

VANCE COUNTY, N. C.
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CYNTHIA S. ABBOTT
REGISTER OF DEEDS

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NORTH CAROLINA
VANCE COUNTY**DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS & RESTRICTIONS FOR
HUNTSTONE SUBDIVISION, PHASE I
(HUNTSTONE PINES)**

THIS DECLARATION OF PROTECTIVE COVENANTS, made this 20th day of November, 2003, by Old Oxford Road Ptrs. LLC, a North Carolina limited liability company, hereinafter called "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of a certain tract or parcel of land situate on the north side of U.S. 158 Business in Dabney Township, Vance County, North Carolina, being more particularly described on "Schedule A" attached hereto; and

WHEREAS, Declarant desires to provide for the preservation of the value, amenities and conceptual intent of the said community and for the maintenance of the said Common Properties; and, to this end, desires to subject the said real property above described, together with such additions as may hereafter be made, to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth, each and all of which is and hereby declared to be for the benefit of said property and each and every owner of any and all parts thereof; and

WHEREAS, Declarant has caused or will later cause to be incorporated under the laws of the State of North Carolina, as a nonprofit corporation, HUNTSTONE COMMUNITY ASSOCIATION, INC., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth.

NOW, THEREFORE, in consideration of the premises and covenants contained herein, Declarant declares that the real property described above, and such additions thereto as may hereinafter be made, is and shall be subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens (referred to as "The Covenants") hereinafter set forth, and said covenants shall run with the land and be binding on all persons and parties claiming under and through Declarant.

**ARTICLE I
DEFINITIONS**

The following words and terms, when used in this Declaration, or any Supplemental Declaration, shall have the following meanings:

1. "Association" shall mean and refer to Huntstone Community Association, Inc., a North Carolina nonprofit corporation, which shall be organized and in good standing with the State of North Carolina prior to the sale of any lots.
2. "Owner" shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations, limited liability companies or other legal entities, of the fee simple title to any tract situated upon the properties, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to any mortgagee, its successors or assigns, unless and until such mortgagee has acquired title pursuant to foreclosure or a proceeding in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an owner.

3. "Properties" shall mean and refer to that certain real property heretofore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association, as are subjected to this Declaration or any Supplemental Declaration.

4. "Common Properties" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties upon which a single family dwelling is to be situated.

6. "Member" shall mean and refer to all owners as heretofore defined. Unless otherwise stated, Member(s) shall include both Class A and Class B Members as defined in Article VI below.

7. "Declarant" shall mean and refer to Old Oxford Road Ptrs. LLC, its successors, assigns or duly authorized agent(s).

8. "Huntstone" shall mean and refer to Huntstone Subdivision, Phase I (Huntstone Pines), or subsequent phases as may be applicable.

ARTICLE II

SUBJECT PROPERTY

1. **Existing Property:** The real property which is subject to these covenants is located in Vance County, North Carolina, and is particularly described on "Schedule A". All of the real property shall be referred to as "Existing Property".

2. **Additions to Existing Property:** Additional lands may become subject to this Declaration in the following manner:

A. **By Declarant:** Declarant, its successors and assigns, including the Association, shall have the right to bring within the plan and operation of this Declaration, additional properties, whether currently owned or hereafter acquired, at future stages of the development.

The additions authorized under this and the succeeding subsection shall be made by filing of record Supplementary Declarations of Covenants with respect to the additional property which shall extend the operation and effect of these Covenants to such additional property.

The Supplementary Declarations may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of Declarant, to reflect the different character, if any, of the added properties.

B. **By the Association:** Upon approval in writing of the Association by a two-thirds (2/3) vote of the Members, at a duly called meeting, the Owner of property other than Declarant who desires to add it to the plan of these covenants and to subject it to the jurisdiction of the Association, may record a Supplementary Declaration of Covenants with respect to the additional property which shall extend the operation and effect of the covenants to such additional property.

The Supplementary Declaration may contain such complementary additions and modifications of the covenants contained in this Declaration as may be necessary or convenient, in the judgment of Declarant, to reflect the different character, if any, of the added properties.

C. **Mergers:** Upon a merger or consolidation of the Association with another association as provided for in the Bylaws of the Association, their properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration, together with the covenants and restrictions established upon any other properties as one plan. No such merger or consolidation, however, shall effect any revocation, change of or addition to the Covenants established by this Declaration as herein provided.

ARTICLE III

ARCHITECTURAL CONTROL

1. **Prior Approval of Improvements:** No site work, construction, clearing of trees, disturbing of earth, landscaping, installation of any facilities, or any other improvements whatsoever shall occur on any lot in the subdivision or upon the Common Properties or elsewhere for the common benefit of Huntstone Subdivision without the prior written approval of Declarant or the Architectural Committee.

