements.** To allow maintenance, construction, or repair of structures on an adjoining Parcel while complying with governmental setback requirements, a portion of a Parcel along a lot line may be subject to an easement for use by the adjoining Parcel Owner. The Owner of a Parcel subject to such an easement will usually be the beneficiary of a similar easement

burdening another Owner's Parcel, unless the Parcel is a corner lot or is larger than the adjoining Parcel. Such easements may be designated on the plat, in the Design Standards or recorded in the deed from the Founder to the first Owner of the burdened Parcel. Such easement areas may be up to ten (10) feet wide and shall run along a boundary line and may be used by the adjoining Parcel Owner to conduct maintenance, construction, or repair of structures on that adjoining Parcel. The adjoining Parcel Owner shall use best efforts to avoid destruction of vegetation within the easement area. The adjoining Parcel Owner must provide the Owner of the Parcel subject to such an easement with fourteen (14) days prior written notice before using the easement for maintenance, construction or repair activities.

### Owner Insurance

The loss of a building due to fire or other casualty affects the entire block. Insurance is necessary to make sure that each Owner has the funds available to rebuild after a casualty.

**Residential Parcel Coverage.** Each Owner shall obtain casualty insurance for Improvements on its Residential Parcel. Coverage shall be in an amount not less than necessary to comply with the co-insurance percentage stipulated in the policy, but in any event not less eighty percent (80%) of the value (based upon replacement cost) of the insurable improvements constructed on the Residential Parcel. If requested by the Neighborhood Association, an Owner shall provide evidence of such insurance to the Neighborhood Association.

**Casualty.** If fire or other casualty damages or destroys a building or any other Improvements on a Residential Parcel, the Owner of that Residential Parcel shall proceed to rebuild and restore the Improvements to the condition existing immediately prior to such damage or destruction, unless other plans are approved by the DRC. Construction and restoration must be diligently pursued and completed within a reasonable period of time. If the Owner fails to clear and secure a Residential Parcel within thirty (30) days after a casualty, the Neighborhood Association may, in accordance with the provisions of Part I of Chapter 3, remove debris, raze or remove portions of damaged structures and perform any other clean up the Neighborhood Association deems necessary to make the Residential Parcel safe and attractive. The cost of such clean-up shall be assessed to the Owner as an Individual Residential Parcel Assessment.

## Quick View: Acquisition and Conveyance of Neighborhood Commons

	<i>Purpose:</i>	<i>Approval Process:</i>
<b>Acquisition of Additional Neighborhood Commons</b>	Benefit to Neighborhood.	Authorized by at least sixty percent (60%) of the Board. If purchase or lease is costly enough to be considered a significant capital expense, it must be approved as described in Chapter 5.
<b>Grant of Easements</b>	Provision or improvement of utility services.	Board may approve easements to utility providers by majority vote.
<b>Short-Term Rental or Assignment of Portions of Neighborhood Commons</b>	Events such as farmers' markets, festivals, block parties or private parties.	Board approval; for the most part, term of no more than one year.
<b>Sale, Donation or Long-term Lease of Portions of Neighborhood Commons</b>	Beneficial use for community or significant income without significant impairment of Neighborhood Commons.	Authorized by at least sixty percent (60%) of Board and the DRC and Founder subject to Owners' right of rescission after the Period of Founder Control.
<b>Dedication or Condemnation of Portions of Neighborhood Commons</b>	Conveyance to a municipality or other governmental entity.	Board may approve dedication of streets by majority vote and may negotiate regarding condemnation. Other dedication subject to the same approval requirement as for a sale of Neighborhood Commons.

# 4.1 Architectural Standards, Part I: One Loudoun Design Standards; DRC

Improvements within One Loudoun will be designed and built by different homeowners, architects and builders. Each of these individuals will contribute to the shaping of the community.

The Design Standards communicates the basic elements that are essential for creation of this residential community. The architectural review process, set out in Part III of the Master Declaration, concerns all portions of the Design Standards.

Copies of the Design Standards are available from the Master POA, the DRC or the Founder. Because the Design Standards may change from time to time, it is important that an Owner obtain approval based on the current version of the Design Standards before undertaking any change or improvement of his or her property.

## Founder and One Loudoun Design Review Committee Roles

The community attracts its residents based on the anticipation that it will, in general, be constructed in accordance with the Founder's vision. The Design Standards represents a component of that vision. No Improvement will be made nor building permit for an Improvement sought without written approval of the Improvement by the DRC. The DRC will review Improvements using the Design Standards procedures set forth in the Master Declaration, as it is amended from time to time. The DRC has the sole and absolute ability to review and approve applications.

# 4.2 Architectural Standards, Part II: Review Process

Initial construction is dramatic, as each street takes shape. The facades of the buildings and the streetscape landscaping form the community's outdoor rooms, and the community described by the Design Standards springs to life.

One Loudoun is not, however, frozen in time. A neighborhood evolves after initial construction. Homes are enlarged to suit a growing family. A tree falls and must be replaced. Children clamor for swimming pools and basketball hoops. A puppy requires a fenced yard. The questions surrounding modification review concern not just design but compatibility with adjacent properties.

The Master Declaration outlines the method for review of both initial construction and modifications to ensure that as One Loudoun matures it continues to follow the vision set out in the Design Standards. In the event of any conflict between this Residential Declaration and the Master Declaration, the Master Declaration shall prevail.

### *Notice to Owners*

The contract for the construction or modification of a home is negotiated between the Residential Parcel Owner and the contractor. Neither the Founder, the Master POA, nor the DRC, is a party to that contract. Owners are ultimately responsible for assuring that the improvements constructed on the Residential Parcel are in accordance with the approved plans and specifications. Because the Design Standards and the applicable provisions of the Master Declaration may change from time to time, it is important that an Owner obtain or confirm that he or she has the current version of the Design Standards and the applicable provisions of the Master Declaration before undertaking any change or improvements of the property. For the Owner's benefit, contracts should require the contractor to build or modify the improvements in accordance with plans and specifications approved by the DRC. Receipt of the DRC's Certificate of Completion and Release indicating compliance with the approved plans and specifications should be a condition of final payment on the contract.

## Enforcement

By taking title to property in the Residential Neighborhood, Owners have agreed to the provisions of this Residential Declaration and other recorded instruments placing certain restrictions on the use of the property. Virginia courts have consistently enforced architectural review requirements contained in recorded instruments. To enforce the provisions of this Residential Declaration, the Board may by majority vote and on behalf of the Neighborhood Association require the Owner to resolve the dispute through binding arbitration, seek an injunction, or bring suit seeking other remedies, including any combination of damages, specific performance, declaratory decree and/or permanent injunction or other remedy at law or in equity. The Neighborhood Association may also be awarded reasonable attorneys' fees in any litigation in the event a court holds in its favor. The Master POA also has certain rights to enforce the provisions of the Master Declaration and the Master Declaration. Such rights are set out in the Master Declaration.

