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Franklin County North Carolina
Brandi S. Brinson, Register of Deeds
BK **2255** PG **132 - 166 (35)**

Prepared by: Windsor Estates Community Association
Board of Directors
PO Box 95, Wake Forest, NC 27588

**STATE OF NORTH CAROLINA
COUNTY OF FRANKLIN**

**DECLARATIONS OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
WINDSOR ESTATES COMMUNITY ASSOCIATION, INC.**

In accordance with N.C.G.S. subsection 47F-2-117, THIS DECLARATION, which was originally made on the 15th day of May 2008, by New Era Austin Road Developers, LLC (hereinafter referred to as 'Declarant'), is hereby amended on this 31st day of March, 2021 by affirmative vote of at least sixty-seven percent (67%) of the owners of lots of Windsor Estates Community Association, Inc. (the Association) as written herein.

STATEMENT OF PURPOSE

Declarant is the owner of all of the real property described in Article II of this Declaration, which property is to be developed by Declarant into a planned community consisting of single-family detached dwellings, to be known as Windsor Estates, with representation therein of residential, recreational and other uses;

Declarant desires to insure the attractiveness of Windsor Estates and to prevent any future impairment thereof, to prevent nuisances; to preserve, protect and enhance the values and amenities of all properties within Windsor Estates, and to provide for the maintenance and upkeep of common areas; and to provide other services as detailed herein; and to this end, it has subjected the property to the covenants, conditions, restrictions, easements, assessments, charges, liens and other obligations as set forth herein;

N.C.G.S. subsection 47F-2-117 provides that the Declarations referenced above may be amended by the affirmative vote or written agreement signed by owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated. Declarant has deemed it desirable, for the efficient preservation, protection, enhancement of the values and amenities in said subdivision, to create an organization to which will be delegated and assigned

the powers of maintaining and administering said common areas and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created. Declarant has caused to be incorporated under the laws of the State of North Carolina, Windsor Estates Community Association, Inc., as a non-profit corporation, for the purpose of exercising and performing the functions aforesaid, which are hereinafter more fully set forth.

The Single-Family Lots in the Subdivision shall each be benefited and have the right to use certain Common Areas within the Subdivision and shall share in the cost of the maintenance of such common areas as set forth in this Declaration Declarant. Declarant, by this Declaration, declares that the real property described in Article II hereof, and such additions thereto as may hereinafter be made pursuant to said Article II, is and shall be owned, held, transferred, sold, conveyed, given, donated, devised, inherited, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens (all hereinafter sometimes referred to as "the covenants" or the "covenants and restrictions") set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I: DEFINITIONS

1. **"Declarant"** shall mean and refer to New Era Austin Road Developers, LLC, its successors and assigns.
2. **"Association"** shall mean and refer to Windsor Estates Community Association, Inc., a North Carolina non-profit corporation, its successors, and assigns.
3. **"Windsor Estates"** shall mean and refer to the lands in Franklin County, North Carolina, which are shown as a part of Windsor Estates on Declarant's Master Plan as revised from time to time.
4. **"Act"** refers to the North Carolina Planned Community Act, Chapter 47F, North Carolina General Statutes.
5. **"Articles of Incorporation"** shall refer to the articles of incorporation of the Association, as filed with the North Carolina Secretary of State.
6. **"Assessments"** are any dues or other monies owed the Association pursuant to the terms of this Declaration. There are three (3) kinds of assessments:
 - a. "General Annual Assessments" are those levied against each Owner equally, to pay for normal activities of the Association and the care of Common Areas which benefit all lots.
 - b. "General Special Assessments" are those levied against each Owner equally, to pay for extraordinary activities of the Association.
 - c. "Specific Special Assessments" are those levied against one or more individual Owners on account of violations by those Owners of the terms of this Declaration, or on account of expenses incurred by the Association as a result of the activity or inactivity of the Owners.

7. **"Community-Wide Standard"** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Subdivision. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by Declarant.
8. **"Rules and Regulations"** shall mean those rules and regulations adopted by the Board of Directors governing the use and enjoyment of the Common Areas and Lots.
9. **"Properties"** shall mean and refer to the "Existing Property" described in Article II hereof, and additions thereto as are subjected to this Declaration or any Supplementary Declaration under the provisions of Article II hereof.
10. **"Residential Lot"** shall mean any subdivided parcel of land located within the Properties intended for use as a site for a Single-Family detached dwelling. No parcel shall, however, be classified as a residential Lot until and unless shown as an individual Lot on a plat recorded in the office of the Register of Deeds of Franklin County and all streets upon which such Lot abuts have been paved. A residential Lot shall become a "family dwelling unit" on the first day of the month after the improvements constructed thereon are occupied under a certificate of occupancy or other certificate of final inspection issued by the appropriate governmental body.
11. **"Family Dwelling Unit"** shall mean and refer to any improved parcel of land within the properties, which is intended and designed for use as a single-family dwelling, including without limitation, any single family detached dwelling; provided, however, that such property shall not be deemed to be a family dwelling unit until the improvements constructed thereon have been occupied under a certificate of occupancy or other certificate of final inspection issued by the appropriate governmental body.
12. **"Exempt Property"** shall have the meaning set forth in Section 11 of Article V hereof.
13. **"Owner"** shall mean and refer to the Owner as shown by the real estate records in the office of the Register of Deeds of Franklin County, whether one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any residential Lot or family dwelling unit situated within the properties. Notwithstanding any applicable theory of law, the title "Owner" shall not mean or refer to the Owner or holder of a deed, unless and pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the title "Owner" mean or refer to any lessee or tenant of an Owner.
14. **"Resident"** shall mean and refer to each owner and to each tenant of a family dwelling unit who resides in Windsor Estates.
15. **"Member"** shall mean and refer to all Owners who are Members of the Association.
16. **"Tenant"** shall mean and refer to the lessee under a written agreement for the rent of a family dwelling unit in Windsor Estates.
17. **"Master Plan (Map)"** shall mean and refer to the drawing which represents the conceptual plan for the future development of Windsor Estates. Since the concept of the future development of Windsor Estates is subject to continuing revision by the Declarant, present and future references to the "Master Plan" shall be references to the latest revision thereof.
18. **"Intended Use"** shall mean the use intended for various parcels within the properties as shown on the Master Plan of Windsor Estates prepared by the Declarant, as the same may be revised from time to time, or the use to which any parcel of land is restricted by

covenants expressly set forth or incorporated by reference in deeds by which the Declarant has conveyed such parcels.

19. **"Common Areas"** shall mean and refer to those tracts of land with all improvements thereon which are deeded (whether in fee or by easement or otherwise) or leased to the Association and designated in said deed or lease as "Common Property" or "Common Area". The term **"Common Area"** shall also include any personal property acquired or leased by the Association if said property is designated a "Common Property". Common Areas shall be but are not limited to (without any obligation by invocation of Declarant to construct or install the same), any signage, irrigation and/or drainage facilities, detention ponds, natural areas, park areas, entrance areas, buffer areas, greenway areas, street planting areas, and other scenic easements. All common properties are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.
20. **"Intended Common Property"** shall mean and refer to those tracts of land and any improvements thereon committed to the Association through express, written notification by the Declarant of its intent to convey said property to the Association as common properties.
21. **"Referendum"** shall mean and refer to the power of all or some specific portion of the Members to vote by mailed ballots on certain actions by the Board of Directors of the Association more particularly set forth herein. In the event 51% of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by the Members, provided, however, that if a higher or lower percentage required to "pass" shall be specifically expressed herein, that higher or lower percentage shall control in that instance.
22. **"Board of Directors"** shall mean those persons elected or appointed to act collectively as the Directors of the Association.
23. **"By-Laws"** shall mean the by-laws of the Association as they now or hereafter exist.
24. **"HUD/VA/FNMA/FHLMC"** shall refer to the U.S. Department of Housing and Urban Development, and/or the Veterans Administration, and/or the Federal National Mortgage Association, and/or the Federal Home Loan Mortgage Corporation, any governmental authority which succeeds said organizations, and/or any other governmental or quasigovernmental authority which governs, regulates, or administers the selling of residential dwellings or the issuing of mortgages on such dwellings.
25. **"Institutional Lender (Mortgagee)"** shall mean any bank, insurance company, trust company, real estate investment trust, savings and loan association, pension fund, or other lender holding a first mortgage or deed of trust encumbering any of the lots or parcels within the Subdivision.

ARTICLE II:

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, given, donated, devised, inherited, leased, occupied, and used subject to these Covenants is described on Exhibit A attached hereto.

