

There are hereby reserved easements as shown on the recorded map or maps of the subdivision. In the event of a conflict in the width of any easement reserved herein or on the recorded map, the wider easement shall prevail. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

These reservations of easements expressly include the right to cut any trees, bushes, shrubs or growth, the grading, cutting or ditching of the soil and any other action necessary to complete installation.

Section 3. Sign and Landscape Easement. There is hereby established and granted to the owners of any lot ("Owners"), an easement for the establishment and maintenance of a sign and landscaping (herein "Easement Area") as shown on the recorded map or maps of the subdivision. The terms of this easement are as follows:

- a. Initial landscaping and sign construction on the Easement Area shall be undertaken and completed by the Declarant. The Owners shall be responsible for subsequent maintenance of the Easement Area in order to provide for a neat appearance of the Easement Area at all times. All materials and plants used in the maintenance of the landscaping shall be of the same or similar quality as the landscaping initially placed on the easement.
- b. The Declarant shall enter into a contract with a Landscaping Service (herein the "Service") which Service shall provide regular maintenance to the Easement Area and shall bill directly to the Owners the cost of such maintenance. The initial cost of the maintenance shall be \$300.00 per year per lot beginning in 1999. Such cost may increase as necessary to cover the cost of maintenance required hereunder. The Service shall continue to provide maintenance to the Easement Area until such time as the Owners decide to replace the Service with another Service which provides the same or better level of maintenance of the Easement Area. Nothing herein shall prevent the Owners from agreeing not to hire a service and to provide maintenance of the property on their own.
- c. Nothing herein shall be construed to grant to any person any right of access through or over any property except for that area lying within the Easement Area described and conveyed in this Section.

Section 4. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the lots, superior to all other encumbrances which may hereafter be applied against or in favor of the Property or any portion thereof.

Section 5. Declarant reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, which will require a continuing monthly payment to Carolina Power & Light Company by the owner of each building.

*Dunsmoor
Covenants*

Section 6. Easement for Benefit of Utility Company. An easement is hereby established for the benefit of any utility company for the setting, removing and reading of all utility meters as well as maintaining and replacing same.

ARTICLE VI

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property, except as provided in Section 2 of this Article VIII, shall require the assent of two-thirds (2/3) of the membership present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 30 days in advance of the meeting setting forth the purposes of the meeting. The presence of Members or of proxies entitled to cast forty percent (40%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to a notice requirement of a minimum of seven (7) days and a maximum of twenty-one (21) days and the required quorum shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the membership are not present in person or by proxy, Members not present may give their written assent to the action taken thereat. Subsequent meetings may be held reducing the quorum requirement by one-half at each meeting until a quorum is attained.

Section 2. If within seven (7) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land as Declarant may hereafter acquire contiguous to the Property, such land may be annexed by the Declarant without the consent of members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association.

Section 3. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the Property is located, a Declaration of Annexation, duly executed by the Declarant, if the Declarant has the right to annex pursuant to Section 2 above, (and by the Association if pursuant to Section 1 above), describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Property on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except any local governmental authority if required by its ordinances.

Section 4. Subsequent to recordation of the Declaration of Annexation by the Declarant, and prior to the conveyance of the first Lot therein, the Declarant shall deliver to the Association one or more deeds conveying any Common Properties within the lands annexed as such Common Properties is developed.

ARTICLE VII

QUIET ENJOYMENT

No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done which may be, or may become, a nuisance or annoyance to the neighborhood.

ARTICLE VIII

TERM

These Protective Covenants are to run with the land and shall be binding upon all parties and all persons claiming under them until January 1, 2028, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of a majority of the then owners of the lots in Dunnsmoor Subdivision (exclusive of any mortgage holder or trustee under a deed of trust), it is agreed to modify these Protective Covenants in whole or in part, or to terminate them. Such modification or termination shall not be effective until the recording of a document of modification or termination in the Office of the Register of Deeds of Wake County properly executed and acknowledged by the majority so agreeing.