The right to seek an injunction is the most powerful tool available to the Neighborhood Association and the Master POA. For example, money damages are usually an inadequate remedy for failure to comply with architectural review provisions as it is difficult for the Master POA to prove the financial damage caused by an Owner's failure to comply with architectural review provisions. However, an injunction gives the Master POA the ability to require an Owner to comply with the approved plans and specifications, regardless of a lack of financial damage and regardless of the cost to the Owner of making such a change.

For instance, if an Owner specifies one type of windows in the approved plans and specifications, but then substitutes another during the course of construction, it can be quite expensive for the Owner to remove the incorrect windows and replace them with the correct windows. The power to require that change is the greatest tool the Master POA has to keep the Owner from succumbing to the temptation to substitute unapproved windows. Unless the recorded documents allow this powerful tool, a court might hesitate to grant such a remedy.

The DRC may require the builder or Owner to post a deposit from which the DRC may deduct published charges and costs of rectifying the deviation for failure to comply with the approved plans and specifications and rules for builder conduct. The collection of a charge shall not in any way diminish the available remedies at law or equity.

Failure to enforce any provision of this Chapter shall not be deemed a waiver of the right to do so at any time thereafter.

## Quick View: The DRC

	DRC
<b>Role</b>	Reviews applications for new construction and modifications to existing improvements.
<b>How Selected</b>	The Founder may select the representatives. Once the Founder can no longer appoint members of the DRC, or chooses not to appoint the members of the DRC, the members shall be selected by the Master POA.
<b>Qualifications</b>	No requirements.
<b>Primary Source of Funds</b>	Application fees are to cover cost of operation.

# 5.1 Finance, Part I: The Neighborhood Association Budget

The Board is responsible for managing the Neighborhood Association's financial affairs. Although the Directors cannot be expected to make perfect decisions, the Directors are required to act in accordance with good faith judgment concerning the best interests of the Neighborhood Association.

## Accounting

The Neighborhood Association has two kinds of accounts: operating funds and reserve funds. Operating funds must be easily accessible and are used for day-to-day expenses. Reserve funds are the Neighborhood Association's savings and are to be invested to pay for major repair and replacement of the Neighborhood Commons.

The Neighborhood Association must prepare annual statements of its income and expenses, which are to be made available to each Owner. Unless required by law or the Board, annual statements do not need to be audited.

## Budget

Financial planning begins with the annual budgeting process. The fiscal year of the Neighborhood Association shall be January 1 to December 31, unless the Board selects a different fiscal year. The Board may appoint a committee to undertake the preparation of the budget, including holding hearings for Owners. At least two (2) months before the end of the fiscal year, the Board or its budget committee shall hold a budget meeting to consider the proposed budget for the coming year. Notices of budget meetings are to be posted so that Owners can attend. The budget is adopted by majority vote of the Board. At least one (1) month before the fiscal year to which the budget applies, the Board shall send to each Owner a copy of the budget and notice of the amount of the General Assessment each Owner will owe.

**Balancing a Budget.** Like any budget, the Neighborhood Association's budget has two main categories: expenses and income. The Board is responsible for estimating the expenses of the Neighborhood Association for the upcoming year and then setting General Assessments—the Neighborhood Association's main source of income—at a level high enough to pay for the anticipated expenses. (The Neighborhood Association may have other minor income sources, such as interest on its accounts and rentals income.) Under the Town Center Declaration, the

Town Center Association contributes a portion of the maintenance fees for those areas within the Neighborhood Commons, such as (but not limited to) the central park and the amphitheater, that are commonly used by residents and visitors to the Business District.

**Expenses.** Some of the expenses to be included in the budget are mandatory, such as taxes, insurance, required maintenance and capital improvements, including repair, replacement, maintenance, and improvements of the Neighborhood Commons, and assessments due from the Neighborhood Association to the Master POA. Anticipated fees for professional management of the Neighborhood Association, accounting services, legal counsel and other professional services must also be included in the budget. The Neighborhood Association also needs a certain amount of working capital—the cash flow necessary to make sure bills can be paid on time. Reserves, as discussed further below, should be considered. The Board may add to the budget the cost of improvements it would like to make to the community.

**Budget Review.** If General Assessments on Residential Parcels are to be increased by more than fifteen percent (15%) per Residential Parcel when compared to the previous year's General Assessment, and within thirty (30) days after the budget is delivered to Owners, review is requested by petitions signed by at least ten percent (10%) of all Owners, the Board is to call a special meeting to present the budget and to answer any questions. After presentation, the budget is deemed approved unless a quorum of the Owners is present and a majority of the voting interests reject the budget. If the budget is rejected, the Board must approve a new budget within two (2) weeks and send a copy to each Owner. If, under the new budget, the General Assessments are to be increased by more than fifteen percent (15%) per Residential Parcel, then the budget must be reviewed again according to the provisions of this paragraph.

**Interim Rules.** If the budget is challenged or if for any other reason the Board is late in approving the budget, Owners are not released from their obligation to pay General Assessments whenever the amount of such assessments is finally determined. Until a new budget is approved, each Owner must continue to pay the assessment at the rate established for the previous fiscal year.

### Reserves and Deferred Maintenance

Although not required, it is recommended that the Neighborhood Association establish reserves for deferred maintenance, which are significant expenses that occur infrequently (in most cases, no more frequently than every five years). Without sufficient reserves, the Neighborhood Association will be required to levy a Special Assessment when these major expenses arise. Costs that occur more frequently or that are less expensive can probably be handled as an ordinary expense, although reserves may be established for these costs as well.

**Using Reserves.** When it is time to perform deferred maintenance, the Board can authorize use of the appropriate reserve fund. Reserve funds are an estimate; sometimes one reserve fund will

have excess funds while another will not have enough. If specifically authorized by the Board, reserves set aside for one purpose may be used for another purpose.

**Calculating Reserves.** The amount of reserve required is based on the life expectancy of the item, its replacement cost and the amount of money already in the fund. Different items will require different calculations and different reserve funds. Once the amount of the reserve is determined, the reserve funds may be included in the budget and funded each year from General Assessments.

**Investing Reserves.** Although separated for the Neighborhood Association's internal bookkeeping purposes, the various reserve funds can be deposited in a single bank or investment account, to be invested in a prudent way. Because the reserves are the Neighborhood Association's savings, reserves must be kept in an account separate from the Neighborhood Association's operating account and must require more than one signature to be accessed.

**Excess Reserves.** If there is an excess of reserves at the end of the fiscal year, the Board may decide to reduce the following year's assessments for reserves. If sixty percent (60 %) of the Board determines (by vote) that a reserve is no longer necessary for its original purpose, the Board may assign all or part of the funds to a reserve for another purpose, or allocate the funds to the Neighborhood Association's operating account.

### Unanticipated or Extraordinary Expenses

Sometimes extraordinary expenses will arise during the year that the Neighborhood Association has no choice but to pay. This may include any unexpected expenditures not provided by the budget or unanticipated increases over the budgeted amounts. If insurance rates rise dramatically, an insurance bill may be much higher than budgeted. A casualty may cause extensive landscape damage that is not covered by insurance. When the Neighborhood Association is faced with an expense that cannot be paid from operating funds, it has two choices:

**Special Assessment.** The Board may impose a Special Assessment for any unusual or emergency maintenance or repair or other expense that this Residential Declaration or the law requires the Neighborhood Association to pay, or for deferred maintenance or replacement for which reserves are insufficient. Special Assessments require approval by sixty percent (60%) of the members of the Board. The Board may choose to spread the Special Assessment over a period of up to five years.