All the real property hereinabove described shall be referred to herein as the "Existing Property". The Declarant intends to develop the existing property in accordance with a master plan. Declarant reserves the right to review and modify the master plan, from time to time, at its sole option based upon its continuing research and design program. The master plan shall not bind the Declarant to the master plan in the development of the land shown thereon. Pursuant to its right to modify the master plan as stated herein and Section 47F-3-I 12 of the Act, the Declarant may convey to the association certain common areas designated on the master plan as such properties that may be transferred to the association as, in the reasonable exercise of its discretion, it so chooses, without regard to the relative location of such properties or sections within the overall plan and provided that such conveyance and/or mortgage is approved by Members entitled to cast at least eighty (80%) of the votes of the Association; provided that this provision shall not preclude the Board of Directors from granting easements for the installation and maintenance of electrical, telephone, cable, water and sewage, utilities and drainage facilities upon, over, under and across the Common Areas without the assent of the Members if such easements are requisite for the convenient use and enjoyment of the property. If ingress or egress to any lot is through or over any part of the Common Areas, then any conveyance of said common area shall be made subject to an express easement in favor of that owner and that lot.

The Declarant shall not be required to follow any predetermined sequence or order of improvements and development, and it may bring additional lands within the plan of these covenants and develop the same before completing the development of the existing property. Other than as stated in this paragraph or as otherwise limited by applicable laws, ordinances, rules and regulations of appropriate government governmental entities, the Declarant shall have full power to add to, subtract from, or make changes in the master plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of membership of the association.

2. Annexation to Existing Property. Declarant shall have the right, so long as it owns any lot, to add additional property, to the property, which is the subject of this Declaration, provided that such additional property is within a one-mile radius of the property. Such additional property shall be added by recordation of a Supplemental Declaration identifying such additional property and the consent of the Members and Mortgagees shall not be required. Each Supplemental Declaration may contain such complementary

additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added property.

In the event the Declarant adds additional property to the Property, which is the subject of this Declaration, the Declarant shall have the absolute right, all other provisions of this Declaration notwithstanding, to use any portion of the Property for roadway or other access to the property being added. This right shall include, but not be limited to, the right to use mapped lots owned by Declarant for vehicular and/or pedestrian access the additional property.

ARTICLE III:

MEMBERSHIP CLASSIFICATIONS: VOTING RIGHTS AND ASSESSMENT OBLIGATIONS

1. **Membership.** Every owner of any Lot which is subject to Assessment shall be a Member of the Association and entitled to vote as set forth below. Membership shall be appurtenant (tied) to and may not be separated from ownership of any Lot. Upon termination of ownership, an Owner's Membership shall automatically terminate and be automatically transferred to the new owner of the Lot.
2. **Classes of Membership.** The voting rights of the membership shall be appurtenant (tied) to the ownership of the Lots. There shall be two (2) classes of membership with respect to voting rights. There shall be two (2) classes of membership with respect to assessments.
 - a. **Voting Rights.**
 1. **Class A Membership.** Every owner of a Lot, other than the Declarant shall be deemed to be a Class A Member. Each Class A Member shall be entitled to one vote per Lot owned. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant (tied) to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot not owned by the Declarant.
 2. **Class B Membership.** The Declarant shall be the Class B Member. The Declarant shall be entitled to three (3) votes for each Lot owned by it. The Class B Membership shall cease to exist and shall be converted to Class A Membership (as appropriate) upon the happening of any of the following events, whichever occurs earlier:
 - i. within 120 days after the date that 75% of the total lots of the property are conveyed to owners other than a builder for use as a residence; or
 - ii. ten years from the date of this Declaration; or
 - iii. written notice of consent to such conversion by the Declarant.
 - b. **General Annual Assessments.** General Annual Assessments shall be the pro- rata share of all common expenses incurred by the Association related to the maintenance of the Common Areas and any portion of the property that is shared by all Owners. Said assessments shall include all necessary capital reserve amounts and

all administrative costs of maintaining and operating the Association and all other expenses of the Association spent in connection with services benefiting all the Lots ("Common Expenses"). For the purposes of determining such pro-rata share, the common expenses benefiting all Lots shall be divided by the total number of Lots on the property.

- c. **Class B Membership Assessments.** No assessments shall be levied upon Lots owned by the Class B Member until the earlier of the following occurs: (1) conveyance of the Lot from Declarant to an Owner other than one of Declarant's approved builders; or (2) the issuance of a Certificate of Occupancy for a residence constructed on the Lot.

ARTICLE IV:

PROPERTY RIGHTS

1. **Owner's Easement of Enjoyment.** Every Owner shall have a general right of enjoyment of Owner's lot and a non-exclusive right and easement of use and enjoyment of the Common Areas and of access to and from such Owner's Lot over any street comprising part of the Common Areas, which rights and easement shall be appurtenant (tied) to and shall pass with title to such Owner's Lot and be subject to provisions of this Declaration.
2. **Limitations on Easement of Enjoyment as to Lots.**
 - a. Reservation of Easements to Declarant, the Association and its Assignees or Maintenance Contractors. The Declarant, the Association, their successors and assigns and any third-party maintenance contractor hired by them shall have and hereby do reserve a permanent easement and right at any time to enter onto any Lot, as is reasonably necessary for purposes of undertaking any maintenance or repair which is the responsibility of the Association hereunder, including but not limited to, planting and maintaining landscape improvements and installing and maintaining drainage improvements. This right includes, but is not limited to the right to plant, water and cut grass, and to grade landscape to promote proper drainage.
 - b. Reservation of Easement s for Utility Installation, Service and Maintenance. The Declarant, the Association, their successors and assigns and any third-party contractor hired by them, and any public utility provider, shall have and hereby do reserve a permanent easement and right to enter onto any Lot as is reasonably necessary for purposes of installing, servicing, and maintaining; all utilities provided to the common areas or other lots, including but not limited to cable, gas, electricity, telephone, HVAC, and water and septic system services.
 - c. Reservation of Three-Foot Side-Line and Three-Foot Rear-Line Easements. The Declarant, the Association, their successors and assigns and any third party contractor hired by them, shall have and hereby do reserve a permanent three foot right of way along the side lines and a permanent three foot right of way along the rear lines of each Single Family Lot for purposes of the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary or useful for

furnishing electricity, gas, water, storm drainage, septic system service, telephone service and other utilities and all walls, columns, lamps and entry ways appurtenant (tied) to the Common Areas.

- d. Restrictions on Improvements or Interference with Easements. No improvement on any Lot shall be built in such a way, and no other action shall be taken by any Owner, which in any way restricts or limits the easement rights granted and reserved herein.
 - e. Reservation of Easements for Encroachments. Declarant, for itself and for its successors and assigns, reserves a permanent right and easement over all the Lots for encroachments of roofs, trim and molding, siding and any other integral components of structures, the walls of which are located on a common boundary line between adjoining lots. This right and easement shall be for the continuing existence of any such encroachments; further, there shall be a perpetual right and easement of Owners and their employees, agents, and representatives, to go upon adjoining property for the purpose of repair, maintenance and reconstruction of any structure located on the Lot of such Owners.
 - f. No Entry into Residences. Nothing in this section shall be interpreted to grant or reserve to any Owner, or to the Declarant or the Association, the right to enter the residence of any other Owner under any circumstances whatsoever. Subsections IV.2.a through IV.2.e refer to the right of access to easements on lots "ONLY" for the purpose of maintenance and repair of any utility within such easements.
 - g. Right of the Association to Grant Easements, Leases, Licenses and Concessions Through or Over the Common Areas. The Association shall have the right to grant easements, leases, licenses, and concessions through or over the Common Areas and the Lots.
 - h. Rules and Regulations. The Association shall have the right to adopt rules and regulations governing the use and enjoyment of the Common Areas and the Lots.
 - i. Suspension of Rights. Pursuant to and in accordance with the procedures in the Act, the Association shall have the right to suspend the right of any Owner to use any Common Areas for any period that any assessment against such Owner's Lot remains unpaid.
 - j. Completion of Development by Declarant. Declarant hereby reserves an easement over the Common Areas for the purpose of Declarant's development of Property.
3. **Reservation of Special Declarant Rights.** Declarant hereby reserves all Special Declarant Rights as defined in Section 47F-1-103(28) of the Act, including, but not limited to the following: the right to complete, repair, maintain, replace and operate improvements on the property; the right to exercise any development rights; the right to ,maintain sales offices, management offices, models and signs advertising the property; the right to use easements through the Common Areas and through any Lot or Lots for the purpose of making, repairing, maintaining, replacing and operating improvements within the Property; and the right to elect, appoint or remove any Officer or Board Member of the Association during any period of Declarant control. These Special Declarant Rights shall expire one year after the conveyance of Declarant's last Lot in the Property
4. **Delegation.** Any Owner may delegate his or her rights of use and enjoyment of the Common Areas and any facilities thereon to the members of his or her family or household residing on his or her Lot and to his or her guests and invitees while in possession of his or her Lot, subject, however, to reasonable restrictions imposed by the

provisions of the Declaration, the Bylaws and the Rules and Regulations. A Tenant of Owner, while residing on such Owner's Lot, shall be entitled to use and enjoy the Common Areas and any facilities thereon and to delegate rights of use and enjoyment in the same manner as if the Tenant was the Owner of the Lot. No such delegation shall release an Owner from his or her obligation hereunder, including, but without limitation, obligation to pay assessments.