No dwelling, building, structure, outbuilding, fence, wall or improvement of any nature whatsoever (except for interior alterations to existing structures not affecting the external structure or external appearance of any improvement on any portion of the lot) shall be constructed on any lot unless and until the plans and building specifications for such construction shall have been approved in writing by Declarant. The plans submitted for approval shall include (a) the construction plans, specifications, and description of materials, including all exterior colors and proposed landscaping and grading (no trees measuring six inches or more in diameter at six feet above ground level may be removed without prior written approval) and (b) a site development plan showing the location of all proposed improvements. In the event that Declarant fails to approve or disapprove such plans or proposed locations within thirty (30) days after said plans and specifications have been submitted, then such approval shall not be required and this covenant shall be deemed to have been fully met. Declarant's approval required hereinabove is a continuing requirement in regard to all future alterations and improvements.

Declarant, at its option, may appoint a three person Architectural Committee which shall review and approve all improvements and construction proposed on any lot. Declarant, so long as it shall own at least one lot in Huntstone, may appoint any successor Members to the committee. At such time as Declarant no longer owns a lot in Huntstone, the Board of Directors of the Association shall appoint a committee of persons who own lots in the subdivision to serve as the Architectural Committee.

2. **Approved Criteria:** Approval of the proposed plans and specifications shall be based upon the compliance with the provisions of these Covenants, the quality of workmanship and materials, harmony of exterior design with the surrounding structures, locations of improvements with respect to topography and finished grade elevation, the effect of the construction on the natural tree growth and vegetation, and all other factors which in the sole opinion of Declarant shall affect the desirability or suitability of the proposed improvements. However, refusal and approval of plans, locations or specifications may be made upon any grounds, including purely aesthetic considerations.

3. **No Liability:** Approval by Declarant shall not constitute a basis for liability of Declarant for any reason, including, without limitation: (i) failure of the plans to conform to any applicable building codes or (ii) inadequacy or deficiency in the plans resulting in defects in the improvements.

4. **Review and Approval for Additions, Alterations or Changes to Structures:** Further written approval of Declarant or the Architectural Committee shall be required for any alteration of approved plans and the alteration or modification of existing structures and improvements made after a house is occupied.

Lot owners shall submit their plot plans, drawings, plans and specifications for additions, alterations or changes personally to Declarant or the Architectural Committee. If Declarant or the Architectural Committee fails to give its written approval within thirty (30) days of the date of submission, then approval shall be deemed to have been given. If, after thirty (30) days of the date of submission of plans, if no suit to enjoin the proposed construction or improvements shall have been commenced prior to completion of such, approval will be presumed, and this Article shall be deemed to have been complied with.

ARTICLE IV

USE RESTRICTIONS

1. **Rules and Regulations:** The Board of Directors of the Association shall have the power to formulate, publish, amend and enforce reasonable rules and regulations concerning the use and enjoyment of the Properties and Common Properties. Such rules and regulations may provide for the imposition of fines or penalties for the violation thereof or for the violation of any of the covenants and conditions contained in this Declaration.

2. **Use of Properties:** All lots shall be used for single-family residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed three stories and attached and/or detached garages not to exceed a three-car size, unless otherwise permitted herein.

No business or trade activity where goods or services are offered to the public shall be carried out on any lot, nor shall anything be done thereon which is or may become a nuisance or annoyance to the neighborhood. Nothing herein shall be interpreted or construed to prevent the use of any structure or portion thereof as a home office, or to prevent the occupant of a house from working at home, provided that goods or services are not offered to the general public on the premises.

No trade materials or inventories (except during construction on the premises) shall be stored or otherwise allowed on the premises. No commercial trucks, tractors or inoperable vehicles may be stored or regularly parked on the premises or upon any street right of way in the subdivision. Such parking or storing on a street right of way shall be deemed a prohibited use of the lot occupied by the person so storing or parking.