**Using Reserves.** If specifically authorized by the Board, reserves may be used for extraordinary expenses that are not included in the annual budget. However, rebuilding that reserve should be a priority in the next budget. A Special Assessment may be used to pay back the reserve fund.

## Capital Improvements

Most of the Neighborhood Association's expenses for the Neighborhood Commons are considered maintenance – repairing and replacing original improvements. However, the Neighborhood Association may wish to change or add to the Neighborhood Commons' facilities. Alterations and new improvements, except those proposed by the Founder, must go through the architectural review process.

Neighborhood Association expenditures for most capital improvements may be approved by the Board without membership approval. However, any Substantial Capital Improvement to the Neighborhood Commons approved by the Board must be ratified by a majority of the Owners. A capital improvement will be considered substantial if the cost to the Neighborhood Association of the improvement is more than six percent (6%) of the Neighborhood Association's annual budget or if, when added to other capital improvements for the fiscal year, the sum is more than ten percent (10%) of the Neighborhood Association's annual budget. If the substantial capital improvement is approved by the Owners, the Board shall determine whether it is to be paid from General Assessments or by Special Assessments, which the Board may spread over a period of time up to five years.

## Zone Expenses

Zones are intended to provide a flexible means for providing additional maintenance or capital improvements to a portion of One Loudoun that has special needs. Zone boundaries may be designated at the time of the addition of the property by Supplemental Declaration or at any later time by the Board. Some expenses apply only to a certain Zone within One Loudoun:

- Capital Improvements. Any Zone may, by two thirds (2/3) vote of the Owners within that Zone and approval of the Board, vote to assess all Owners within the Zone for capital improvements to Neighborhood Commons that will primarily benefit that Zone.
- Additional Services. Any Zone may, by majority vote of the Owners within that Zone and approval of the Board, vote to assess all Owners within the Zone for maintenance or services in addition to those normally provided by the Neighborhood Association or the Master POA. For front-yard landscape maintenance, the Board may define a Zone by Residential Parcel type and may approve landscape service for that Zone, which shall be effective unless a majority of the Owners within that Zone object in writing to the landscape service.

If the assessment is approved, it will be assessed to and allocated among all Owners within that Zone or designated group as Individual Residential Parcel Assessments.

Zones may be combined for such assessments. If more than one Zone is to vote, the Board shall determine whether approval and assessment is to be by Zone or by the combined group of Zones. If a group smaller than a Zone wishes to be assessed for capital improvements or services, all of those being assessed must agree to the assessment.

### **Contract for Maintenance**

The Neighborhood Association or the Master POA may, but is not obligated to, act as agent for an Owner, if so requested by that Owner, to contract for routine maintenance and other services not required to be provided by the Neighborhood Association or the Master POA, the cost of which will be assessed to that Owner as an Individual Residential Parcel Assessment. The terms and conditions of all such contracts are at the discretion of the Board. The Neighborhood Association may enter into contracts with members of the Board or their companies. However, when the Board considers the contract, the Director should disclose the interest in the company. In addition, a majority of the remaining uninterested Directors must authorize, approve, or ratify the contract (except that a single Director may not authorize, approve, or ratify such a transaction) and the terms of such contracts must be fair and reasonable—in general, comparable to what would be charged by an outside company.

# 5.2 Finance, Part II: Assessments

The cost of meeting the Neighborhood Association’s expenses is divided among all the Owners by the assessments levied on Residential Parcels.

## Allocation of Assessments

The common expenses of the Neighborhood Association are to be allocated among the Residential Parcels in accordance with the Relative Values described in the adjacent table. The actual allocation of the common expenses of the Neighborhood Association may be calculated for each Residential Parcel by dividing the Relative Value assigned that Residential Parcel, as shown in the adjacent table, by the sum of the Relative Values of all Residential Parcels within the Residential Neighborhood. These are the “Assessment Interests”. The Board shall also have the option of choosing an alternate method to establish the Assessment Interests based on the most current assessed value of each Residential Parcel (including the Buildings on that Residential Parcel) as specified by the Office of the County Assessor for Loudoun County (the “County Assessed Value”). In this latter case, the Assessment Interests would be calculated by dividing the County Assessed Value assigned a Residential Parcel (including the Buildings on that Residential Parcel) by the sum of the County Assessed Values of all Residential Parcels (including their Buildings) within the Residential Neighborhood.

<i>Residential Parcel Type</i>	<i>Relative Value</i>
Single Family and Townhomes	1.0 per Residential Unit
Condominiums (in the Residential Neighborhood)	1.0 per Residential Unit
Apartments	0.5 per Residential Unit
Non-Sold Founder lots	0.5 per Constructed Residential Unit
Special Use Residential Parcel	Determined by the Founder based on anticipated use

If an Owner combines two Residential Parcels or parts of Residential Parcels and uses them as a single Residential Parcel, the Neighborhood Association may assess them as a single Residential Parcel or by such other formula as is adopted by the Board and consistently applied.

**Exempt Community.** The following portions of One Loudoun shall be exempt from the Assessments and liens created herein: (i) all property owned by the Founder except for any Residential Parcel owned by the Founder on which a Building has been constructed, in which

case the assessments shall commence on the first day of the month following the date on which the applicable governmental authority issues a certificate of occupancy (temporary or permanent) for the Building, (ii) all properties dedicated to and accepted by a public authority for public street and associated pedestrian and/or stormwater drainage or stormwater management purposes, (iii) all Neighborhood Commons, and (iv) all Residential Parcels deemed exempt pursuant to the Paragraph below regarding Non-Profit Entities. Collectively, the property referred to in items (i) through (iv) of the preceding sentence shall constitute the “Exempt Community.”

**Non-Profit Entities.** Residential Parcels that are used by non-profit entities primarily for the benefit of residents of One Loudoun may have a zero allocation if granted as described in this paragraph. The Founder may grant such exempt status of record at any time up to and including the time of conveyance of the Residential Parcel to someone other than the Founder. Once granted, such exempt status continues so long as the use of the Residential Parcel remains substantially the same. The Board also has the authority to grant exempt status for qualified entities upon terms and conditions established by the Board.

**Determination by Neighborhood Association.** The Board, using reasonable discretion, has the authority to determine the type of Residential Parcel and may establish rules for the assessment of unimproved lots, determination of residential and commercial use and other matters relating to assessment. In addition, the Board has the discretion to adjust Assessment Interests when application of the formula set forth in the Allocation of Assessments section of this Chapter results in unfairness to one or more Owners. The Neighborhood Association’s agent may enter and examine buildings at reasonable times for assessment purposes. An Owner shall have the right to a hearing before the Board to appeal an assessment evaluation; however, the decision of the Board after the hearing is final.