ARTICLE V:

COVENANT FOR ASSESSMENTS

1. **Creation of the Lien and Personal Obligation of Assessments.** The Declarant, for each Lot within the property, hereby covenants and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) all General Annual Assessments (2) General Special Assessments for capital improvements, or extraordinary activities of the Association, (3) Specific Special Assessments, as determined by the Association, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, fines, late charges as authorized by statute, collection and administrative fees, court costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment, together with interest, costs, fines, late charges as authorized by statute, collection and administrative fees, court costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment or charge fell due.
2. **Purpose of Assessments.**
 - a. The General Annual Assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the residents of the property and in particular for the maintenance and improvement of the Common Areas and other purposes reasonably related to the foregoing. In addition, the General Annual Assessments shall be used to pay the cost of administration of the affairs of the Association, including payment of applicable taxes, and for the preservation of the Association's existence, to the extent properly allocable to the performance and exercise of the Association's duties and powers under this Declaration.
 - b. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation, and the Bylaws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom, shall be held for the benefit of the Members of

the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot, by whatever means, and the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Property.

3. **Reserve Funds.** The Board of Directors shall establish and maintain reserves in accordance with the standard accounting practices and procedures for Common Areas' replacement and maintenance in the initial budget of the Association. Funds deposited and reserved for a particular purpose shall be held for that purpose and shall not be expended for any other purpose without (1) if a two class voting structure is in effect, the vote or written consent of a majority of each class of Members or (2) if a two class voting structure is not in effect, the vote or written consent of a majority of the Members of the Association, except that if the Board of Directors determines the funds held in reserve for a particular purpose exceed any amount reasonably required is a prudent reserve for that purpose, then, without the vote or written consent of Members, the excess may be allocated to any other reserve fund established by the initial budget of the Association and expended for the purpose for which such other reserve funds have been established.
4. **Budgeting and Fixing Assessments.**
 - a. On the first day of the month next following the initial conveyance to the Association of all or part of the Common Area, the Board of Directors shall adopt a proposed budget and fix the amount of General Annual Assessment as to each lot for the then current calendar year and shall thereafter adopt a proposed budget for each subsequent year at least thirty (30) days prior to January 1 of each calendar year. The Association shall send written notice of the amount of the General Annual Assessment and a summary of the proposed budget, as well as the amount of the payment due to each owner within thirty (30) days after the adoption by the Board of such budget. To the extent required by Section 47F-3-103(c) of the Act or other applicable law, such notice shall include notice of the meeting of the Members to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. If such a meeting is required by Section 47F-3-103(c) of the Act or other applicable law, the Board shall set a date for a meeting of the Members to consider ratification of the budget to be held not less than fourteen (14) or more than thirty (30) days after mailing of summary and notice. If such meeting is required as set forth below, there shall be no requirement that a quorum be present at the meeting. If the proposed budget to be voted on at any such meeting is within the maximum increase limit set forth in subsection (b) below, the budget is ratified unless at such meeting members exercising a majority of the votes of the Association reject the budget. The failure of the Association to send, or of a member to receive, such notice, shall not relieve any member of the obligation to pay any assessments.
 - b. For the years following the year in which the initial conveyance of all or part of the Common Areas occurs and thereafter, the Board of Directors, by a majority vote,

- without a vote of the members (unless required under Section 47F-3-103(c) of the Act or other applicable law, in which case the procedures set forth in subsection (c) above apply), may increase the Regular General Assessment each year by a maximum amount equal to the previous year's General Annual times the greater of (1) ten percent (10%) or (2) the annual percentage increase of the Consumer Price Index for the most recent twelve month period for which the Consumer Price Index is available. If the Consumer Price Index is discontinued, then the index most similar to the Consumer Price Index (published by the U.S. Government indicating changes in the cost of living) shall be used. From and after the first year of the General Annual Assessments, the maximum General Annual Assessment may be increased above the maximum amount set forth above by a vote of the majority of the votes in the Association, plus the written consent of Declarant (so long as Declarant owns any part of the property.)
- c. The Board shall have the right to reduce the Assessments at any time.
5. **Capital Contribution.** Upon the first sale of each and every Lot to an Owner who will individually or through tenants or assigns occupy a Lot, an initial capital contribution in the amount of \$100.00 shall be collected at the closing of such sale for the benefit of the Association. Such capital contribution can be commingled with other Assessments and shall be maintained and applied for operating/working capital expenses.
6. **Date of Commencement of Assessments; Due Date.** The General Annual Assessments provided for herein shall be due in full on January 1 of each calendar year (other than the first year in which such assessments are levied, in which case, such are due immediately upon assessment), and shall be payable, as determined by the Association in its absolute discretion, on a monthly or quarterly basis on the first business day of each calendar month or quarter. The first such General Annual Assessment shall be adjusted according to the number of days remaining in the calendar year (pro-rated) after conveyance of the first Lot to an Owner or on the date Declarant decides to commence General Annual Assessments. All assessments shall be due immediately when levied by the Association, or at such other time determined by the Association. Failure by an owner to pay any assessments in a timely fashion shall give the Association the right to accelerate all assessments for the year in which such deficiency occurs. Upon notice of such acceleration, the delinquent Owner shall immediately be obligated to pay all remaining assessments for that year.
7. **Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at eighteen percent (18%). In addition to such interest charge, the delinquent Owner shall also pay such late charges or fines as may have been theretofore established by the Board of Directors. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosure of deeds of trust under power of sale, and interest, late payment fees, collection and administrative fees, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot, nor shall damage to or destruction of any improvement on any Lot by fire or other casualty result in abatement

or diminution of the assessments provided for herein. Provided, however, that an Owner's failure to pay any assessment shall not constitute a default under any mortgage given by that Owner, unless expressly agreed to by the Owner in writing.

8. **Exempt Property.** All land which shall be dedicated to and accepted by a local public authority, and all land granted to or used by a utility company, and property owned by a nonprofit organization exempt from taxation under the laws of the State of North Carolina shall be exempt from the assessments and charges created herein.
9. **Subordination to the Lien of First Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first priority deed of trust or first mortgage. The sale or transfer of any Lot shall not affect the assessment lien; provided, however, the sale or transfer of any Lot which is subject to any first deed of trust or first mortgage, pursuant to a foreclosure thereof or under a power of sale, or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer.
10. **Application of Payments.** In the event an Owner pays any funds after the imposition of any fines, or the incurrence of collection fees, the funds paid shall be applied first to any fines levied, then to any other late fees, if any, then to any special assessment, if any, then to the general Annual Assessments.
11. **Special Assessments.** In addition to the General Annual Assessments authorized herein, the Board may levy, in any assessment year, Special Assessments as follows:
 - a. **Common Area.** The Board may levy, in any assessment year, Special Assessments against all Owners of Lots applicable to that year only for the purpose of defraying in whole or part, the cost of any construction, reconstruction, repair or replacement of capital improvements and related fixtures and personal property on or comprising a part of the Common Areas or other extraordinary activities of the Association; provided, however, any such assessment shall be in a ratio of four-to-one for Lots owned by class A Members and Class B Members, respectively, and further provided in any fiscal year, special assessments which exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year may not be levied without (1) if any two class voting structure is in effect, the vote or written consent of sixty-seven percent (67%) of the votes of each class of Members of the Association or (2) if two class voting structure is not in effect, the vote or written consent of sixty-seven percent (67%) of the votes of the Association.
 - b. **Allocation of Assessments.** All General Annual Assessments and Special Assessments shall be levied equally against all Owners except that no assessments shall be levied upon Lots owned by the Class B Member until the earlier of the following occur: (i) conveyance of the Lot from Declarant to an Owner other than one of Declarant's approved builders; or (ii) the issuance of a Certificate of Occupancy for a residence constructed on the Lot.

ARTICLE VI:

ARCHITECTURAL CONTROL

No exterior construction, alteration, addition, erection or landscaping of any nature whatsoever shall be commenced or placed upon any part of the Property, except such as is installed by Declarant, or as is approved in accordance with this Article, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, change, alteration, or landscaping shall be made, unless and until plans and specifications showing the nature, kind, shape, heights, materials, exterior finishes, colors, and location of the same shall have been submitted in writing to and approved in writing by an Architectural Control Committee (ACC). The ACC may be, in the discretion of the Board of Directors, established so that it is divided into two (2) subcommittees, one (1) having jurisdiction over modifications and (2) having jurisdiction over new construction. The Board of Directors may employ architects, engineers, or other persons as it deems necessary to enable the ACC to perform its review. The ACC may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons, which shall have full authority to act on behalf of the committee for all matters delegated. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee. So long as Declarant owns any of the Property for development and/or sale, Declarant shall have the right to appoint all members of the ACC. Upon the expiration or earlier surrender in writing of such right, the Board of Directors shall appoint the members of the ACC. Approval of the ACC shall not be required for changes or additions to plantings of trees, shrubs, vegetative ground covers or grasses. However, the Board of Directors reserves the right to reject, and require removal of any **major or substantial changes** or additions of such plantings **to the front yard** of any residence which, in their sole discretion, might be considered a Nuisance as discussed under Article VIII.2 which prohibits unsightly or unkempt conditions which are obnoxious to the eye. This shall include, but not be limited to, allowing the front yard to be left natural and unmowed, the planting of multiple fruit bearing trees similar to an orchard in the front yard or the planting of vegetable gardens in the front yard. It is therefore recommended that homeowners seek prior approval of the ACC for any contemplated **major or substantial changes of plantings** in the front yard in order to avoid the potential for rejection and removal thereof. Furthermore, landscaping features other than trees, shrubs, vegetative ground covers and grasses (such as decorative walls, trellises, water features and the like) do require prior approval of the ACC.