ARTICLE IX

ENFORCEMENT

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. All costs and expenses incurred by any Owner to secure the observance of the terms of this Declaration, including the cost of any suit or legal proceedings and reasonable attorney's fees incurred thereby (at all tribunal levels), and any amounts for the cost of sign and landscape maintenance set out in Article V, Section 3 herein which remain unpaid by an Owner, shall be assessed against the defaulting Owner and shall constitute a lien against such defaulting owner's real estate or such owner's interest therein, such lien to be effective upon recordation of notice thereof in the Office of the Register of Deeds of Wake County, or in the Office of the Clerk of the General Court of Justice in Wake County, provided, however, that any such lien shall be junior and subordinate to any mortgage lien then existing or thereafter placed on the Property, or any lot constituting the Property. The lien herein granted shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. Provided, further, that the foreclosure or enforcement of any such lien will not affect or in any way invalidate any lease executed by the owner of any of the lots.

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ARTICLE X

SEVERABILITY

Invalidation of any one of these covenants or any part thereof by judgment or court order in no wise affects any of the other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

IN TESTIMONY WHEREOF, the Declarant has caused this instrument to be executed in its corporate name by its President, attested by its Secretary, and its corporate seal to be hereunto affixed, by order of its Board of Directors duly given, all as of the day and year first above written.

Creedmoor Partners, L.L.C., a North Carolina
limited liability company (SEAL)

By: W. Carlton Midyette (SEAL)
W. Carlton Midyette, Manager

STATE OF NORTH CAROLINA :

COUNTY OF WAKE :

I, the undersigned Notary Public, certify that W. Carlton Midyette, Manager of Creedmoor Partners, L.L.C., a North Carolina limited liability company personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed on behalf of said Company.

19 98 Witness my hand and Notarial Stamp/Seal this 14th day of December



Mary Ellen Potanovic
Notary Public
My Commission Expires: My Commission Expires 6-15-2005

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of _____

Mary Ellen Potanovic _____
Notary (s) Public

is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

LAURA M. BIDDICK, Register of Deeds

By: [Signature]
Asst/Deputy Register of Deeds

ARTICLE II

ARCHITECTURAL CONTROL

No site preparation (including, but not limited to grading, elevation work, landscaping, sloping or tree work) or initial construction, erection or installation of any improvements, including but not limited to, buildings, fences, signs, walls, bulkheads, screens, landscaping, plantings, equipment, well pump houses, or other structures shall be commenced, erected, placed, altered or maintained upon any lot, until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors, siding, location and elevations of the proposed improvements, landscaping or plantings shall have been submitted to, and approved in writing by, as to harmony of external design and location in relation to surrounding structures and topography, an Architectural Committee composed of three (3) persons appointed by the Declarant. Provided, however, all site plans shall be submitted to Declarant for approval. In the event the Architectural Committee fails to approve or disapprove such submission made by any lot owner within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with: provided that plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding the foregoing.

Upon request the Declarant, on behalf of the Architectural Committee, shall provide any owner with a letter stating that any such work, plans and specifications, landscaping or plantings have been approved, and the letter may be relied upon by third parties.

Disapproval by the Architectural Committee of such plans, location or specifications may be based upon any grounds, including purely aesthetic and environmental, which in the sole discretion of the Committee, it shall deem sufficient. Neither the Declarant nor the Architectural Committee shall be responsible for any defects in the plans and specifications submitted to it or in any structure erected or improvements made according to such plans and specifications.

The Declarant and the Architectural Committee, or their appointed agents, shall have the right, at their election, but shall not be so required, to enter upon any of the lots during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications utilizing approved methods and good quality materials.

The Architectural Committee shall have the power to grant, and may allow, variances of, and adjustments of, the building restrictions established herein in order to overcome practical difficulties and prevent unnecessary hardships in application of the restrictions contained herein; provided, however, that no variance is permitted from the square footage requirements set out herein, and that all variances or adjustments are done in conformity with the intent and purposes hereof; and, provided also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other lots in the immediate neighborhood. Variances and adjustments may be of the height, size, and setback requirements, but shall not be limited thereto.