## Transfer Fees

Certain assessments are paid upon the conveyance of property:

- **Capital Contribution.** At the closing and transfer of title of each Residential Parcel to the first Owner other than the Founder or a builder, for resale, the purchasing Owner shall contribute an amount equal to three months’ installments of the General Assessment. This contribution is to be deposited in the general funds of the Neighborhood Association for start-up expenses of the Neighborhood Association and for working capital for the Neighborhood Association, the cash flow the Neighborhood Association needs to pay its bills while waiting to collect Assessments, and shall not be considered as a pre-payment of General Assessments.

The Capital Contribution (if then applicable) is not required to be paid by an institutional first mortgagee who acquires title as the result of a foreclosure or deed in lieu, but shall be paid by a

third-party purchaser at foreclosure or upon the conveyance by the mortgagee to a subsequent Owner.

## Collection of Assessments

Each Owner is required to pay all Assessments (General Assessments, Special Assessments, Individual Residential Parcel Assessments, Zone Assessments, and Capital Contribution assessed to that Residential Parcel. Dissatisfaction with the Neighborhood Association is not a legal defense to an assessment collection case. Other avenues, such as discussion at meetings, volunteering for committees or running for the Board, are available to improve the Neighborhood Association's performance. The Neighborhood Association has the right to institute reasonable policies concerning late fees and interest, which such Owner is also required to pay. The Neighborhood Association may require Owners who are delinquent in paying their Assessments to pay Assessments on a pro-rated monthly or quarterly basis.

Owners pay Assessments in the manner and on the dates the Board establishes. At Closing on each Lot, Owners shall be required to either provide a credit card number against which the Board may charge Assessments or identify a bank account from which the Board may draw Assessments. The Board may require advance payment of Assessments at closing of the transfer of title to a Parcel and may impose special requirements, including pro-rated monthly or quarterly payments for Owners with a history of delinquency. The Board may elect to have Assessments paid annually, quarterly, or monthly. However, unless the Board establishes otherwise by Rule or Regulation, Assessments shall be paid in monthly installments.

**Collection Costs.** If any Assessment is still delinquent fifteen (15) days after the Neighborhood Association has delivered a warning letter to the Owner's last known address, the Neighborhood Association has the right to also charge the Owner with the Neighborhood Association's collection costs, including reasonable attorney's fees, whether or not suit is brought. The Neighborhood Association may also establish late fees for delinquent payment of assessments.

**Legal Remedies.** The obligation to pay Assessments and costs is both a personal obligation of the Owner and a lien on the Residential Parcel. (The past-due Assessments, plus late-fee, interest to the time of collection and the Neighborhood Association's attorney's fees and other collection costs are called the "Assessment Charge.") The Neighborhood Association may bring an action at law against the Owner personally obligated to pay the Assessment Charge, or may foreclose the lien in the manner permitted by the Virginia Property Owners' Association Act, or both.

- Personal Obligation. The Assessment Charge shall be the personal obligation of the person or entity that was the Owner of the Residential Parcel at the time when the Assessment Charge was levied, and of each subsequent Owner. No Owner may waive or otherwise escape liability for the Assessment Charge by abandonment of the Residential Parcel.

- **Creation of Lien.** The Assessment Charge shall also be a continuing lien upon the Residential Parcel against which the Assessment Charge is made. This lien, in favor of the Neighborhood Association, shall secure the Assessment Charge which is then due and which may accrue subsequent to the recording of the claim of lien and prior to entry of final judgment of foreclosure. Any subsequent Owner of the Residential Parcel shall be deemed to have notice of the Assessment Charge. The lien shall be prior to all other subsequent liens and encumbrances except (i) real estate tax liens on that Residential Parcel, (ii) liens and encumbrances recorded prior to the recordation of the Residential Declaration, and (iii) sums unpaid on and owing under any mortgage or deed of trust recorded prior to the perfection of the lien for Assessments. The provisions of this paragraph do not affect the priority of mechanics' and materialmen's liens.

The Neighborhood Association may bid for an interest in any Residential Parcel foreclosed at such foreclosure sale, may acquire a Residential Parcel, and may subsequently hold, lease, mortgage and convey the acquired Residential Parcel.

**Other Remedies.** The Neighborhood Association shall have the right to suspend the voting rights and, subject to Section 55-513B of the Virginia Property Owners' Association Act, the right to use of the Neighborhood Commons by an Owner, as long as the Owner can still access his Residential Parcel, and may prohibit the leasing of the Residential Parcel for any period during which any Assessment against the Residential Parcel remains unpaid.

**Subordination of Lien to Mortgages.** The lien upon each of the Residential Parcels securing the payment of the Assessment shall be prior to all other liens except (i) real estate tax liens on such Residential Parcels and other liens having priority as a matter of law, (ii) liens and encumbrances recorded prior to this Residential Declaration, and (iii) sums unpaid on and owing under any Mortgage recorded prior to the perfection of such lien, whether or not such sums are advanced before or after the filing of the lien notice filed in the Clerk's Office as to such Assessments.

### *Notice to Purchasers*

If there are any Assessments unpaid on the Residential Parcel, you will automatically become liable for those Assessments when you accept a deed. **You should contact the Neighborhood Association before purchasing a Residential Parcel to make sure no Assessments are owed.** You should also inquire about Special Assessments which may have been assessed but which are not yet owed.

The Treasurer of the Neighborhood Association, or managing agent if one has been employed by the Board, upon request of any Owner or contract purchaser, will furnish a certificate signed by a member of the Board or individual designated by the Board stating whether assessments are paid to date by that Owner and whether any Special Assessments have been levied. Such a certificate, when signed by the appropriate individual designated by the Board, may be relied upon by a good faith purchaser or mortgagee. The Neighborhood Association may charge an amount for such statements in accordance with the Virginia Property Owners' Association Act.

### Quick View: Types of Assessments

	<i>What it's for....</i>	<i>How it's assessed...</i>
<b>General Assessments</b>	All of the regular, budgeted expenses of the Neighborhood Association, including the establishment of reserves.	Annually, payable in installments, based on the budgeted expenses of the Neighborhood Association.
<b>Special Assessments</b>	Substantial Capital Improvements approved by the Owners, or any unusual or emergency maintenance or repair or other expense that the Neighborhood Association is required to pay and for which there is not enough money in the reserves.	As needed. At the discretion of the Board, payment of a Special Assessment may be spread over a period of time, up to five years.
<b>Individual Residential Parcel Assessment</b>	Any special services to that Residential Parcel or any other charges designated in this Residential Declaration as an Individual Residential Parcel Assessment.	As needed.
<b>Zone Assessments</b>	Any services for a particular Residential Parcel in a specific Zone.	As needed.
<b>Capital Contribution</b>	Start-up expenses and working capital for the Neighborhood Association.	Payment equal to three months General Assessments upon sale to first Owner.

# 6 The Future

It's impossible to envision all the things that might happen as One Loudoun grows and matures. This Residential Declaration tries to give the residents the tools and flexibility they need to confront issues as they arise.