If the ACC fails to approve or disapprove such submitted plans and specifications within forty-five (45) days after the complete plans and request have been submitted in writing, approval will not be required, and the plans and specifications shall be deemed to have been approved as submitted. However, all activities commenced pursuant to such plans which have been approved shall be consistent with such plans. In addition, no approval, whether expressly granted or deemed granted as provided herein, shall be inconsistent with this Declaration or any design guidelines promulgated by the Board of Directors unless a variance has been granted in writing by the Board of Directors.

As a condition of approval under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the ACC, an owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such

Owner's successors-in-interest. The ACC shall be the sole arbiter of such plan and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board of Directors or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants or any other provisions of this Declaration have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may record in the appropriate land records a notice of violation naming the violating Owner.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ACC, THE MEMBERS THEREOF, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY THEREFORE, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS, NEITHER THE DECLARANT, THE ASSOCIATION, THE ACC, THE BOARD OF DIRECTORS, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND AGENTS OF ANY OF THEM SHALL BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY PLANS OR SPECIFICATIONS AND EVERY OWNER AGREES THAT SUCH PERSON OR OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DECLARANT, ASSOCIATION, THE ACC, THE BOARD, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM TO RECOVER ANY DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE, OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

ARTICLE VII:

MAINTENANCE AND SERVICE

1. Maintenance and Service by the Association.

- a. Maintenance and Service Obligations Benefiting the Lots Exclusively: The Association shall not provide any maintenance to any of the Single-Family Lots.
- b. Maintenance Obligations Benefiting All Lots. The Association shall provide ordinary care and maintenance for all portions of the Common Areas and all facilities thereon.
- c. Maintenance Easements. In order to enable the Association to accomplish its maintenance obligations as set forth in this Article, permanent rights and easements over all Lots have been reserved to the Association.

2. Maintenance by Owners.

- a. The Owner of each Lot shall maintain the grounds and improvements situated on his Lot, including, but not limited to, plantings, landscaping, and lawns, at all times in a neat and attractive manner. Provided, however, the external appearance of such maintenance, repairs or replacement shall be subject to the regulation and control of the Declarant or the Association as provided in this Declaration. Each Owner of a Lot shall be responsible for replacement and construction of improvements on his or her Lot required because of damage or destruction by fire or other casualty.
- b. Should an Owner fail to discharge his maintenance, repair or replacement responsibilities in a reasonable and prudent manner to standards harmonious with that of other Lots in the Subdivision, as determined by the Declarant in its discretion or, after the Declarant owns no portion of the Property, by the Association, then the Declarant (or Association, if appropriate) in its discretion may demand that the Owner promptly comply with the same by mailing a notice thereof to the Owner at his address, specified in his contract to purchase such Lot and by posting such notice on the Lot. If the Owner has not complied with the notice within ten (10) days thereafter, the Association shall have the right to cause such maintenance, repair or replacement to be performed and to charge the cost thereof as part of and in addition to the regular Assessment attributable to the Lot and provided for in this Declaration, notwithstanding any provision to the contrary contained herein. Should an Owner fail to pay any charge billed in accordance with this subparagraph (b) within fifteen (15) days of such billing, then the Association shall have the right to levy fines and to claim a lien against the Lot and to foreclose such lien, all as provided for in Article V of this Declaration. No such entry as provided herein shall be deemed a trespass.

3. General Maintenance Provisions.

- a. In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the Owner, his family, guests or invitees, the cost of such maintenance, repair or replacement shall be added to and become a part of the Assessments to which such Lot is subject, notwithstanding any provisions to the contrary contained herein.
- b. The Association shall have the power to enforce the obligations contained in this Article VII through the levy of Specific Special Assessments.

ARTICLE VIII:

USE RESTRICTIONS

1. **Residential Use.** All Lots shall be used for single family, residential purposes. Single family is defined as being no more than four persons unrelated by blood, marriage or adoption occupying a single Lot. No business or business activity shall be carried on, in or upon any Lot at any time except with the written approval of the Board of Directors and so long as the business or business activity is in compliance with the applicable zoning requirements for the Subdivision. Leasing a Lot shall not be considered a

business or business activity. However, the Board of Directors may, but not be obligated to, permit a Lot to be leased for business purposes so long as such business, in the sole discretion of the Board of Directors, does not otherwise violate the provisions of the Declaration or Bylaws, does not create a disturbance, and does not unduly increase traffic flow or parking congestion. The Board of Directors may issue rules regarding permitted business activities. Notwithstanding the foregoing, under no circumstances shall any child or day care business be conducted or carried on, in or upon any Lot. A day care business is defined as: for-profit childcare facility for three (3) or more children which requires the issuance of a license under the N.C. General Statutes and N.C. Dept. of Health and Human Services rules and regulations.

2. **Nuisance.** It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No property within the Subdivision shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Subdivision, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property within the Subdivision. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Subdivision. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law. Notwithstanding the above, outdoor speakers are allowed if they are used at a reasonable noise level. At the sole discretion of the Board of Directors, reasonable activities on the New Year's Eve, July 4th and Halloween holidays shall not be considered a "Nuisance" as described in this Section.
3. **Animals.** Animals that are kept entirely within a dwelling shall not be governed by the Association. Animals that appear outside of a dwelling, whether outdoors or within a separate enclosure during any time of day or night shall be governed as follows. Only approved animals shall be kept or maintained on any lot in the subdivision. Approved animals shall include dogs, cats, chickens, ducks and quail. Roosters that crow shall not be permitted. The conditions of the land in which animals roam and/or are kept must be maintained in a clean and sanitary condition. The health and wellbeing of the animals must be maintained. All animal related enclosures, if visible from the street or adjacent property including, but not limited to dog runs, must be approved by the Board of Directors. Notwithstanding the above, the Board of Directors may, at their sole discretion, require removal of any animal which endangers the health or safety of the community or makes unreasonable noise to any adjacent lot. No animal shall be kept, bred, or maintained for commercial purposes. No animal that has caused damage or injury may be walked in the Subdivision. No dog shall be permitted to run free without the presence and supervision of its Owner. Leashes are required when walking an animal thru the neighborhood. Animal droppings deposited on streets or other

properties must be immediately cleaned up by the animal's owner or designated caretaker. Chickens, ducks, and quail must be kept within the rear yard of the owner's property and shall be prevented from entering the side or front yard by appropriate fencing or enclosure as approved by the Board of Directors. No animal shall be chained or tied outdoors unattended on a regular basis or for extended periods without supervision.

4. **Outbuildings or Similar Structures.** No outbuildings, sheds or detached garages of any kind shall be erected or allowed to remain on any Lot except (a) with the prior written consent of the ACC, or (b) for a detached garage installed by a builder at the time the house on a Lot is constructed and which detached garage was approved by the ACC. Any outbuildings, sheds or other accessory structure permitted hereunder shall be such that its outward appearance is harmonious with the general architecture of the main dwelling erected on each Lot, including but not limited to color and material. However, this section shall not be construed to prevent Declarant or any other builder from developing, constructing, marketing, or maintaining model homes or speculative housing within the Subdivision. In addition, this section shall not be construed to prevent Declarant and those engaged in development, construction, marketing, property management or sales in the Subdivision from using trailers, sheds, or any other temporary structures for any of the foregoing purposes.
5. **Vehicles and Parking.** The term "vehicles" as used herein, shall include, without limitation, motor homes, boats trailers, RVs, ATVs, motorcycles, mini-bikes, scooters, go-carts, trucks, sport utility vehicles, campers, buses, vans, limousines and automobiles. Vehicles shall not be parked on the Common Areas or any portion of a Lot other than the garage; however, vehicles may be parked on the driveway of the Lot if garage space is not adequate or if the Lot owner or occupants have more vehicles than the number of garage parking spaces. Those excess vehicles which are a Lot Owner's or occupant's primary means of transportation on a regular basis may be parked on the driveway of the Lot. All parking shall be subject to such rules and regulations as the Board of Directors may adopt. All homes on Lots shall contain a garage. No unenclosed vehicle parking (carport) shall be constructed or maintained on any Lot. Notwithstanding anything provided herein to the contrary, no towed vehicle, boat, boat trailer, recreational vehicle, motor home, mobile home, bus, truck with camper top, truck (except pick-up trucks and sport utility vehicles), commercial vehicle, motorcycle, mini-bike, scooter, go-cart or similar recreational vehicle shall be permitted on any Lot, unless kept in an enclosed garage, for periods longer than forty-eight (48) consecutive hours (the intent of this provision is that the aforementioned vehicles may not be stored on a Lot except in a garage and the temporary removal of such vehicle from a Lot to break the continuity of the forty-eight (48) consecutive hours shall not be sufficient to establish compliance with the restriction. Any such vehicle may be considered a nuisance and may be removed from the Subdivision. No vehicle may be left upon any portion of the Subdivision, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public streets. Any such vehicle shall be considered a nuisance and may be removed from the Subdivision. No motorized vehicles, except for duly licensed "street legal" motor vehicles shall be operated on any street within the community or upon any Common Areas, except for public safety

vehicles authorized by the Board of Directors. The above provisions in Section 3 shall not apply to Builder's construction vehicles during the construction of a house on a lot.