In the event of the grant of any variance in the building restrictions, the Declarant on behalf of the Architectural Committee shall execute a document attesting to such grant and the specific nature thereof in form suitable for recording, so that the lot owner may record the document in the Registry of the County in which the lot is located. Such document shall be prepared at the cost of the lot owner and shall be binding upon the Declarant, its successors and assigns, and other lot owners and may be relied upon by third parties to evidence the variance approval.

Prepared by and return to:

Alison R. Cayton
Manning, Fulton & Skinner, P. A.
P. O. Box 20389
Raleigh, North Carolina 27619-0389

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PRESENTED
FOR
REGISTRATION

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STATE OF NORTH CAROLINA :

DECLARATION
OF

COUNTY OF WAKE :

PROTECTIVE COVENANTS

THIS DECLARATION, made this 14th day of December, 1998, by **Creedmoor Partners, L.L.C.**, a North Carolina limited liability company with its principal office located at 224 Fayetteville Street Mall, Raleigh, North Carolina 27602, hereinafter called "Declarant";

WITNESSETH:

THAT WHEREAS, Declarant is the owner of real property described in Article I of this Declaration of Protective Covenants and is desirous of subjecting same to the Protective Covenants and Restrictions hereinafter set out for the benefit of each subsequent owner, such Protective Covenants and Restrictions to run with each and every lot and shall inure to the benefit of, and be binding upon, any owner and any successor in interest of any owner of any such lot;

NOW, THEREFORE, Declarant hereby declares that the real property described in Article I hereof is and shall be held, transferred, sold and conveyed subject to the Protective Covenants hereinafter set forth, and shall be known as Dunnsmoor Subdivision.

ARTICLE I

DESCRIPTION

The real property which is, and shall be held, transferred, sold and conveyed, subject to the Protective Covenants set forth in the following articles is located in Barton's Creek Township, Wake County, North Carolina, more particularly described on **Exhibit A** attached hereto and made a part hereof.

The real property described in this Article I is subject to the Protective Covenants and Restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures or structures built of improper or unsuitable materials; to prevent haphazard and inharmonious improvement on lots; to secure and maintain proper setbacks from streets and spaces between structures and in general to provide adequately for quality improvements on said property, and thereby to enhance the values of investments made by purchasers of lots therein.

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The Architectural Committee shall continue in existence until the earlier of (1) five years from the date of filing this Declaration or (2) that date which is twenty-four months after sale of the last lot by Declarant, such sale date to be the date a deed for such last lot is recorded in the Registry of the County in which the lot is situate.

After the discontinuance of the Architectural Committee (1) no further approvals need be obtained by any lot owner pursuant to this Article, and any lot owner thereafter shall improve its lot as the lot owner deems appropriate, without such prior approval but not inconsistent with the other Articles of this Declaration, and (2) any improvement located on any lot shall be deemed approved by the Architectural Committee and any variance of any improvement from the building restrictions set forth herein shall be deemed approved by the Architectural Committee whether or not a document of variance approval has been recorded unless there shall be pending in the County where the lot is situate an action against any lot owner for enforcement of the provisions of this Declaration for failure to comply with the provisions of this Article or for having constructed an improvement which violates the building restrictions and a variance shall not have been given, and as to the lot affected by the action, the result of the action shall be determinative thereof.

Any purchaser of a lot or institution financing a lot shall rely on the foregoing statement.

ARTICLE III

USE RESTRICTIONS

Section 1. Use of Property. No lot shall be used for any purpose other than for single-family residential purposes and for purposes incidental or accessory thereto. Provided, however, the owner of Lot 4 shall be permitted to retain the existing barn and use it for purposes consistent with boarding and maintaining horses.

Section 2. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done which may be, or may become, a nuisance or annoyance to the neighborhood.