## Additional Neighborhood Association Powers

To the extent permitted by law, the Neighborhood Association may, but is not obligated to, provide the following services or engage in the following activities:

- Provide water, sewer, irrigation systems, drainage, telephone, electricity, television, security, cable television or communication lines and other utility services; supply of irrigation water; laundry equipment or service;
- In the Neighborhood Commons and in areas other than the Neighborhood Commons, provide natural systems management, insect and pest control, improvement of vegetation and wildlife conditions, pollution and erosion controls;
- Emergency rescue, evacuation or safety equipment; fire protection and prevention; lighting of common roads which are not dedicated roads; restricted or guarded entrances, traffic and parking regulation and security patrols within One Loudoun;
- Transportation; day care and child care services; and recreation, sports, craft and cultural programs in areas other than the Neighborhood Commons; and newsletters or other information services;
- Maintenance of easement areas, public rights-of-way and other public or private properties other than the Neighborhood Commons located in One Loudoun if their deterioration would affect the appearance of or access to One Loudoun; and
- Any other service allowed by law to be provided by a property owners' association organized under the Virginia Property Owners' Association Act.

The Board may, by majority vote, initiate or terminate any of the above services, which shall take effect sixty (60) days after notice to the Owners, except in an emergency. As determined by the Board depending upon the nature of the service, the cost of any such additional service may be part of the common expenses of the Neighborhood Association, may be assessed as an Individual Residential Parcel Assessment to affected Residential Parcels or may be provided on a fee-for-service or other reasonable basis as determined by the Board. If requested by petitions

signed by at least ten percent (10%) of the Owners, a special meeting may be called and, if a quorum is present, the Board' action to initiate or terminate an additional service under this section shall be repealed by majority vote of all of the Owners.

### Amendment

The Founder may amend this Residential Declaration (i) to conform to the requirements of the Federal Home Loan Mortgage Corporation, Veterans Administration, Federal National Mortgage Neighborhood Association or any other generally recognized institution involved in the guarantee or purchase and sale of mortgages, (ii) to conform to the requirements of institutional mortgage lenders or title insurance companies, (iii) to clarify the Residential Declaration's provisions or correct errors or inconsistencies, (iv) to subject additional property to this Residential Declaration or in connection with Supplemental Declarations or to withdraw property from One Loudoun, (v) to change a name pursuant to the Community Operating Agreement, or (vi) to conform to any law then in effect.

The Founder may amend this Residential Declaration without approval by the Owners or the Board during the period of time that the Founder has the right to appoint at least three directors to the Board. This Residential Declaration may also be amended at any time by an instrument signed by the President or Vice President and Secretary of the Neighborhood Association, certifying approval in writing by Owners representing two-thirds (2/3) of the voting rights, with the following limitations:

- Provisions concerning voting rights and allocation of assessments cannot be amended without the consent of two-thirds (2/3) of each category of affected Residential Parcel Owners.
- Rights reserved to the Founder may not be amended without the specific consent of the Founder.

Any amendment takes effect upon its recordation in the public records of the Loudoun County Clerk's Office.

A number of provisions are contained within this Residential Declaration to comply with the Proffers of ZMAP 2005-0008 (the "Proffers") or conditions of subdivision approval applicable to the Residential Neighborhood. No Supplemental Declaration or amendment of this Residential Declaration shall impair the right and authority of the County to require compliance with any Proffers and/or subdivision approval conditions applicable to Residential Neighborhood without the prior written approval of the County. In addition, the Neighborhood Association shall not be dissolved, except pursuant to a consolidation or merger with an entity formed for similar purposes, nor the Residential Declaration terminated without the prior written approval of the County.

## Duration

The covenants and restrictions contained in this Residential Declaration shall run with and bind Residential Parcels and Neighborhood Commons of One Loudoun and shall inure to the benefit of and be enforceable by the Founder, the Neighborhood Association and its Board, and all Owners of the Neighborhood Association, their respective legal representatives, heirs, successors or assigns twenty-five (25) years, and shall be automatically extended for each succeeding twenty five-year period unless an instrument signed by Owners representing eighty percent (80%) of the voting rights in the Neighborhood Association shall have been recorded, agreeing to terminate the Residential Declaration as of a specified date.

This Residential Declaration may also be terminated in any of the following ways:

- The Residential Declaration may be terminated at any time by the consent in writing of two-thirds (2/3) of all Owners.
- Dedication of Neighborhood Commons. The Residential Declaration may be terminated by consent in writing by Owners representing at least two-thirds (2/3) of the voting rights in the Neighborhood Association, if the Neighborhood Commons have been accepted for dedication or taken by eminent domain by the appropriate unit of local government (except that alleys or footpaths between two Residential Parcels may be divided evenly between the adjacent Residential Parcel Owners in accordance with this Chapter) or another successor entity organized under the same principles and standards as set forth in this Residential Declaration.

# 7 Definitions

● **Articles.** “Articles” are the Articles of Incorporation of the Neighborhood Association.

**Assessments.** “Assessments” is the collective term for the following Neighborhood Association charges, all as further described in Chapter 5:

- **General Assessment.** The “General Assessment” is the amount allocated among all Owners to meet the Neighborhood Association’s annual budgeted expenses.
- **Individual Residential Parcel Assessment.** An “Individual Residential Parcel Assessment” is a charge made to a particular Residential Parcel Owner for charges relating only to that Residential Parcel.
- **Special Assessment.** A “Special Assessment” may be charged to each Residential Parcel for capital improvements or emergency expenses.
- **Zone Assessment.** A “Zone Assessment” is a charge made to a particular Residential Parcel for expenses relating only to Residential Parcels in that Zone.
- **Capital Contribution.** With certain exceptions as described in Chapter 5.2, a “Capital Contribution” is paid upon sale to the first Owner, for start-up expenses and working capital for the Neighborhood Association.

**Board.** “Board” is the Board of Directors of the Neighborhood Association.

**Building.** “Building” shall have the meaning set forth in the building code for Loudoun County, Virginia

**Bylaws.** The term “bylaws” refers to the bylaws of the Neighborhood Association, as amended from time to time.

**Certificate of Completion.** The DRC issues a “Certificate of Completion” in recordable form upon correction of all deficiencies noted in the Certificate of Substantial Conformance.

**Certificate of Substantial Conformance.** The DRC issues a “Certificate of Substantial Conformance” when the primary building and landscaping are completed in substantial compliance with the approved plans and specifications. The certificate describes any minor areas of deficiency that need to be corrected.

**Clerk's Office.** The "Clerk's Office" is the Clerk's Office of the Circuit Court of Loudoun County, Virginia, or such other place in Loudoun County where real estate documents and records relating to title to real estate are maintained.

**Commercial Parcels.** "Commercial Parcels" are Parcels used for office or other retail use. Commercial Parcels also includes the Residential Units of mixed-use buildings and the Residential Units of multi-family buildings located in the Business District. Commercial Parcel does not include a live/work Residential Parcel or a home office on an otherwise Residential Parcel.