Any towed vehicle, boat, boat trailer, recreational vehicle, motor home, mobile home, bus, truck with camper trailer, truck (except pick-up trucks and sport utility vehicles), commercial vehicle, mini bike, scooter, go-cart or similar recreational vehicle that is not kept in an enclosed garage or shed, may, at the discretion of the Board of Directors, be kept in a side yard that is hidden from the street and neighboring properties by an opaque fence as approved by the Board of Directors that is six feet (6') high with a gate suitable for entry and exit of such vehicle. No such vehicle shall be kept on any portion of the front yard. No such vehicle shall be kept on the driveway for periods longer than forty-eight (48) hours. No such vehicle shall be parked along the street for periods longer than four (4) hours. The property owner shall submit a written request to the Board of Directors to keep any such vehicle in a side yard. The Board of Directors may deny such requests if, in their sole discretion, the vehicle under consideration will not be suitably hidden from the street and/or the neighboring properties by the fence. Boats **on trailers** may be kept on a paved driveway for periods longer than 48 hours between Memorial Day and Labor Day only to facilitate seasonal use thereof. Neither boats, nor any other vehicle may be kept on a driveway or anywhere else in the front yard for the purpose of maintenance, repair or rebuilding thereof.

Upon written request of any resident, specific exceptions may be granted by the Board of Directors at their sole discretion for commercial vehicles to be parked on driveways that are used by a resident for work on a regular basis. No such vehicle may remain parked on a driveway for longer than 72 consecutive hours. The following types of vehicles shall **NOT** be granted an exception.

- A. Tractors capable of pulling a commercial trailer.
- B. Commercial trailers.
- C. Semi-trucks of any length. A semi-truck is a vehicle having a tractor unit and a separate trailer for carrying freight.
- D. Box trucks of any length.
- E. Straight body trucks longer than 26'.

Moving trailers and PODS may be parked in a driveway for loading and unloading for a maximum of 7 consecutive days.

The stated prohibition on certain motorized vehicles being operated on any street within the community shall not apply to motorized wheelchairs, small scooters, hoverboards, swegways or other such personal transport vehicles. Furthermore, golf carts, ATV's, mini-bikes, scooters, go-carts and similar vehicles may be **safely operated** within the community streets **under adult supervision** as a privilege granted by the Association. At the discretion of the Board of Directors, this privilege may be rescinded on an individual basis when and if it is reported that such vehicles are being operated in an unsafe, loud or obnoxious manner.

6. **Occupants Bound.** All provisions of the Declaration, Bylaws, and any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned. Fines may be levied against Owners and occupants in accordance with NCGS 47F-3-107. I. If a fine is first levied against an occupant and is not paid timely, the fine may then be assessed against the Owner.
7. **Sight Distance at Intersections.** All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.
8. **Fences.** No fence or wall of any kind shall be erected, placed or maintained upon any portion of the Subdivision, including any Lot, unless and until plans and specification showing at least the nature, kind, shape, height, materials, color, texture and placement of such fence or wall have been submitted in writing to, and approved in writing by, the ACC as provided in Article VI. No fence or wall shall be erected on a Single-Family Lot closer to the street than the side street setback or the front of the building facade except for temporary decorative fencing installed by the builder on a model home. No "blockade style", "stockade style", privacy fences, or fences with less than 20% open space across the facing of the fence, will be permitted, unless prior approval is granted. Fences may not exceed 72" in height and generally follow the contour of the land unless approved by the Board of Directors. All rails and posts should be placed in a manner so that the finished planks are viewed from the street and the adjoining Lot owners, rather than the structural supports. If a neighbor has an existing fence in place, Owners must connect the fence to the existing fence to eliminate any maintenance issues in between the fences. Fences may be placed along a Lot's property lines, with a one-inch (1") setback from the line. Adjoining Lot Owners are expressly allowed to connect their fencing to the neighboring fence, provided that the neighboring fence is located no more than fifteen inches (15") inside the property line. Fences may be located in the rear and side yards and must not extend toward the front of the lot past the front corner of the house. Corner lots may have fences that do not extend more than six feet (6') from the side of the house, and fences may extend no closer than twelve feet (12') to the curb on the side of the street. If the house contains a garage with a side door, then the fence may extend from the rear to the front of the house far enough to permit access from the side door to the fenced yard area. Fences on corner lots must be setback a minimum of fifteen feet (15') from the side street right-of-way or no closer to the street than the side yard setback line, whichever is greater. The ACC may issue guidelines detailing acceptable fence styles, but in no event may an uncoated chain link or barbed wire fence be approved. Fences must be sturdily constructed so as not to sag over time. Fences may not block the flow of surface drainage or interfere with storm drain structures. Fences may not block access to sanitary sewer manholes. Notwithstanding anything provided herein to the contrary, the Board of Directors shall have the right to erect fencing of any type considered appropriate or desirable by the Board of Directors at any location on the Common Area. Nothing in this paragraph shall be deemed to apply to or regulate retaining walls made necessary by the slope or grade of any Lot or to any fence installed by the Declarant or Builder.

Fences shall be maintained in good condition at all times. Responsibility for maintenance and repair of fences shall be that of the resident that erected the fence (fence owner), not the adjacent property owner, unless a written agreement exists between the two property owners specifying otherwise. Fence owners shall request permission to access any adjacent property for fence maintenance and repair from the adjacent property owner prior to entering thereon. Adjacent property owners are required to allow access to their property by the adjacent fence owner in accordance with NCGS 47F-3-107.(a) which states in part, "each lot owner is responsible for the maintenance and repair of his lot and any improvements thereon.... each lot owner shall afford to,,, another lot owner, access through the (first) lot owner's lot,,, reasonably necessary for any such maintenance, repair or replacement." However, adjacent property owners shall not be required to allow access to their property for fence maintenance and/or repair without a written waiver of liability for bodily injury, acceptable to the adjacent property owner. When Contractors are employed for fence maintenance and/or repair, a copy of the Contractor's liability insurance naming the adjacent property owner as co-insured, shall be provided to the adjacent property owner prior to entering the adjacent property. Any damage to lawns, landscaping or structures of the adjacent property resulting from fence maintenance and/or repair shall be restored to conditions existing prior to such fence maintenance and/or repair operations in a manner acceptable to the adjacent property owner at the cost of the fence owner. Photographs of the adjacent property pre-existing conditions shall be taken prior to start of the work, which shall be provided to both parties. In the event that any portion of a fence is found to cross a property line (as marked by a NC Registered Surveyor) the adjacent property owner shall have the right to remove, modify, maintain and/or repair that portion of the fence that was installed on her/his property.

Fence owners and/or adjacent property owners may petition the Board of Directors for mediation of disputes regarding condition of fencing along property lines. In the event that a suitable agreement is not able to be reached between the two parties, the Board of Directors reserves the right to require removal of deteriorated fences that are not repaired and/or maintained in a reasonable timeframe to good condition, at the Board's sole discretion. Removal of deteriorated fencing may be by the fence owner or the adjacent property owner. In the event that deteriorated fencing is neither maintained, repaired nor removed in a reasonable timeframe as determined by the Board of Directors, a hearing may be held and fines may be imposed in accordance with the provisions of NCGS 47F-3-107.1.

9. **Signs.** No sign of any kind shall be displayed by an Owner or occupant within the Subdivision without the prior written consent of the ACC except (a) signs used by the Declarant to advertise lots for sale during the construction and sales period, (b) signs expressing support for or opposition to political candidates or other issues which will appear on the ballot of a primary, general or special election, provided that such political signs shall not be erected on a Lot earlier than sixty (60) days prior to such

election and shall be removed within two (2) days after such election, (c) professional security signs not to exceed two square feet and consistent with the community-wide standard, (d) any signs required by legal proceedings, and (e) reasonable and appropriate signs erected by the Board of Directors. In connection with a bona-fide offer to sell or lease a Lot or residence, one professionally lettered "For Sale" or "For Rent" sign consistent with the community-wide standard shall be permitted.

