

RIVERWALK COVENANTS – INCLUDING AMENDMENT 1 – EFFECTIVE 5-12-09

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

WITNESSETH:

WHEREAS, certain property known as Riverwalk Towns, in or near the Town of Cary, NC, which is more particularly described as follows:

Being all of that certain tract or parcel of land designated a "1", containing 41,638.20 Sq. Ft., according to map entitled "Subdivision Map of Riverwalk", dated May 1987, prepared by F. T. Green & Associates, P.A., Consulting Engineers, and recorded in Book of Maps 1987, Page 2009, Wake County Registry, North Carolina;

And WHEREAS, said property is a part of Kildaire Farms Subdivision. All of the property described above shall be held, sold, and conveyed subject to the provisions of that Declaration of Covenants, Conditions and Restrictions of Kildaire Farms Subdivision recorded in Book 3445, Page 618, Wake County Registry, as the same now is or is hereafter amended, which provisions are herein incorporated by reference, and subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property. These easements, restrictions, covenants, and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described property or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

TERM	DEFINITION
Association	Riverwalk Towns Homeowner's Association of Cary, Inc., its successors and assigns.
Owner	The record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
Properties	That certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
Lot	Any plot of land shown upon any recorded subdivision map of the Properties, with the exception of "Blocks" and the Common Area.
Blocks	Any plot of land shown upon any recorded subdivision map of the Properties which are "Reserved For," or designated for "Lots".
Member	Every person or entity who holds membership in the Association.
Common Area	All real property within the Property owned by KFII, along with facilities and improvements erected thereon, for the common use and enjoyment of all members of Riverwalk. The Common Area to be deeded to KFII at the time of the conveyance of the first lot is described as follows: • An Easement for ingress and egress over those areas designated as "Ease/Right of Way" for Riverwalk Circle, Linville River Road and James River Road (Private Streets) according to map entitled "Subdivision Map of Riverwalk", dated May, 1987, prepared by F. T. Green & Associates, P. A., Consulting Engineers, and recorded in Book of Maps 1987, Page 2009, Wake County Registry, North Carolina, which easement shall inure to the benefit of and run with the title to all lots shown on the map rendered in Book of Maps 1987, Page 2009, Wake County Registry. • An Easement for Greenway Purposes over that certain strip designated as "15' Greenway Easement" according to the map described above.

ARTICLE II: PROPERTY RIGHTS

Sect. 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment ingress and egress in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- The right of the Association to charge reasonable fees for the use of any recreational facility leased by the Association for use by the Members.
- The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of members agreeing to such dedication or transfer has been recorded.
- The right of the Association to limit the number of guests of members. Owners are fully responsible for ensuring their guests conform to the Association's Covenants and Bylaws;
- The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder;

- f. The right of the individual members to the exclusive use of parking spaces as provided in this Article;
- g. Easements as provided in Article XI hereof.
- h. The right of the Association to levy fines and restrict voting privileges of members who are found by the Board of Directors (BOD) to be in violation of the Association's Covenants and Bylaws, as detailed in Article XV Resolving Conflicts.
- i. Owners recognize that townhomes are regulated similar to single family housing and are not considered as condominiums.

Sect. 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Sect. 3. Title to Common Areas. The Association hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Areas as shown upon the recorded map referred to in the premises of this Declaration, to KFII, free and clear of all liens and encumbrances, at the time or prior to the conveyance of the first lot shown on such map, except utility and drainage easements and easements to governmental authorities. Similarly, the Association will convey to the KFII, upon the same conditions and for the same uses and purposes, common areas which are parts of any additional properties that are annexed by it in the future.