**Common Roads.** "Common Roads" are the streets and alleys located within One Loudoun that are intended for automobile traffic. Most of the Common Roads are intended to be dedicated to the public. Any Common Roads not dedicated to the public shall be part of the Neighborhood Commons.

**Community Operating Agreement.** The "Community Operating Agreement" is the One Loudoun Community Operating Agreement, recorded in the Clerk's Office, as amended from time to time. The Community Operating Agreement reserves certain rights to the Founder and places other restrictions on the use of One Loudoun.

**County.** The "County" is Loudoun County, Virginia.

**DRC.** The DRC is the One Loudoun Design Review Committee.

**Design Standards.** The Design Standards is the design and architectural code for One Loudoun, as amended from time to time and includes other design guidelines, standards, or requirements as developed, approved, and used from time to time.

**Guest.** A "Guest" is someone present at One Loudoun by the specific request or invitation of an Owner or Tenant.

**Founder.** The Founder is (i) MMS One Loudoun Center, LLC, a Delaware limited liability company, (ii) any successor of MMS One Loudoun Center, LLC, to which all of the assets of company are conveyed, and (iii) other successors to the Founder to the extent the rights such other successors are set forth in one or more supplemental declarations recorded in the Clerk's Office.

**Improvements.** "Improvements" mean any Buildings, underground installations, slope alterations, lights, roads, driveways, utility facilities and lines, parking areas, fences, satellite dishes, rooftop installations, screening walls and barriers, retaining walls, stairs, decks, windbreaks, plantings, planted trees or shrubs, poles, signs, loading areas and any Structures or landscaping improvements of every type and kind.

**Live/Work Unit.** "Live/Work Unit" means a building or spaces within a building used jointly for commercial and residential purposes where work activities are intended to be those that are compatible with residential occupancies. The predominant use of a live/work unit is residential and commercial activity is a secondary use.

**Lot.** "Lot" means any portion of One Loudoun now or hereafter designated as a Lot or Residential Parcel of land (other than Neighborhood Commons, dedicated public roads, or other areas dedicated to public use) on a recorded plat of subdivision or resubdivision of One Loudoun or on a governmental approved site plan. If no plat is recorded, a Lot is each Residential Parcel of land (other than Neighborhood Commons, dedicated public roads, or other areas dedicated to public use) conveyed as a separate Residential Parcel of real estate, and includes any Improvements now or hereafter constructed on the Lot.

**Master Association.** "Master Association" shall refer to the One Loudoun Master Property Owners Association, Inc., a Virginia nonstock corporation.

**Master Commons.** "Master Commons" consist of that property within One Loudoun as designated on a plat or specifically conveyed to the Master POA, for the common use and enjoyment of all owners or property within One Loudoun, and all other property defined in accordance with the Master Declaration as Master Commons.

**Member.** Each owner of property in One Loudoun in One Loudoun is a "Member" of the Neighborhood Association.

**Mortgagee.** A "Mortgagee" is the holder of a mortgage.

**Neighborhood Association.** "Neighborhood Association" is One Loudoun Neighborhood Association, Inc., a Virginia nonstock corporation.

**Neighborhood Commons.** "Neighborhood Commons" comprises real property within One Loudoun as designated on a plat or specifically conveyed to the Neighborhood Association, for the common use and enjoyment of all Owners. "Neighborhood Commons" also include any improvements on that real property, all utilities, utility easements and other easement rights or personal property for the Owner's common use, and any other property of any type specifically designated as Neighborhood Commons. The Neighborhood Commons may include areas dedicated to the public to the extent that the Neighborhood Association agrees to maintain, or is required to maintain, such property.

**Occupant.** "Occupant" means any Person who occupies a Parcel at One Loudoun because of a relationship to an Owner or Tenant and is not themselves an Owner, Tenant or Guest or beneficiary of an easement.

**One Loudoun.** “One Loudoun” is the community described in the Community Operating Agreement and is the aggregation of the Residential Parcels and the Neighborhood Commons and the Commercial Parcels and Business Commons.

**One Loudoun Commons.** The “One Loudoun Commons” comprises the Master Commons, the Neighborhood Commons and the Business Commons.

**One Loudoun Design Review Committee.** The One Loudoun Design Review Committee or “DRC” is the panel established by the Master Declaration to review and approve modifications to Parcels and to perform other tasks described in this Residential Declaration and the Master Declaration.

**Owner.** “Owner” is the record owner, whether one or more persons or entities, of fee simple title to any Residential Parcel. Owners shall not include those having such interest merely as security for the performance of an obligation, or condominium associations (but shall include the condominium Owners individually).

**Parcel.** A “Parcel” means any plot or Residential Parcel of land designated for separate ownership or occupancy in One Loudoun other than a common area, and a unit in a condominium association.

**Period of Founder Control.** The “Period of Founder Control” under the Residential Declaration is that period during which the Founder owns any Parcel in One Loudoun.

**Person.** A “Person” is any natural person, corporation, partnership, trust, limited liability company, or other entity.

**Relative Value.** The “Relative Value” of each Residential Parcel type is defined in Chapter 5.2.

**Residential Declaration.** The “Residential Declaration” is this Residential Declaration for the Residential Neighborhood in One Loudoun, as recorded in the records of the Clerk’s Office, as amended from time to time.

**Residential Parcel.** “Residential Parcel” is a Parcel of Residential Property.

**Residential Property.** “Residential Property” is all property that is subject to the Residential Declaration, plus additions and less withdrawals made according to the terms of the Residential Declaration.

**Residential Unit.** A “Residential Unit” is an individual dwelling unit such as a single-family residence, townhouse or other attached dwelling (such as each half of a duplex unit), an apartment or condominium unit.

**Rules and Regulations.** The “Rules and Regulations” mean any Rules and Regulations adopted from time to time by the Founder or the Neighborhood Association to implement the objectives of this Residential Declaration.

**Special Use Residential Parcel.** A “Special Use Residential Parcel” is a Residential Parcel of unconventional size, shape, location or use that calls for special design considerations. Typically, a Special Use Residential Parcel will be used for commercial purposes, multi-family residential or community or recreation facilities.

**Structure.** “Structure” shall have the meaning set forth in the building code for Loudoun County, Virginia.

**Substantial Capital Improvements.** “Substantial Capital Improvements” are those Improvements the cost of which exceed six percent 6% of the Neighborhood Association’s annual budget, or if when added to other capital Improvements for the fiscal year, the sum is more than ten percent (10%) of the Neighborhood Association’s annual budget.

**Supplemental Declaration.** “Supplemental Declaration” is any instrument that may be recorded by the Founder or the Neighborhood Association as provided in the Residential Declaration.

**Wheeled Transport.** “Wheeled Transport” means bicycles, scooters, skateboards, roller skates, roller blades, tricycles, wheelchairs, Segway Human Transport, wagons, baby strollers and similar means of transportation, working on wheels or tracks, whether or not motorized, but not including motorcycles, motorized go carts, all terrain vehicles or mini-bikes.

**Work/Live Unit.** “Work/Live Unit” means a building or spaces within a building used jointly for commercial and residential purposes where the work activities are intended to be the dominant pursuit of the occupants.