Section 3. Animals. No animals, birds, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats, pet birds or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and are controlled in accordance with applicable governmental ordinances and are not a nuisance to other lot owners. Provided, however, the owner of Lot 4 shall be permitted to have up to five (5) horses on that Lot and to use the existing barn for purposes consistent with boarding and maintaining horses.

Section 4. Offensive Behavior. No immoral, improper, offensive, or unlawful use shall be made of any lot, or any part thereof. All laws, orders, rules, regulations, ordinances, or requirements of any governmental agency having jurisdiction thereof, relating to any lot shall be complied with, by and at the sole expense of the lot owner.

Section 5. Business. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any lot, except that the Declarant or its agents may use any unsold lots for sales or display purposes.

Section 6. Signs. No lot owner shall display, or cause, or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any lot, except as allowed by local governmental authority; provided, however, that the Declarant and any lot

owner, or their respective agents, may place "For Sale" or "For Rent" signs on any lots for sale or for rent; provided, however, that during the development of the lots and the initial marketing of lots, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws. Such permitted signs shall be placed in the approximate center of a lot and six feet from the road curb. No sign shall be nailed to trees.

Section 7. Parking. No boats, trailers, campers, motorhomes, trucks or tractors shall be parked on any lot, or on any right of way of any roads or streets within the subdivision by any lot owner, its family members, tenants or contract purchasers, except inside an enclosed garage located on a lot or area screened from view of the street and adjoining lots, or in a specified storage area established by the Declarant, if any such is provided. Temporary parking of delivery and maintenance vehicles are permitted.

Section 8. Trailers, etc. No trailer, tent, mobile home, modular home or structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters or storage units used by a contractor during the construction of a dwelling, garage or accessory building, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or accessory buildings or storage areas or permitted to remain on any lot after completion of construction.

Section 9. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building or within a screened area, or buried underground.

Section 10. Guest Facility. A guest apartment or guest facility may be included as part of a main detached single family dwelling or accessory building.

Section 11. Subdividing. No lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period that Declarant owns any of the property subject to this Declaration. However, the Declarant hereby expressly reserves unto itself, its successors and assigns, the right to replat any two (2) or more lots in order to create one or more modified lots, to further subdivide Tracts shown on any such subdivision plat into two or more lots, to recombine one or more lots to create a larger lot, to eliminate from this Declaration lots that are not otherwise buildable or are needed for access or are needed for use as private roads or access areas, and to take such steps as are reasonably necessary to make such replatted lots suitable and fit as building sites or access area or roadway, said steps to include, but not to be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted lots.

Section 12. Mineral Extraction. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, nor oil, gas or mineral exploratory activity, shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon, or in, or under, any lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot; nor shall sand, clay, or other materials be mined or removed from any lot for use elsewhere.

Section 13. Delivery Receptacle. No mail box, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected or located on any lot unless and until the size, location, design and type of material for the receptacle shall have been approved by the Architectural Committee.

Section 14. Antennae. Exterior radio and television antennae, aerials, disks and dishes for reception of commercial broadcasts shall not be permitted on any lot and no other aerials, disks and dishes (for example, without limitation, amateur short wave or ship to shore) shall be permitted on any lot without permission of the Architectural Committee as to design, appearance and location.

Section 15. Construction Limitations. During construction, all vehicles involved, including those delivering supplies, must enter the lot on a driveway only as approved by the Architectural Committee so as not to damage unnecessarily trees, street paving and curbs. During construction, builders must keep the homes, garages, and building sites clean and free of debris. All building debris, stumps, trees, etc., must be removed from each lot by builder as often as necessary to keep the house and lot attractive. Such debris will not be dumped on any other lot.

Section 16. Firearms; Hunting Prohibited. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type, or method of propulsion; and no hunting of any type shall be carried on or conducted on any lot.

Section 17. Drying Areas. Clotheslines or drying yards shall not be located upon any lot without the prior written consent of the Architectural Committee, which consent may be conditioned or withheld in the sole discretion of the Committee.