10. **Antennas, Satellite Dishes or Discs.** The Board of Directors may issue rules regarding the erection of exterior antennas and satellite dishes; provided such rules do not prevent reception of acceptable quality signals or cause an unreasonable delay or cost. Unless screened and located to provide minimum visual impact on neighboring properties and streets, no exterior antennas or satellite dishes shall be placed, allowed, or maintained upon any portion of the Subdivision, including any Lot; provided such screening and location do not prevent reception of acceptable quality signals or cause an unreasonable cost or delay. In no event shall any dish or antenna in excess of one meter in diameter be permitted in the Subdivision and in no event shall any antenna or dish be located in the front of any house.
11. **Swimming Pools.** No swimming pool shall be constructed, erected, or maintained upon any Lot without prior written consent of the ACC. All pools shall be fenced to comply with the Barrier requirements in Section AG105 of the Franklin County Ordinance regarding Swimming Pools, Spas & Hot Tubs.
12. **Mailboxes.** All mailboxes and mailbox posts shall be of a style and color approved by the ACC or Declarant.
13. **Clotheslines.** No exterior clotheslines may be erected or maintained on any Lot.
14. **Landscaping, Trash and Vegetation**
 - a. Any addition or alteration to a Lot which makes a noticeable change from the street or which might cause erosion, requires approval in advance, i.e., retaining walls, landscape timbers, railroad ties, adding or removing trees and/or shrubs. Landscaping should relate to the existing terrain and natural features of the lots. Allowable plant bed materials include black or brown pine needles, mulch, or wood chips.
 - b. No trash, rubbish, recyclable materials, garbage, or other waste material shall be kept or permitted upon any lot, except in sanitary containers (garbage cans or recycling bins) located in the Owner's garage or an appropriate area screened and concealed from view from the street.
 - c. No weeds, vegetation, rubbish, debris, or materials of any kind whatsoever shall be allowed to accumulate on any portion of the lot which would render it unsanitary, unsightly, offensive, or detrimental to any other property.
 - d. Outside burning shall be performed in accordance with all applicable regulations of the County of Franklin and the State of North Carolina.
 - e. Compost must be fully contained in an airtight container and not be visible from any street or common area.
 - f. Building materials and equipment used for architectural improvements, as approved by the ACC or Board, should not be stored where visible from the street for more than thirty (30) days.
 - g. Lawns must be mowed and maintained on a weekly basis during the growing season.

- h. Shrubbery and other plantings must be kept neat and trimmed as to appear neat and attractive.
 - i. Dirt yards and yards with large dirt patches are prohibited. The Owner is responsible to keep their property free of erosion or potential erosion at all times. This may be accomplished by establishment of healthy vegetation, mulch, decorative ground covers, shrubbery, or any combination thereof that is neat and attractive, at the discretion of the Board of Directors.
15. **Garbage Cans, Woodpiles, Etc.** All trash cans, debris and similar items shall be kept or screened from view of neighboring lots, streets, and adjacent property; provided, however, if rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on the evening before a pickup as necessary to provide access to persons making such pick-up. Garbage can screens should be consistent with the color of the dwelling or left in a natural treated wood. All trash, rubbish and debris shall be regularly removed (no less frequently than weekly) and shall not be allowed to accumulate. Trash, garbage, or other waste may not be burned within the Subdivision except by Declarant during construction.
16. NOT USED.
17. **Subdivision of Lots.** No Single-Family Lot shall be subdivided, or its boundary lines changed except with the prior written approval of the ACC. Declarant, however, expressly reserves the right to replat any Single-Family Lots owned by Declarant but must not be in violation of applicable subdivision and zoning regulations.
18. **Guns.** The use of firearms (BB guns, pellet guns, bows and arrows, sling shots and small arms of all types) in the Subdivision shall be governed in accordance with all applicable laws and regulations of the County of Franklin and the State of North Carolina.
19. **Leasing.** The Declarant has deemed it to be in the best interest of Lot Owners to restrict the number of Lots that may be leased or occupied by persons other than the Lot Owner. Such restrictions will, among other things, enhance property values by promoting stability and reducing resident turnover; increasing interest by the Lot Owners in the appearance and maintenance of their lots and the community; minimizing problems of rule enforcement and vandalism; and ensuring that Lots and Lot Owners qualify for certain federally supported mortgage programs. These restrictions do not restrict any Owner's rights under the First Amendment or any other provisions of the U.S. Constitution, nor are they in violation of public policy.
- a. **Notice to Board.** Any Lot Owner intending to make a lease of his/her Lot shall give prior written notice to the Board of Directors of such intention. For purposes of this Section, "lease" is defined as regular, exclusive occupancy of a Lot by any person(s), other than the Lot Owner, for which the Lot Owner receives any consideration or benefit, including but not limited to, a fee, service, or gratuity. The required notice shall include a complete copy of the proposed lease, and such other information as the Board shall reasonably require. All leases of lots shall be in writing, utilizing standardized lease forms approved by the Board. Any lease must include the following notice: "The terms of this lease are subject to the provisions of the Rules, DCC&R's, Articles and Bylaws of the Homeowners Association. Any failure by the renter to comply with the rules or terms of those documents shall be a default under this lease." The provisions of this Section shall also apply to the renewal of or

modification to the terms of any lease of a Lot. No subleasing of a Lot shall be allowed.

- b. **Approval of the Board.** Within 15 days after receipt of such notice, the Board shall provide the Lot Owner with written notice of its approval or disapproval of the proposed lease. The decision of the Board shall be final and non-appealable, but approval shall not be unreasonably withheld. The Board's approval may be conditioned upon the addition, deletion, or modification of any provision of the proposed lease, or information gleaned by the board from any investigative, criminal background or credit reports obtained by or provided to the Board. THE BOARD SPECIFICALLY RESERVES THE RIGHT TO WITHHOLD THE APPROVAL OF ANY LEASE WHICH WOULD RESULT IN FIFTEEN PERCENT (15%) OR MORE OF THE TOTAL NUMBER OF LOTS WITHIN THE COMMUNITY BEING OCCUPIED BY PERSONS OTHER THAN THE LOT OWNER. The failure of the Board to provide written notice to the Lot Owner of its approval or disapproval of the proposed lease within the 15-day period contemplated by this section shall be deemed an approval of the proposed lease.
 - c. **Compliance with Declaration, By-Laws and Rules and Regulations.** Any lot Owner leasing his/her Lot shall provide the Lessee with a copy of the Declaration, By-Laws and Rules and Regulations affecting the Community upon execution of the lease. The Lessee shall be bound in all respects by the provisions contained therein. Any default by a Lessee of such provisions shall entitle the Association to terminate the lease, and the Lot Owner hereby irrevocably appoints the Association as its lawful attorney-in-fact (power of attorney) to take all actions necessary to terminate the lease and the Lessee's right to possession of the Lot, including the commencement of legal proceedings against the Lot Owner and/or the Lessee.
 - d. **Void Transactions.** Any lease of a Lot which is not approved pursuant to the terms of this section shall be void, unless subsequently approved in writing by the Board. Any violation of these provisions shall subject the Lot Owner to a fixed or daily fine, after notice and an opportunity to be heard, in accordance with NCGS 47F-3-107.1.
 - e. The Board of Directors reserves the right to waive any or all of these restrictions with respect to any particular Lot if strict enforcement hereof would result in an undue hardship on the Lot Owner. Decisions on claimed hardships shall be determined on a case-by-case basis, are in the sole discretion of the Board of Directors, and are not appealable by the Lot Owner.
 - f. In no event shall any lease release or relieve an Owner from the obligation to pay assessments to the Association, regardless of whether an obligation to pay assessments has been assumed by the tenant in such lease.
 - g. Upon executing a lease, an Owner shall provide the Association with a certificate signed by the tenant(s) confirming that he/she has/have been given a copy of this Declaration, The Bylaws, rules/regulations, and any amendments hereto.
20. **Unsightly or Unkempt Conditions.** The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community except in an enclosed garage.
21. **Drainage.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct

or redirect the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for the benefit of Declarant, any builder who has purchased any Lot(s) for the purpose of the construction of a residence thereon and the resale of such Lot(s) and residence(s), and the Association and their respective successors and assigns, a perpetual easement across the Subdivision property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the person causing the damage at its sole expense.

22. **Utility Lines.** Except as may be permitted by the ACC, no overhead utility lines, including lines for cable television, shall be permitted in the Subdivision, except for temporary lines as required during construction and lines installed by or at the request of Declarant.
23. **Air-Conditioning Units, Grills and Outdoor Cooking Equipment.** No window air-conditioning units may be installed except as may be permitted by the ACC, but in no event shall a window unit be installed in any dwelling so as to be visible from the front of any Lot or any adjoining street. Grills and outdoor cooking equipment must be stored in the Owner's garage, or at the rear of the dwelling so as not to be visible from the front of any Lot or an adjoining street.
24. **Lighting.** Except as may be permitted by the ACC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light and low level decorative lighting only along sidewalks, front doors and planting beds surrounding the dwelling; (c) street lights in conformity with an established street lighting program for the Subdivision; (d) seasonal decorative lights from Thanksgiving to the following January 15; (e) front house illumination of model homes; or (f) for all other holiday or special occasion decorations on a temporary basis. Additional lighting must be approved in advance by the Board of Directors or the ACC. Deck, porch and security lighting at suitable levels for the intended use shall be approved by the Board of Directors or the ACC upon submission of a plan for same. Approval shall be contingent upon demonstration of the applicant that lighting shall not intrude onto neighboring properties.
25. **Artificial Vegetation, Exterior Sculpture, Exterior Statuary and Similar Items.** No artificial vegetation or plastic animal decorations, such as pink flamingos, etc., shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, bird baths, bird houses and similar items must be approved by the ACC. Temporary flagpole staffs that do not exceed six feet (6') in length and are attached at an incline to the wall or pillar of the dwelling do not require ACC approval. Seasonal, holiday, decorative flags, the U.S., and N.C. Flags are permitted to be displayed.
26. **Energy Conservation Equipment.** Solar energy collector panels or attendant hardware or other energy conservation equipment may be installed as long as it is an integral and harmonious part of the architectural design of a structure, as determined by the ACC.
27. **Gardens and Play Equipment.** Vegetable gardens, hammocks or play equipment must be located between the rear of the dwelling and the rear lot line. Play equipment must be constructed of natural wood and must be concealed from the side street by fencing. Vegetable gardens may be planted in, side yards either in the ground or in raised

planting boxes, provided they do not cover more than ten percent (10%) of the side yard. Trampolines are permitted ONLY within a rear yard and must be equipped with safety netting as provided by the manufacturer of the trampoline and as approved by the ACC. Basketball goals must be mounted on a standard post. Location of mounted basketball goals must be approved in advance. Temporary (mobile) basketball goals must be stored inside or close to the garage door when not in use and under no circumstances shall a basketball goal be placed in the street.