3. Improvement Specifications:

- A. **Minimum Square Footage:** No plans for a primary dwelling shall be approved unless the living area of such dwelling, exclusive of open porches, garages and finished basements, shall be at least 1300 square feet of finished living space. Square footage shall be determined as measured from outside wall lines.
- B. **Adequate Attached Garage/Storage:** Each dwelling shall provide adequate attached storage built as a part of the house. Attached garages shall be considered adequate attached storage. In the event that no attached garage is included, then the structure must have an attached fully enclosed storage room of at least 50 square feet. However, this requirement for attached storage may be waived by Declarant or the Architectural Committee if the overall site plan provides for a detached garage. All campers, trailers, boats, bikes and similar recreational vehicles and equipment must be stored in enclosed garages or other approved storage facilities.
- C. **Prohibited Improvements:** No dwelling, building, structure, outbuilding or other permitted improvement shall be constructed on any lot except by conventional construction. No modular construction homes (on-frame or off-frame) or mobile homes shall be permitted on any Lot.
- D. **Approved Building Materials:** The exterior finish for each dwelling must be of a material approved by Declarant or the Architectural Committee. Approved materials shall include brick, hardiplank, and vinyl siding. All foundations shall be of brick finish.
- E. **Driveways:** All driveways and parking areas must be of concrete and have at least a two-car parking pad. The main driveway shall be a minimum of sixteen (16) feet wide at the street and may decrease in width as it runs into the lot; provided that it is no less than ten (10) feet in width at any point. All driveways must comply with the minimum residential construction requirements of the local building code and with North Carolina Department of Transportation regulations.
- F. **Roofing Requirements:** All structures must have a minimum pitch of 7/12. All roofs shall be shingled with a minimum 25-year architectural or architectural-look shingle approved by Declarant or the Architectural Committee.

4. **Setback Requirements:** No residential dwelling or any other improvements shall be erected, altered, or placed on the property closer than thirty (30) feet from the margin of the right of way of any road or street; nor closer than ten (10) feet from the interior lines on any lot; nor closer than twenty (20) feet from the rear lines of said lot. For purposes of this paragraph, eaves, steps, and cornices shall not be considered part of a dwelling or structure. No structure shall be erected within the minimum setback lines for front, rear and side lot lines, except that Declarant shall have the full right to waive this requirement in the case of a hardship to be determined in its sole discretion. In all cases, the minimum allowable setbacks shall conform to the regulations of the county or city government having jurisdiction over the property. However, owners of all lots shown on the recorded plat that have a riparian buffer must comply with the Riparian Buffer Rules of the North Carolina Environmental Management Commission in that the first thirty (30) feet, zone 1, of the buffer is to remain essentially undisturbed and the landward twenty (20) feet, zone 2, is to be vegetated. No construction of any type may occur within these zones on any lot showing such riparian buffer zones, and thereby the setbacks for these lots shall be the more stringent of either of the above noted setbacks or the riparian buffer regulations.

5. **Easements or Rights of Way:** The conveyance of all lots is made and accepted subject to any easement or rights of way that may have been granted for power, lights, telephone lines, access, drainage facilities, water facilities, and/or sewage facilities, or are shown on any recorded plat or plats of Huntstone Subdivision. Declarant reserves the right to subject the property in the subdivision to a contract with the utility provider for the installation of street lighting and the lighting of the entrance signage and lighting for other common areas which may require a continuing monthly payment to provider by each lot owner in the subdivision. Further, for installation and maintenance of utilities and drainage facilities, easements are reserved on the first twenty (20) feet of each lot abutting any street and as shown on any recorded map defining the lots of Huntstone. Easements twenty (20) feet in width, lying ten (10) feet on either side of any lot line, be it side or rear lot lines, are reserved for installation and maintenance of utilities and drainage facilities; however, where a lot does not join another Huntstone lot, easements twenty (20) feet in width are reserved along the rear or side lines of those lots for installation and maintenance of utilities and drainage facilities.

6. **Noxious Activity Prohibited:** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No trade materials or inventories (except during construction) may be stored upon the premises. There shall be no operation of power lawn mowers, chain saws, or other motorized equipment or running of motors between the hours of 9:00 p.m. and 7:00 am. Discharging of firearms or any other

weapons including BB guns and bow and arrows is prohibited. Final determination of what constitutes a nuisance, annoyance or violation of this paragraph shall be made by Declarant.

7. Temporary Structures: No structure of a temporary character, including tents, motor homes, trailers and/or campers, shall be used on any lot at any time as a residence, either temporarily or permanently. No storage building can be brought onto or constructed on the lot unless approved by Declarant or the Architectural Committee. Any approved storage building must be placed on a permanent foundation or slab and must match the dwelling in exterior materials, including exterior siding and trim, shingles, windows and roof pitch.

8. Subdividing Lots: No lot shall be subdivided without the written consent of Declarant, except that two lot owners may subdivide an unimproved lot lying between them. However, only one single-family residence shall be built on the resulting recombination lot (i.e. original lot and any portion of another lot now combined). Also, adjoining lot owners may adjust their common boundary line by the sale or exchange of property between such owners, so long as such sale or exchange is approved by Declarant and conforms in all respects with all zoning ordinances and subdivision regulations.

9. Signs: No billboard or sign of any kind shall be displayed to public view on any lot. However, one sign of not more than nine (9) square feet advertising the lot for sale or signs used by a builder to advertise the lot during the construction and sale period shall be permitted.