**Zone.** “Zones” are smaller areas within One Loudoun of distinct building type or character. Owners of property within a Zone may be assessed for maintenance of property primarily serving that Zone.

**Zoning Ordinance.** “Zoning Ordinance” means any applicable ordinances, regulation or provision enacted by the applicable governing body of Loudoun County, Virginia regulating, restricting, permitting or prohibiting the use of land and the construction of Improvements thereon and, for the purpose of this definition, shall include the conditions and provisions of any special or conditional use permit affecting any portion of One Loudoun or any other government-controlled or directed process affecting any portion of One Loudoun.

# 8. Miscellaneous Provisions and Signatures

**Authority.** This Residential Declaration shall be administered by the Neighborhood Association or by any managing agent for One Loudoun designated by the Neighborhood Association.

**Effect of Invalidation.** If any provision of this Residential Declaration (including any attachment, exhibit, or items incorporated by reference) is held to be invalid or unenforceable by any court, the invalidity of such provision shall not affect the validity of the remaining provisions of this Residential Declaration, which shall continue unimpaired and in full force and effect and shall be construed to the fullest extent practicable as if such invalid or unenforceable provision had not been included in this Residential Declaration.

**Interpretation.** This Residential Declaration shall be interpreted for the mutual benefit and protection of the Owners of One Loudoun and in furtherance of the basic goals of this Residential Declaration. Any discrepancy, conflict or ambiguity which may be found herein shall be resolved and determined by the Founder or the Neighborhood Association (to the extent the Founder's rights under this Residential Declaration have been assigned to the Neighborhood Association) and, in the absence of an adjudication by a court of competent jurisdiction to the contrary, such resolution and determination shall be final. This Residential Declaration and rights of the Owners within One Loudoun shall be governed by the laws of Virginia.

**Exhibits and Appendices.** All Exhibits and Appendices attached to this Residential Declaration are incorporated by reference and made a part of this Residential Declaration.

**Captions; Capitalized Terms; Gender; Graphics.** The paragraph headings and captions appearing in this Residential Declaration are inserted only as a matter of convenience and for reference and in no way limit or otherwise affect the scope, meaning or effect of any provisions of this Residential Declaration. Wherever the term "including" occurs in this Residential Declaration, it shall be interpreted broadly and without limitations as "including but not limited to". Terms that are capitalized in this Residential Declaration shall have the meaning set forth in Chapter 7 of this Residential Declaration unless the context plainly makes such meaning inappropriate. Unless the context indicates otherwise, whenever the singular number is used in this Residential Declaration, the same shall also include the plural, and words in one gender shall also include words in all other genders. Graphics or renderings included as a part of this Residential Declaration have no regulatory purpose and do not represent a commitment to a particular outcome or result.

**Community Cooperation.** The Owners shall cooperate to utilize the Neighborhood Commons for the benefit of One Loudoun. The Owners are encouraged to conduct events and undertakings to build a sense of community as well as to participate with surrounding neighborhoods in creating a “place” for Owners and their neighbors.

**Compliance with Zoning Laws.** All Owners shall comply with the Zoning Ordinance and all other applicable federal, state, and local laws including the Loudoun County noise and nuisance ordinances.

**Community Operating Agreement.** If in any instance the provisions of this Residential Declaration are in conflict with the provisions of the Community Operating Agreement, the provisions of the Community Operating Agreement shall apply.

**Constructive Notice and Acceptance.** Each Owner, Occupant or other Person, by acceptance of a deed conveying title to a part of the Residential Neighborhood, or the execution of a contract for the purchase thereof, or the acceptance of a lease or license therefore, or the taking possession thereof, whether from the Founder or other Owner or lessee, shall for itself, his successors and assigns, be deemed to (i) accept such deed, contract, lease, license or possession upon and subject to each and all of the provisions of this Residential Declaration, the Master Declaration and the Community Operating Agreement and (ii) covenant, to and with the Founder, and the other Owners to keep, observe, comply with and perform the requirements of this Residential Declaration, the Master Declaration and the Community Operating Agreement whether or not any reference to this Residential Declaration, the Master Declaration or the Community Operating Agreement is contained in the instrument by which such Person acquired his or her interest. Owners agree to refer to this Residential Declaration, the Master Declaration and the Community Operating Agreement in deeds, leases and licenses covering any portion of the Residential Neighborhood and to make this Residential Declaration, the Master Declaration and the Community Operating Agreement binding upon all Owners and Tenants.

**Notice to the Founder.** Any and all notices or other communication required or permitted by this Residential Declaration, or by law to be served on or given to the Founder must be in writing and shall be deemed appropriately served and given when the notice or communication is personally delivered, or in lieu of such personal service, on the third business day after it is deposited in the United States mail, first class, postage prepaid, certified or registered mail, return receipt requested, addressed to the Founder as follows:

MMS One Loudoun Center, LLC  
8401 Greensboro Drive, Suite 300  
McLean, VA 22102

with copies to: Brian J. Lubkeman, Esquire  
McGuireWoods LLP  
1750 Tysons Boulevard  
Suite 1800  
McLean, VA 22102-4215

or to such other address as the Founder may specify by Supplemental Declaration executed by the Founder without need for the consent of any other Owners.

**Notice to Owners.** Notice to any Owner (other than the Founder), Tenant or Occupant or to any Mortgagee shall be deemed duly served when personally delivered to the Person to whom it is directed, or in lieu of such personal service, on the third business day after it is deposited in the United States mail, first-class postage prepaid, certified or registered mail, return receipt requested, addressed to (i) the Owner, Tenant or Occupant at the address as shown in the applicable Loudoun County tax records, or to such other address as designated by the Owner, Tenant or Occupant, in writing to the Founder, as applicable; and (ii) to such Mortgagee at the address designated by the Mortgagee in writing to the Founder.

**Waiver.** Neither the Founder, nor the DRC, nor the Neighborhood Association or its Board nor their successors or assigns shall be liable for damages to any Owner, lessee, licensee, or Occupant by reason of any mistake in judgment, negligence, nonfeasance, action or inaction in the administration of the provisions of this Residential Declaration, the Design Standards or the Rules and Regulations or for the enforcement or failure to enforce this Residential Declaration, the Design Standards or the Rules and Regulations or any part thereof; and every Owner or Occupant, by acquiring an interest in One Loudoun, agrees that he, she or it will not bring any action or suit against the Founder, the DRC or its members, the Neighborhood Association or its Board to recover damages or to seek equitable relief on account of their enforcement or non-enforcement of this Residential Declaration.

**Re-recording.** Unless this Residential Declaration is terminated, the Neighborhood Association shall rerecord this Residential Declaration or other notice of its terms at intervals necessary under Virginia law to preserve its effect.

IN WITNESS WHEREOF, the undersigned does hereby make this One Loudoun Residential Declaration of Operating Principles, and has caused this Residential Declaration to be executed as of the day and year first above written.