28. **Exteriors.** Any change to the exterior color, finish or texture of any improvement located on a Lot, including, without limitation, the dwelling, the roof of any dwelling or any fence, must be approved by the ACC. Approval of the ACC is not required for the change of color of doors, columns, decks, porches, or other portions of the exterior that require periodic painting, under the condition that colors remain harmonious with the remainder of the structure. The ACC reserves the right to require the change of any loud or obnoxious colors, at their sole discretion.
29. **Entry Features.** Owners shall not alter, remove, or add improvements to any entry features constructed by Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the ACC.
30. **Window Treatments.** No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose.
31. **Fuel or Water Tanks.** No fuel tanks or water tanks shall be stored or maintained upon any Lot in such a manner as to be visible from any public street or road or from any other Lot, unless used by Declarant, temporarily, in the ordinary course of developing the Subdivision.
32. **Erosion Control.** No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling of such erosion or siltation.
33. **Septic Systems.** Declarant hereby reserves for the benefit of Declarant, any builder, and the Association and their respective successors and assigns a perpetual easement across the Subdivision property for the purpose of maintaining, repairing and inspecting all septic systems throughout the Subdivision. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the person causing the damage at its sole expense. In addition, there are the following open space septic easements, each of which is delineated on the recorded plat map of the Subdivision. For Lot# 33, 34,908 square feet; for Lot# 20, 15,465 square feet; for Lot# 32, 440square feet; and for Lot# 34, 40,282 square feet.
34. **Declarant' s Rights.** Notwithstanding anything to the contrary contained in this Article or elsewhere in this Declaration, Declarant, their agents, employees and contractors shall not be restricted or prevented by this Declaration from doing, and Declarant, their agents, employees and contractors shall have the right to do such things or take such action as they deem necessary, and advisable for completion and improvement of the Property for the sale, or other disposition of Lots. These rights under this Section shall

terminate one year after Declarant has sold the last Single-Family Lot in the Property. No amendment of this Section shall be made without the written approval of Declarant.

ARTICLE IX:

INSURANCE

1. **Insurance Required Under the Act.** Section 47F-3-113 of the Act requires certain insurance to be carried by the Association and provides for the distribution of insurance proceeds and requires certain provisions for property and liability insurance and governs repairs made with the insurance proceeds. In the event the insurance requirements of this Article conflict or fail to incorporate the provisions of Section 47F-3-113 of the Act, the provisions of the Act shall apply and govern.
2. **By Owners.** Each Owner on a Single-Family Lot shall purchase and maintain fire and extended coverage insurance as follows: Each dwelling on a Single-Family Lot and other improvements located upon such Single Family Lot shall be insured in an amount equal to 100% of its insurable replacement value as determined annually by the Property Owner with the assistance of the insurance company providing insurance. Such coverage shall provide protection against: (1) loss or damage by fire or other hazards, including extended coverage, vandalism, mischievous mischief; and (2) such other risks as from time to time as shall be reasonably required by the Property Owner.
3. **By Association.** The Association shall procure and maintain insurance coverage as follows:
 - a. The Association shall have the duty and authority to maintain fire and extended coverage casualty insurance on all improvements located upon such Common Areas and facilities (and any personal property located upon such Common Areas) in an amount not less than the full insurable value thereof (based upon the current replacement costs), and liability insurance with limits in and amounts adequate, under standards in the insurance industry existing from time to time, to protect the Association and the Owners in the event of property damage, personal injury or death occurring in or about the Common Areas and facilities. The Board of Directors shall have the authority to settle or enforce on behalf of the Association and on behalf of the Owners, by legal action or otherwise, any claim arising under any insurance carried by the Association.
 - b. Premiums for insurance policies purchased by the Association for the Common Areas shall be paid by the Association and shall be included as Common Expenses of the Association paid for as part of the General Annual Assessments provided for herein. Owners may, at their option, purchase at their cost and expense, insurance coverage upon their own personal property and for the personal liability of such other coverages as they may desire.
 - c. The Association shall continuously maintain in effect fidelity insurance coverage for protecting against dishonest acts by Association officers, directors, trustees and employees and all others who are responsible for any funds of the Association. If

- professional management is obtained by the Association and it has this coverage and it handles the funds, then this requirement will be satisfied.
- d. If the Board of Directors so elects, officers and director's liability insurance may be obtained in an amount as the Board of Directors shall determine.

ARTICLE X:

DAMAGE AND DESTRUCTION

1. **Damage to Single Family Lots.** Restoration and repair of damage to any Dwellings on Single Family Lots shall be made by and at the expense of the Owner thereof. All repairs, reconstruction or rebuilding of any Dwelling on a Single-Family Lot shall be substantially in accordance with the plans and specifications for such damage or destroyed Dwelling prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purposes by the ACC as provided in this Declaration.
2. **Damage to Common Areas.** Restoration and repair of damage to any Common Area shall be made at the expense of the Association unless, under the provisions of Section 47F-3-113(g), the repair and restoration is not required to be affected. If the work is to be accomplished, the Association shall promptly contract for the repair, restoration or reconstruction, and if necessary, collect any proceeds of insurance from the insurance company. The difference, if any, between the insurance proceeds payable by reason of such repairs and the costs thereof, may be recovered by one or more Special Assessments levied by the Board.

ARTICLE XI:

EMINENT DOMAIN

1. **Eminent Domain.** Notwithstanding any provision contained herein to the contrary, in the event of a taking of all or any portion of a Lot or all or any portion of the Common Area by eminent domain, or by conveyance in lieu thereof, the awards paid on account thereof shall be applied in accordance with Section 47F-1-107 of the Act. If all or any portion of the Common Area is taken by action in eminent domain (hereinafter called a "taking"), the Association shall give written notice of the proceedings to all Owners and mortgagees, and the condemnation award shall be fairly and equitably apportioned among the Owners, mortgagees, and the Association as provided in the Act.
2. **Repair, Restoration, Reconstruction.** If only a portion of a Common Area facility is taken, the Board of Directors shall promptly contract for the repair, restoration or reconstruction of the Common Area facility to a complete architectural unit (if applicable under the circumstances), to the extent such repair, restoration and reconstruction is reasonably necessary and practical. If the cost of repair, restoration and reconstruction of the Common Area exceeds the amount awarded by the court for

such purposes, the difference may be recovered by a Special Assessment levied equally against all Owners.

ARTICLE XII:

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on lots in the Subdivision. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained herein.

1. **Notices of Action.** An institutional holder, insurer, or guarantor of a first mortgage, who provides a written request to the Association stating its name, address, and Lot number, therefore becoming an "eligible holder", will be entitled to timely written notice of:
 - a. Any condemnation loss or casualty loss which affects a material portion of the Subdivision or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
 - b. Any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days;
 - c. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or
 - d. Any proposed action which would require the consent of a specified percentage of Mortgage holders.
2. **No Priority.** No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.
3. **Notice to Association.** Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Lot.
4. **VA/HUD Approval.** As long as Declarant has the right to appoint and remove the directors of the Association, the following actions shall require the prior approval of the VA so long as the VA is guaranteeing any mortgage in the Community, and HUD so long as HUD is insuring any mortgage in the Community:
 - a. Annexation of additional property to the Subdivision, except for annexation by Declarant in accordance with Article II, Section 2.2 hereof pursuant to a plan of annexation previously approved by the VA and/or HUD as applicable;
 - b. Dedication of a Common Area to any public entity;
 - c. Mortgaging of a Common Area;
 - d. Mergers and consolidations;
 - e. Dissolution of the Association; and
 - f. Material amendment of the Declaration, the Bylaws, or the Articles of Incorporation of the Association.