10. Fencing: Fencing will be permitted if approved pursuant to Article III above. Any fencing erected on any lot shall be of a design and material approved by Declarant or the Architectural Committee. The following materials and designs will be considered for approval: black or green chain link, vinyl fences of an approved color, wrought-iron fences, and invisible fences. No fence shall be in excess of six-feet tall. No wooden fences shall be permitted. Fences are permitted only in the rear yard, and not in the front or side yards. For purposes of this and other paragraphs, the rear yard is defined as that area of the lot lying behind the rear wall of the dwelling and not closer to any side lot or side street than the setback lines for construction. Declarant or the Architectural Committee shall also have the right to require that fencing be screened with plantings so that it is not visible from the street(s).

11. Animals: No animals, livestock, or poultry of any kind shall be raised or bred on any lot, except dogs, cats, or any other normal household pets may be kept, provided that a maximum of two (2) dogs and two (2) cats are permitted per lot and provided that (i) they are not kept, bred, or maintained for any commercial purpose; (ii) they are confined to the home or maintained in an appropriate, approved fenced area; (iii) they are not permitted to roam freely; and (iv) they shall not become an annoyance or nuisance to other lot owners. No dangerous animal or vicious dog of any kind will be permitted in the subdivision, and Declarant, in its sole discretion, reserves the right to require a Lot owner to remove from the subdivision any animal which Declarant deems to be dangerous or vicious. Animal pens or runs are not permitted. Nothing herein shall preclude any owner from fencing a substantial portion of the rear yard of any lot for the purpose of containing one or more dogs, provided that approval for such fence shall be granted by Declarant or the Architectural Committee and provided that the fencing meets the criteria as previously set forth in Paragraph 10 above. All dog houses must be approved by Declarant or the Architectural Committee.

12. Trash: No part of the property herein conveyed shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste and the same shall not be kept, except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition at all times and shall be fenced or screened from public view in a manner approved by Declarant or the Architectural Committee. No garbage, trash, debris, leaves or other materials shall be burned on any lot subject to these Declarations.

13. Miscellaneous Ancillary Uses: All recreational and playground equipment, including, but not limited to, swings, swing sets, merry-go-rounds, play pens, sandboxes, bicycles, tricycles, trampolines and toys, shall be located in the rear yard of the home and must be kept in neat order and condition. No television or radio antennas of any type are permitted.

14. Swimming Pools: No permanent or above ground swimming pools are permitted.

15. Parking: No lot owner shall drive or park or permit any other person to drive or park any heavy equipment (including tractor trailers and trucks in excess of one ton carrying capacity) three wheelers, four wheelers, dirt bikes or other All Terrain Vehicles (ATVs) on any street within the subdivision except that moving vans and/or construction vehicles may be driven or parked on the subdivision streets for the temporary purpose of moving a lot owner in or out of a dwelling constructed on a lot and/or for the purpose of construction of improvements on a lot. Any motor vehicle or other motor conveyance not in running condition must be removed within thirty (30) days. No disabled, junked or dismantled motor vehicles shall be allowed on any lot.

Residents shall not park personal vehicles in the streets of Huntstone. No boats, trailers, recreational vehicles or vehicles other than personal vehicles used for general transportation shall be parked in Huntstone so as to be visible from the street. All such vehicles shall be parked inside a garage. Motor homes may not be kept or parked in Huntstone.

No commercial trucks, tractors, or inoperable vehicles may be stored or regularly parked on the lots or on common property or within the right-of-way of any street. For purposes of this paragraph, a truck bearing a company name that is driven to and from work by the owner may be parked in the driveway, provided that such truck is not a commercial truck or vehicle (which shall be defined as any vehicle having a carrying capacity in excess of one ton) and the owner of the truck shall have written permission of Declarant to park in the driveway or concrete parking area. All permitted vehicles must be parked inside a fully enclosed garage, on a concrete driveway or on a parking pad.

16. Mailboxes: All mailboxes shall be approved by Declarant or the Architectural Committee. The builder shall provide the original mailbox. Thereafter, if a mailbox is damaged or destroyed, it must be replaced with a mailbox having a similar design as the original. Any changes made to the mailboxes or replacements of mailboxes must be approved by Declarant or the Architectural Committee.

17. Landscaping: No grass or weeds shall be allowed to grow taller than six (6) inches on any lot, and all dwellings shall be landscaped (seeded and strawed) within ninety (90) days of occupancy with the following features:

A. All dwellings shall have a minimum of eight (8) shrubs that are a minimum of eighteen (18) inches in height in front of the dwelling, shrubs shall be properly maintained and pruned at all times. No vegetable gardens may be planted in the front or side yards of any lot.

B. All fallen trees must be cut and removed and all front and side yard stumps must be cut off level with the ground or removed. All uprooted stumps must be removed.

C. All satellite systems must be approved by Declarant or the Architectural Committee. If installed on the ground, satellite dishes shall be screened from public view and shall have low growing shrubs or flowerbeds placed around their bases. A satellite dish shall not exceed 24 inches in diameter.