**MMS One Loudoun Center, LLC,**  
a Delaware limited liability company

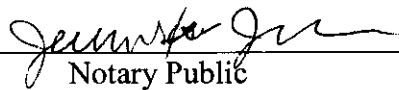
By: 

Name CHARLES F. STUART, JR.

Title: VICE PRESIDENT

COMMONWEALTH OF VIRGINIA:  
CITY/COUNTY OF FAIRFAX :

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of November, 2007 by Charles F. Stuart, Jr. as Vice President of One Loudoun (D.C) AIP III, LLC, a Delaware limited liability company, on behalf of the company.

  
Notary Public

My commission expires: 8/31/2010

Notary Registration Number: 7011682



# Appendix I: Early Years

This appendix contains information about how the community is to operate in the earlier years. It gives a timetable for various transitions from complete developer control to independence. When the transition is complete, this appendix is no longer necessary and may be disregarded.

## Board

The Neighborhood Association is created before the sale of the first Residential Parcel. When the community gets started, the Founder selects the first Board and operates the Neighborhood Association because, quite simply, there's no one else there to do it. The Founder also has a major interest in seeing that the Neighborhood Association gets off to a good start so that the community is successful. For that reason, the Founder has a lot of control, and the Owners have very little, in the beginning years. However, as the community matures, that responsibility begins to shift—initially, as the first resident is elected to the Board, and later, when control of the Board is delivered to the residents. To allow the Founder to complete the development plan, the Founder retains some rights until development is complete, even though the Founder no longer controls the Board.

	<i>Occurs upon the first of the following...</i>	<i>What Happens Then...</i>
<b>Transition Point I</b>	<ol style="list-style-type: none"><li>1. At least 350 Residential Parcels have been purchased by individual Owners other than builders, or</li><li>2. Voluntary assent of the Founder.</li></ol>	Owners elect one member of the Board.
<b>Transition Point II</b>	<ol style="list-style-type: none"><li>1. At least 700 Residential Parcels have been purchased by individual Owners other than builders, or</li><li>2. Voluntary assent of the Founder.</li></ol>	Owners elect two members of the Board.

	<i>Occurs upon the first of the following...</i>	<i>What Happens Then...</i>
<b>Transition Point III</b>	<ol style="list-style-type: none"> <li>1. At least 1040 Residential Parcels have been purchased by individual Owners other than builders, or</li> <li>2. Voluntary assent of the Founder.</li> </ol>	This is the turnover point where Owners elect a majority of the Board. Owners elect three members of the Board. The Founder may designate two Directors. If the Board is more than five members, similar ratios shall be used such that Owners elect a majority of the Board. No changes can be made in the Design Standards without the Founder's consent.
<b>Transition Point IV</b>	<ol style="list-style-type: none"> <li>1. Completion of construction for all Residential Parcels, or</li> <li>2. Voluntary assent of the Founder.</li> </ol>	The Founder no longer designates a director and all remaining Founder's rights under this Appendix end.

### The Neighborhood Commons

At the time that the first Residential Parcels are conveyed to Owners, the Founder will still be developing portions of community, and this development will likely continue for a period of years. The Founder has reserved in the Residential Declaration various easements and rights that it needs to be able to complete development of the community. The Founder may convey to the Neighborhood Association additional Neighborhood Commons as they are completed. The Neighborhood Association is required to accept these additional Neighborhood Commons for maintenance, as long as any Improvements on the Neighborhood Commons are in reasonable repair, normal wear and tear excepted, at the time of conveyance to the Neighborhood Association.

### Finance

**Founder's Assessments; Founder's Guarantee.** The Founder or its designated entities shall be excused from payment of General Assessments during the Guarantee Period as defined below. The Founder guarantees to Owners that their General Assessments during the Guarantee Period shall not exceed the initial General Assessment (subject to the increases set forth below). The Founder agrees to pay any Neighborhood Association expenses incurred during the Guarantee Period and normally paid through General Assessments that exceed the amount produced by the General Assessments during that time. The Guarantee Period shall begin upon the recordation in the Clerk's Office, of the first deed of conveyance of a Residential Parcel in One Loudoun and shall end at the conclusion of the third. The Guarantee Period shall then be automatically

extended for successive six (6) month periods up to an additional three (3) years unless terminated upon written notice by the Founder to the Neighborhood Association at least thirty (30) days before the end of then-current Guarantee Period. During the Guarantee Period, the General Assessments may be increased by up to 15% per year.

**Owner's Assessments.** Each Owner begins paying annual General Assessments from the time the Residential Parcel is conveyed, prorated to the month of closing. The Owner may be required to pay the remainder of that year's General Assessments in advance. If there is a Special Assessment in effect for that Residential Parcel, it will also be prorated to the month of closing.

### Assignment of Developer Rights

The Founder may assign all or any portion of its rights or obligations under the Residential Declaration at any time to a successor or assign, the Master POA or the Neighborhood Association.

### Additional Information

Neither the Neighborhood Association nor the Founder makes any representation or assumes any liability for any loss or injury.

## Quick View: Roles of the Founder and the Neighborhood Association

<i>The Founder...</i>	<i>The Neighborhood Association...</i>
Constructs the initial improvements on the Neighborhood Commons and the One Loudoun Commons.	Maintains the Neighborhood Commons and makes capital improvements or replaces improvements as it determines is appropriate.
Maintains an office and staff as necessary to conduct its sales operations and to fulfill its Founder duties. May hire a Manager to fulfill its duties.	Maintains an office and staff as necessary to manage the Neighborhood Association's affairs. May hire a Manager to fulfill its duties.
Prepares the initial estimated budget for the Neighborhood Association.	Adopts the initial budget and subsequent budgets.
Collects the Capital Contribution at closing and delivers it to the Neighborhood Association.	Collects assessments based on budget.

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EXHIBIT A

Project

All that certain real property situate, lying and being in Loudoun County, Virginia, being the property acquired by MMS One Loudoun Center, LLC, by deed recorded as Instrument Number 200703022-0022068, among the aforesaid Land Records, as further identified by Loudoun County Tax Parcel Identification Number 057-10-2844-000, together with such additional properties as may now or in the future be (i) property contiguous to the Project but not a part of the Project, (ii) property any portion of which is within two miles of any portion of One Loudoun (including any property separated from One Loudoun by a public street, body of water or other property) or, (iii) any other property with a reasonable relationship to One Loudoun.

Notwithstanding the foregoing, any portion of the property herein described hereafter dedicated and conveyed to a public entity for public purposes, including without limitation, that certain proposed public use site containing 19.70002 acres, more or less, and identified on the Concept Plan for One Loudoun (ZMAP 2005-0008) as the Public Use Site, and as further identified and to be created pursuant to that certain pending subdivision waiver application numbered SBWV 2007-0005, shall be specifically excluded from this Exhibit, and in no event shall be subjected to the terms and conditions of the Residential Declaration.

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EXHIBIT B

Residential Neighborhood

No property is being subjected at this time to this Residential Declaration. Portions of the property as described in Exhibit A and additional property as provided for in the Residential Declaration may hereafter be subject to this Residential Declaration upon recordation of one or more supplemental declarations.

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