Section 18. Unsightly Growth. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain thereon, including vacant parcels.

Section 19. Independent Covenants. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid, or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

ARTICLE IV

BUILDING RESTRICTIONS

Section 1. Square Footage. Any dwelling erected on Lots 1, 7, 8 and 9 shall contain a minimum enclosed dwelling area of 2,500 square feet, and unless a variance is granted therefor as provided herein shall have at a minimum an enclosed one car garage attached to the main dwelling. Any dwelling erected on Lots 2, 3, 4, 5 and 6 shall contain a minimum enclosed dwelling area of 3,000 square feet, and unless a variance is granted therefor as provided herein shall have at a minimum an enclosed two car garage attached to the main dwelling. The term "enclosed dwelling area" as used in this Section 1 shall mean the total enclosed area within a dwelling subject to heating and cooling; provided, that the term specifically does not include garages, terraces, open porches, decks, stoops and like areas regardless of heating and cooling.

Section 2. Setback Lines. No dwelling erected on a detached single-family residential lot (including garage) shall be constructed nearer than fifty (50) feet to the front lot line, fifteen (15) feet to any side lot line, or thirty (30) feet to the rear lot line. This restriction shall prevail over any lesser governmental setback standard. Variances of these setback requirements may be granted pursuant to Article II hereof, but in no case will the setback be less than that required by the governmental agency having jurisdiction over the lots.

Section 3. Height and Accessory Building. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any detached single-family residential lot

other than a detached single family dwelling not to exceed two (2) stories in height, unless the Architectural Committee approves in writing a variance permitting a structure of more than two stories, and a garage and small accessory building (which may include a pool house, servants' quarters, or guest facilities); provided, the use of such dwelling or accessory building does not in the opinion of the Architectural Committee overcrowd the site. Such accessory building may not be constructed prior to the construction of the primary dwelling. All garages must be attached to the main dwelling, unless the Architectural Committee approves in writing a variance permitting a detached garage.

Section 4. Multi-Family Use Prohibited. No multiplex residence or apartment house shall be erected or placed on, or allowed to occupy, any lot, and no dwelling once approved and constructed shall be altered or converted into a multiplex residence or apartment house.

Section 5. Trash Receptacles. Each lot owner shall provide receptacles for garbage in a screened area not generally visible from the road, or provide underground receptacles or similar facilities.

Section 6. Parking Spaces. Each lot owner shall provide space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on said lot.

Section 7. Trees and Shrubs. The planting of flowering shrubs and trees is encouraged; however, no trees, bushes, shrubs, grasses or other vegetation whatever, may be removed, planted or installed from or on any lot without prior written approval of the Architectural Committee, based upon a site plan, landscaping plan or planting plan submitted to the Architectural Committee.

Section 8. Driveways. All driveways from the street to each house shall be hard-surfaced (brick, concrete, asphalt or other material approved in writing by the Architectural Committee). This approval may be waived by the Architectural Committee under unusual circumstances.

Section 9. Variances. The Architectural Committee shall be empowered with the right to grant, in writing, variances to the requirements imposed in Sections 2 and 3 of this Article IV where unintentional errors occur or topographical conditions exist that would result in a minor violation of such restriction. Violations not in excess of twenty percent (20%) of the minimum requirements shall be deemed minor.

ARTICLE V

EASEMENTS

Section 1. Utility Easements. Some or all of the lots shall be subject to such easements for water lines, sanitary sewers, storm drainage, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the lots to this Declaration.

Section 2. Reserved Easements. There is hereby reserved an easement ten (10') feet in width along the side property lines and an easement ten (10') feet in width along the rear property line of each lot for the purpose of installation, repair, maintenance, erection, construction and inspection of water lines, sewer lines, gas lines, electric lines, telephone lines, cablevision lines or other such utility or service lines and for drainage cuts and storm sewer lines; provided, that if both sanitary sewer and storm sewer lines are located within the same easement, the easement reserved herein shall be fifteen (15') feet in width.