D. All undisturbed natural areas of each lot shall be kept free of fallen trees and heavy undergrowth. All disturbed areas of each lot shall be graded, seeded, and strawed.

E. No exterior clothes lines shall be permitted.

F. All flagpoles and size of flags must be approved by Declarant or the Architectural Committee. Only United States flags may be displayed on a permanent basis. Decorative flags, except for United States flags, may not be displayed facing the street side(s) of any lot except with the expressed written consent of Declarant or the Architectural Committee. The Declarant or the Architectural Committee reserves the right to remove any flag within Huntstone.

G. Seasonal and decorative lighting and holiday decorations shall be permitted for a maximum period of 60 days surrounding the holiday. All exterior Christmas decorations must be removed no later than January 30.

H. There shall be no all night burning exterior security lights. Any additional security lighting other than subdivision street lighting must be attached to the house and approved by Declarant or the Architectural Committee. However, low wattage sidewalk post lights will be allowed.

I. No yard ornaments or landscape ornaments shall be allowed except with the expressed written consent of Declarant or the Architectural Committee.

J. No lot shall have any outside wood or other fuel burning furnace; however conventional gaspack systems will be allowed. No window unit air conditioners may be installed in windows or in walls that are exposed to any street. Exterior solar heating and cooling components must be approved by Declarant or the Architectural Committee.

K. No awnings may be installed without approval of Declarant or the Architectural Committee.

L. Only furniture and furnishings designed for exterior use shall be permitted on porches, patios, and decks. Appropriate yard furniture or play equipment must be located in the rear yard and not in any front or side yard. Portable basketball goals may not be left in the driveway or in front or side yards or placed on any street or street right of way.

18. Burial Sites: No burial sites are allowed on any Lot within the subdivision.

19. Roads and Road Maintenance: The roads in Huntstone Subdivision have been built to meet the standards and specifications of the North Carolina Department of Transportation. Until such time as the North Carolina Department of Transportation accepts the roads into the state system as public roads for the purpose of maintenance, Declarant shall be responsible for the maintenance of said roads. Should a local municipality annex the subdivision, then said roads are subject to be taken over for the purpose of maintenance by that municipality instead of by the North Carolina Department of

Transportation. Prior to acceptance into its maintenance system by the North Carolina Department of Transportation or a local municipality, Declarant shall be responsible for contracting for any road maintenance work that may be required for the roads and shall further be responsible for any decisions regarding need for maintenance and the manner and extent of said maintenance, improvement or repair. No lot or portion thereof shall be dedicated or used as a public street without the written consent of Declarant.

20. **Speed Limits:** All owners agree to observe posted speed limits along all roads and streets.

21. **Wells and Septic Systems:** No private or shared wells or septic systems are permitted.

22. **Storage:** All campers, trailers, boats, bicycles and similar recreational vehicles and equipment must be stored in enclosed attached garages or approved storage buildings. Any personal property such as toys or other play equipment shall be kept out of the yard when not in use and stored in a garage or storage facility.

23. **Excepted Uses:** No provision herein shall be applied or construed to prohibit the location and operation of a sewage pump station by the City of Henderson or other public utility.

ARTICLE V

GENERAL PROVISIONS

1. **Duration and Amendments:** The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by Declarant, the Association, or the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time all covenants shall be automatically extended for successive periods of ten (10) years unless at a duly called meeting a change in the covenants and restrictions is approved by at least two-thirds (2/3) of the membership vote. This Declaration of Protective Covenants and Restrictions may be amended at any time by a two-thirds (2/3) vote of the Members. All amendments shall be duly recorded in the Office of the Register of Deeds of Vance County.

2. **Notices:** Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given when mailed, postpaid, to the last known address of the person who appears as Member upon the Association's membership roll or owner on the records of the Association at the time of such mailing; provided, that any notice called for herein may be hand carried and deposited in the mailbox of an owner in lieu of mailing. Notice to one of two or more co-owners of a lot shall constitute notice to all co-owners. It shall be the obligation of every Member to notify immediately the Secretary of the Association in writing of any changes of address, and it shall be the responsibility of any new Member to notify immediately the Association of the date of the transfer of ownership.

3. **Enforcement:** Enforcement of these Covenants shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these Covenants, and failure by the Association or any owner or Declarant to enforce any Covenant herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

4. **Right to Grant a Variance:** Declarant may from time to time authorize, in writing, variances from the requirements of these Covenants to Owner of a particular lot where, in the sole opinion of Declarant, the variance can be granted without substantial detriment to the development, enjoyment and operation of Huntstone. Any variance granted by Declarant hereunder shall inure to the successors and assigns of the Owner being granted the variance unless specifically set forth to the contrary in writing by Declarant at the time the variance is granted.