5. **Applicability of Article XII.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or N.C. law for any of the acts set out in this Article.
6. **Failure of Mortgagee to Respond.** Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within sixty (60) days after the mortgagee has received the Association's request.
7. **Amendments-By-Board.** Should Fannie Mae, Freddie Mac, the VA or HUD subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

ARTICLE XIII:

GENERAL PROVISIONS

1. **Enforcement.** Each Owner and occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. The Board of Directors, on behalf of the Association, or, in a proper case, an aggrieved Owner shall have the right to enforce, by any proceeding at law (sue for damages) or in equity (for injunctive relief), all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. In any such action taken by the Association, whether or not a civil action (lawsuit) is commenced, the Association shall be entitled to recover reasonable attorneys' fees and court costs actually incurred by the Association in bringing such action. Failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Board of Directors shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules, and regulations, use restrictions or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose occupants are responsible) for violating the foregoing. After notice and an opportunity to be heard as required by the Act, the Association shall also have the right to suspend the voting rights of a Lot Owner and the right of an Owner to use the Common Area, if any, for any period during which any Assessment against such Owner's Lot which is hereby provided for remains unpaid, and, for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations.
2. **Severability.** Invalidation of any one of these covenants or restrictions of this Declaration, by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect.

3. **Amendment and Termination.** This Declaration may be amended only in strict compliance with the Act, including, without limitation, Section 47F-2-117 of the Act, except no amendment altering or impairing Special Declarant Rights or other rights reserved by Declarant in this Declaration may be made without the written consent of the Declarant, for as long as Declarant owns any portion of the Property. Notwithstanding the foregoing, and provided such amendment is not expressly prohibited by the Act, during any period in which a two-class voting structure is in effect, Declarant may amend this Declaration without the approval of any other Member provided, the amendment does not materially alter or change any Owner's right to use and the enjoyment of such Owner's Lot or of the Common Area as set forth in this Declaration and the amendment does not adversely affect the title to any Lot.

Except as provided herein, any other amendment of this Declaration shall require the affirmative vote or written instrument signed by Members to which at least sixty-seven percent (67%) of the votes in the Association are allocated.

Any instrument amending this Declaration must contain a certification by the President of the Association that the Amendment has been correctly adopted in accordance with the provisions of this Declaration and be recorded in the Franklin County Registry. Any such amendment shall be effective upon the date of recordation.

This Declaration may be terminated only by agreement of Members to which at least eighty percent (80%) of the votes in the Association are allocated as set forth in Section 47F-2-118 of the Act. The procedures for termination of the Declaration set forth in the Act must be strictly complied with in order to terminate the Declaration.

4. **Amendment to Conform to Requirements of FHA/VA/FHMA/FHLMC.** Declarant, without consent or joinder of the Association or any other Owner of Lot or Lots, may amend this Declaration to conform to the requirements of the above-listed federal mortgage institutions at any time during which Declarant owns any portion of the Property.
5. **Self-Help.** In addition to other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Subdivision to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner, and shall be collected as provided for herein for the collection of assessments.
6. **Effective Period.** The covenants, conditions and restrictions of this Declaration shall run with the land and bind the Association and the Owners of Lots for a period of twenty-five (25) years from the date this Declaration is recorded, after which time such covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years until amended or terminated as herein provided. The reserved easements shall run permanently with each Lot.

7. **Assignment and Delegation.** The Declarant reserves and shall have the right and option at any time and from time to time to assign and delegate any or all of its rights and its duties under this Declaration.
8. **Headings.** Article and section headings are inserted for convenient reference and are not to be construed as substantive parts of the paragraphs to which they refer, except to the extent they differentiate the different classes of Lots, Members or Assessment.
9. **Variances.** Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Subdivision.
10. **Security.** The Declarant or the Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety in the Subdivision. Notwithstanding the providing of any such measures or taking of any such action by the Declarant or the Association, each Owner, for himself or herself and his or her tenants, guests, licensees and invitees, acknowledges and agrees that neither the Declarant nor the Association is a provider of security and shall have no duty to provide security in the Subdivision. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner. Neither the Declarant nor the Association shall be held liable for any loss or damage by reason of the failure to provide adequate security or ineffectiveness of security measures undertaken or provided.
11. **Indemnification.** To the fullest extent allowed by applicable N.C. law, the Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation if such coverage is reasonably available.
12. **Road Maintenance.** The Declarant shall provide ordinary care and maintenance to the roads within the Subdivision until they are put on the state system. In order to enable the Declarant to accomplish its road maintenance obligations as set forth in this Article, permanent rights and easements over all Lots have been reserved to the Declarant.

ARTICLE XIV:

PROCESS OF APPEALS FROM DECISIONS OF THE BOARD OF DIRECTORS

The appeals process is as defined by the NC Planned Community Act and further verified in the Association Bylaws.

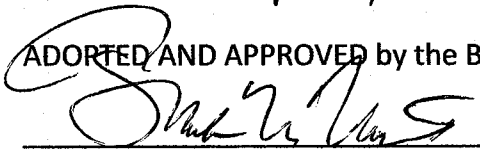
Article IV, Section 2 of the Bylaws states that, "Special meetings may be called at the discretion of the Board. If the Board declines to call a special meeting requested by residents within 60 days of receiving a written request, a special meeting may be called by lot owners having ten percent (10%) of the votes in the Association. This represents a minimum of one (1) representative from each of a minimum of four (4) of the thirty-nine (39) residences in the community."

NCGS 47F-3-108.(a) of the Planned Community Act states in part, "Special meetings of the association may be called by,,,, lot owners having 10%,,, of the votes in the association." Thereby, a special meeting of the Windsor Estates Community Association may be called without the Board's consent by any 4 lot owners.

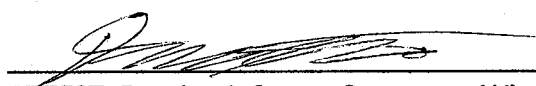
Based upon the above citations, the appeals process begins by a request to the Board to hear arguments in support of a resident's disagreement with a decision by the Board. If the Board chooses not to modify the disputed decision, the resident has the right to request a Special Meeting of the Association to argue their case before the community. If the Board fails or refuses to schedule a Special Meeting of the Association, the resident may enlist 3 other residents to assist in calling a Special Meeting of the Association without the Board's approval. No action may be taken at any Special Meeting on any issues other than those stated on an agenda included in the Notice of the meeting. Notice requirements are as stated in the Bylaws. That being the case, a Special Meeting may be called for any issue in dispute, up to and including removal of one or more Board Members for improper actions.

ADOPTION OF AMENDMENTS

We, the undersigned, subsequent to affirmative vote of at least sixty-seven percent (67%) of the members of this Association, do hereby adopt the foregoing Amended Declaration of Covenants, Conditions and Restrictions of Windsor Estates Community Association, Inc., consisting of these THIRTY FIVE (35) pages.

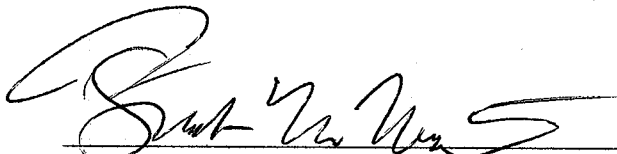
 ADORPTED AND APPROVED by the Board of Directors on this 14 day of MAY, 2021.

Frank M. Monti, President, Windsor Estates Community Association


ATTEST: Damien I. Stone, Secretary, Windsor Estates Community Association

EXECUTION PAGE FOR
DECLARATION OF RESTRICTIVE COVENANTS
FOR WINDSOR ESTATES

IN WITNESS WHEREOF, The Board of Directors have caused this instrument to be executed on this, the 14 day of May, 2021.



Frank M. Monti, President, Windsor Estates Community Association



ATTEST: Damien I. Stone, Secretary, Windsor Estates Community Association

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, JENNA SCHANDA, A Notary Public in and for said County and State, do hereby certify that FRANK M. MONTI + DAMIEN I. STONE before me this day personally appeared, who being by me first duly sworn, says that they are the President and Secretary of the Board of Directors of Windsor Estates Community Association and which executed the foregoing instrument; that they executed said instrument in the name of said Association by subscribing their names thereto; and that the instrument is the act and deed of said Association.

Witness my hand and notary seal, this 14 day of MAY, 2021

Notary Public

My Commission expires:

9/30/2022

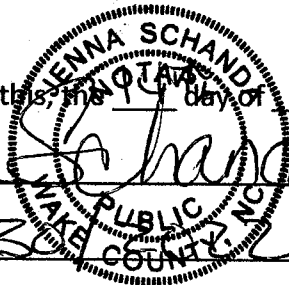


EXHIBIT A

LEGAL DESCRIPTION OF SUBMITTED PROPERTY

Lying and being in Franklin County, North Carolina, and being more particularly described as follows:

BEING the full contents of Lots numbered 1 thru 37 as shown on a Final Plat of Windsor Estates, a cluster subdivision, which map was prepared by Stewart-Proctor, PLLC, May 15, 2008, Book of Maps 2008, Page 175, Franklin County Registry. BEING revised to include additional lots 38 thru 39 as shown on a Final Plat of Windsor Estates, a cluster subdivision, which map was prepared by Stewart-Proctor, PLLC, September 30, 2016, Book of Maps 2016, Page 204, Franklin County Registry.