5. **Severability:** Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase, or term of this Declaration be declared to be void, or unenforceable, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

6. **Dissolution or Insolvency of the Association:** The Association shall be dissolved upon the termination of this Declaration, or upon the assent given in writing and signed by not less than two-thirds (2/3) of the Members, or upon such more restrictive or additional conditions and in such manner as otherwise provided by the laws of the State of North Carolina. Upon dissolution or insolvency of the Association or upon loss of the ownership of the Common Properties (once such ownership has been acquired) by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the common Properties as allowed by this Declaration or by reason of

merger and/or consolidation with any other association as allowed by this Declaration), any portion of the Common Properties not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, shall be offered to the City of Henderson, North Carolina, or to some other appropriate governmental entity or public agency (as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Properties and assets were required to be devoted by the Association. If the City of Henderson or other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Properties and assets shall be conveyed by the Association to the City or other appropriate governmental entity or public agency, subject to the superior right of the Owner of each Lot to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot and the public or private street(s) on which such Lot is located, and subject to all other applicable rights of way and easements, and subject to ad valorem property taxes subsequent to the date of such conveyance.

If the City of Henderson or other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey the Common Properties and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Properties were required to be devoted by this Declaration, and such conveyance shall be made subject to the rights of Owners.

ARTICLE VI

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

1. **Membership:** Declarant and every person or entity who is a record owner of a fee simple or undivided fee simple interest in any lot which is subject to the Covenants is a Member of the Association, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a Member of the Association; membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association.

2. **Voting Rights:** The Association shall have two (2) classes of voting membership:

CLASS A: Class A Members shall be all those owners as defined in Section Two (2) of Article I, as they shall be entitled to one (1) vote per lot owned.

CLASS B: The Class B Member shall be Declarant. The Class B Member shall be entitled to one vote for each vote held by a Class A Member, together with one vote for each lot owned by Declarant, plus an additional thirty (30) votes for any undeveloped acreage owned by Declarant lying within the original overall proposed Huntstone Subdivision project.

The total vote of the Association shall consist of the sum of the votes of Class A Members and the votes of Class B Member. When more than one person holds an interest in any lot, all such persons shall be Members; and the vote for such lot shall be exercised as they among themselves determine, but in no event may more than one vote be cast with respect to any lot owned by Class A Members. When one or more co-owners sign a proxy or purports to vote for his or her co-owners, such vote shall be counted unless one or more of the other co-owners is present and objects to such vote, or if not present, submits a proxy or objects in writing delivered to the Secretary of the Association before a vote is counted. If co-owners disagree as to the vote, it shall be split equally among the co-owners.

ARTICLE VII

PROPERTY RIGHTS IN THE COMMON PROPERTIES

1. **Use of Common Properties:** Common properties shall be reserved for the use of residents and their guests only, or as this use is modified by agreements between Declarant, property owner(s) or Association and public recreational agencies.

2. **Delegation of Use:** Any Member may delegate in accordance with the Bylaws, his right of enjoyment to the Common Properties and facilities to the members of his family, his guests, his tenants, or contract purchasers who reside on the property, provided that such delegation complies with the Association's rules and regulations.

3. **Extent of Member's Easements:** The rights and easements of enjoyment created hereby shall be subject to the following:

A. The right of the Association, in accordance with its Bylaws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties.

- B. The right of the Association to take such steps as are reasonably necessary to protect the above described properties against foreclosure.
- C. The right of the Association, as provided in its Bylaws, to suspend the enjoyment of rights of any Member or any tenant of any Member for any period during which any assessment remains unpaid; and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligations to pay the assessment, or abide by the rules and regulations.
- D. The right of the Association to mortgage, sell, lease or otherwise convey all or any part of the Common Properties for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such mortgage or conveyance shall be effective unless authorized, at a duly called meeting, by the vote of two-thirds (2/3) of the total Class A Members and unless written notice of the proposed action is sent to every Class A Member at least twenty (20) days in advance of any action taken. A true copy of such resolution together with a certificate of the result of the vote taken and a certificate of mailing executed by the Secretary of the Association thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument affecting the Common Properties, prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

ARTICLE VIII

COVENANTS FOR MAINTENANCE ASSESSMENTS

1. **Creation of the Lien and Personal Obligation:** Each owner of any lot shall, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to all the terms and provisions of these Covenants and to pay to the Association: (i) annual assessments or charges; and (ii) special assessments for the purposes set forth in Section 4 of this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge and continuing lien on the property against which such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. In the case of co-ownership of a lot, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

2. **Purpose of Assessments:** The assessments levied by the Association shall be used exclusively for the improvement, maintenance, and operation of the Common Properties, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement, and additions thereof, and for the cost of labor, equipment, materials, management and supervision thereof and any other additions, replacements and repair of structures, recreation facilities, or any other facilities used for the common benefit of Huntstone Subdivision, and all subsequent phases. The special assessments shall be used for the purposes set forth in Section 4 of this Article.

The Association is expressly authorized to accumulate and maintain assessment funds in a reserve account reasonably calculated to meet the needs of the Association at times when unusually large expenses are incurred and is also expressly authorized to make purchases of a capital nature.

Upon a vote of the Directors, the Association may assume maintenance of the front yard areas of all lots in Huntstone and all areas located in the street rights of way adjoining any lot. Such maintenance shall include, but not be limited to, planting, fertilizing, mowing, pruning and replanting grass, bushes, trees, shrubs and other vegetation according to a harmonious plan for all of Huntstone. Such plan shall be developed, maintained and amended from time to time by the Directors or their duly appointed Architectural Committee.

3. **Maximum Assessment:** The initial maximum annual assessment for each lot shall be \$300.00, payable annually.

- A. After calendar year 2004, the maximum annual assessment may be increased each calendar year not more than ten percent (10%) above the maximum assessment for the previous calendar year without a vote of the membership.
- B. After calendar year 2006, the maximum annual assessment may be increased above ten percent (10%) by a vote of two-thirds (2/3) of the membership of the Association who are voting in person or by proxy, at a meeting duly called for this purpose.

C. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. However, the Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the annual assessment for any year at a lesser amount, but such action shall not constitute a waiver by the Association of its right to revert to the full assessment for future years as provided above.

4. **Special Assessments for Improvements and Additions:** In addition to the annual assessments authorized by Section 3, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement, recreation facilities, or any other facilities upon the Common Properties, including the necessary fixtures and personal property related thereto or addition to the Common Property. Any such assessment shall have the assent of two-thirds (2/3) of the vote of the members at a duly called meeting, written notice of which shall be sent no less than twenty (20) nor more than thirty (30) days in advance and shall set forth the purpose of the meeting. For the purpose of acting under this Section 4, the presence at the meeting of Members or of proxies entitled to cast sixty percent (60%) of the total vote of the Class A membership shall constitute a quorum. For the purposes of this subsection only, no vote shall be cast under Class B.

5. **Date of Commencement of Annual Assessments:** The annual assessments provided for herein shall commence on the first day of the month following the initial sale of the residential dwelling and lot by the building contractor to the lot owner.

The first annual assessment shall be prorated for the balance of the calendar year and shall be payable in full within thirty (30) days after the first day of the month fixed for commencement. The assessments for any year after the first year shall similarly be payable in full within thirty (30) days after the first day of January of said year.

The amount of the annual assessment which may be levied for the balance remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment provided for in Section 3 hereto, as the remaining number of months in the year bear to twelve. The same reduction in the amount of assessment shall apply to the first assessment levied against any property which is hereafter added to the properties now subject to assessment at a time other than the beginning of any assessment period.

The due date of any special assessment under Section 4 hereof shall be fixed in the resolution authorizing such assessment.

The prorating of any annual or special assessment due to change in ownership of any lot during a calendar year shall be the responsibility of the individuals involved and not the Association.

6. **Duties of the Board of Directors:** The Board of Directors of the Association shall fix the date of commencement and the amount of the assessment against all lots for each assessment period and shall at that time prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner. Written notice of the assessment shall thereupon be sent to every owner subject thereto.

The Association shall upon demand at any time furnish to any owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

7. **Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; the Lien; Remedies of Association:** If the annual assessment or any special assessment is not paid on the date when due (being the dates specified in Section 5 hereof), then such assessment together with a penalty equal to twenty (20%) percent of the assessment shall become delinquent and shall, together with interest thereon at the rate of ten (10%) percent per annum from the due date and the costs of collection and reasonable attorney's fees thereof as hereinafter provided, thereupon become a charge and continuing lien on the land and all improvements thereon against which each assessment is made against the lands of the then owner, his heirs, devisees, personal representatives, successors in title and assigns.

If the annual assessment or any special assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the owner personally and/or foreclose the lien against the property, and there shall be added to the amount of such assessments and penalties the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action.

8. **Subordination of the Lien to Mortgages and Ad Valorem Taxes:** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust now or hereafter placed upon the properties, subject to assessments and ad valorem taxes. Sale or transfer of any Lot shall

not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

9. **Exempt Property:** The following property, individuals, partnerships or corporations, subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

- A. The grantee in conveyances made for the purpose of granting utility easements;
- B. All Common Properties as defined in Article I, Section 1, hereof;
- C. All properties exempted from taxation by the laws of the State of North Carolina, upon the terms and to the extent of such legal exemptions;
- D. All properties owned by Declarant; and
- E. Properties owned by builders who acquired such lots for the purpose of constructing residential buildings, for a period of one year from the date the deed to the building contractor is recorded or upon resale by building contractor, whichever shall first occur.

ARTICLE IX

UTILITIES

Utilities: All public and private utility lines and facilities to be located in the subdivision shall be placed underground. Declarant reserves the right to subject the subdivision to a contract and easement with Vance County, Sprint Telephone, the City of Henderson, Progress Energy, Time Warner Cable and any other public or private utility company for the installation of underground utility cables and facilities and for the installation of street lighting which may require a continuing monthly payment to the utility company by the lot owner. Any propane tank or equipment of any service provider must be located either underground or in a location approved by Declarant and screened from public view.

ARTICLE X

MAINTENANCE

1. **Detached Lots:** The Association shall have no obligation or responsibility for any maintenance of lots or any dwellings located thereon.

2. **Completion Requirements:** All construction commenced after approval as delineated herein shall be completed within six (6) months after the foundation has been laid. Building materials and/or other storage materials may not be kept or maintained on a Lot except in connection with the active construction and completion of an approved dwelling, building and/or other improvement within the time limits set forth above. Any external physical damage to a previously approved structure shall be repaired within ninety (90) days of said damage. However, Declarant, in its sole discretion, reserves the right to extend the six (6) month period for original construction and the ninety (90) day period for repair construction for an additional period of time should the lot owner be delayed in completion of construction as a result of material shortages, adverse weather conditions, or delays in transportation which were not reasonably anticipated or as a result of acts of God.

3. **Maintenance by Owner:** Owners of lots are required to maintain the lots and both exterior and interior of the dwellings situate thereon in compliance with the then current local governmental ordinances and the State of North Carolina Building Code and in harmony with the appearance, standards, and conditions of the dwellings as a whole in Huntstone. Each owner shall maintain all buildings in a neat and pleasing manner and shall keep the lot free and clear of all tall grass, unsightly undergrowth, dead trees and bushes, trash, and rubbish. The owner of each lot shall maintain a grassed lawn area on the shoulders and slopes adjacent to the paved streets in the subdivision and shall maintain and replant as needed, all grass, ornamental trees and shrubs which shall be placed on the cleared areas along the streets. Declarant, the Board of Directors of the Association, and any person owning a lot in the subdivision shall have the right to enforce this provision by specific performance, or, in the alternative, to have the lot and/or building cleaned up and maintained and to recover all costs incurred in doing so from the lot owner, including court costs and reasonable attorney's fees.

In cases where either interior or exterior maintenance or repair is required of Owner in this Declaration, and such maintenance or repair has not commenced within sixty (60) days of notice by the Association or person seeking enforcement of these Declarations, or if commenced, is not completed within a reasonable time thereafter, the Association or person seeking enforcement of these Declarations may, upon thirty (30) days written notice to such owner, make or complete such maintenance or repairs, and the cost thereof shall be an additional assessment applicable only to such lot and Owner, and shall be payable, together with penalties and interest as determined by the Board of Directors. The Association is

authorized to request inspections by the governmental entities to confirm compliance with the State of North Carolina Building Codes.

IN WITNESS WHEREOF, Declarant, Old Oxford Road Partners, LLC, has caused this instrument to be executed in its name and as its act and deed by its manager, on the day and year first above written.

OLD OXFORD ROAD PTRS. LLC

By: Jack E. Ferguson
Jack E. Ferguson, Manager

By: David W. Parham
David W. Parham, Manager

NORTH CAROLINA

GRANVILLE COUNTY

The undersigned, Notary Public of the County and State aforesaid, certify that Jack E. Ferguson and David W. Parham personally appeared before me this day and acknowledged that they are managers of Old Oxford Road Ptrs. LLC, and that their execution of the foregoing instrument is the act and deed of Old Oxford Road Ptrs. LLC.

Witness my hand official stamp or seal, this 20th day of November, 2003.

Maria L. Cooper
Notary Public

My Commission Expires: January 22, 2007



STATE OF NORTH CAROLINA, VANCE COUNTY

The foregoing certificate of Maria L. Cooper, Notary Public of Granville County, NC is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

CYNTHIA S. ABBOTT, REGISTER OF DEEDS

By: Cynthia S. Abbott
Register of Deeds

"SCHEDULE A"

That certain tract or parcel of land situate north of U.S. 158 Business in Dabney Township, Vance County, North Carolina, being more particularly described as follows:

Being all of Lots #111-121, 155-165, 173-174 and 187-192 of Huntstone Subdivision, Phase One (Huntstone Pines), as shown on survey and plat of John Hamme, Civil Engineer, PA, entitled "Property Owned By Old Oxford Road Ptrs., LLC", dated April 30, 2003, of record in Plat Book W, page 894, Vance County Registry.