Sect. 4. Parking Rights. The Owner of each Lot shall be entitled to two automobile parking spaces as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking spaces. Owner shall not use the parking spaces assigned to other Owners without the express permission of the other Owners. No boats, trailers, campers, commercial vehicles, or recreational vehicles shall be parked within the Common Area, greenways or rights of way of any public or private street in or adjacent to the Property. All boats, trailers, campers or recreational vehicles shall be parked only in such areas designated for parking such vehicles and upon such terms and conditions as shall be established by KFII, its successors or assigns. Visitor's parking spaces, which shall be clearly marked, shall not be used by Owners for permanent parking. If special circumstances indicate long-term use of a visitor's parking space, the Owner must request such temporary use from the Board of Directors. Owners are responsible for ensuring that their guests conform to these parking regulations.

Sect. 5. TV Antennas and Cablevision. The Association may contract for provision of community-wide cablevision for the convenience of the Members, and the cost may be included in annual or special assessments. The Association permits the erection of television satellite dishes or radio antennas on individual lots provided the following restrictions are observed:

- The dish must be placed on the Owner's property, and not in the Common Area.
- If placed in the Owners front property, the dish must be ground-located within two feet of the front of the building at a height no greater than 4 feet.
- If placed in the Owner's rear property, the dish must be ground-located at a height of no greater than 4 feet in a location that does not interfere with access to the Owner's property or adjacent properties for routine maintenance and rubbish collection.

Other locations or configurations require BOD approval. The dish may not be attached to the outside of the building without the approval of the BOD. The repair of any leaks in the Owner's property or adjacent properties caused by the building-located installation of the dish shall be the responsibility of the Owner.

ARTICLE III: MEMBERSHIP AND VOTING RIGHTS

Sect. 1. Every owner of a lot which is subject to assessment shall be a member of both KFII, and the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Sect. 2. All Owners are Class A members as defined in the Articles of Incorporation and are entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. No fractional vote shall be permitted.

ARTICLE IV: COVENANT FOR MAINTENANCE ASSESSMENTS

Sect. 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, cost 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 fell due. The personal obligation for the delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

Sect. 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties and in particular for the acquisition, insurance, improvement and maintenance of properties, including the maintenance, repair and reconstruction of any private streets on the Property or any storm water Impoundment Area situated on the Common Area required by the Town of Cary to comply with its erosion and sedimentation control ordinances, (such maintenance to include the cutting and removal of weeds and grass, the removal of trash and rubbish or any other maintenance necessary to keep the Impoundment Area in compliance with all applicable ordinances and statutes relative to said erosion and sedimentation control and which in the judgment of Riverwalk Towns Homeowner's Association, Inc. is desirable to keep the Impoundment Area neat in appearance; provided, however, this covenant to maintain said area as an Impoundment Area shall terminate at such time as maintenance and preservation of the Impoundment Area as a water impoundment area is no longer required by applicable local ordinances or statutes), services and facilities devoted to this purpose and related to the lots within the Properties or for the use and enjoyment of the Common Area and Water Impoundment Area, including but not limited to, the cost of repairs, replacements and additions (including reserves therefor), the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws and this Declaration, the

employment of attorneys to represent the Association when necessary, the payment on leases of recreational facilities for use by the Members, and such other needs as may arise ("Common Expenses").

Sect. 3. Maximum Annual Assessment. The annual assessment shall be payable monthly.

- a. The maximum annual assessment may be increased effective January 1 of each year without a vote of membership by up to 10% of the previous year's maximum annual assessment.
- b. The maximum annual assessment may be increased above the increase permitted in Sect. 3(a) above by a vote of the members for the next succeeding 5 years and at the end of each such period of 5 years, for each succeeding period of 5 years, provided that any such charge shall have the assent of 2/3 of the votes of members who are voting 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 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger of consolidation in which the Association is authorized to participate under its Articles of Incorporation.
- c. The BOD may fix the annual assessment at an amount not in excess of the maximum as defined in paragraphs 3.a and 3.b above.

Sect. 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of reconstruction, repair or replacement of a capital improvement upon the Common Area, and in connection with exterior maintenance, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Sect. 5. Notice and Quorum for Any Action Authorized Under Sect. 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sect. 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Sect. 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected monthly.

Sect. 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots as provided in Sect. 6 above. The BOD shall fix the amount of the annual assessment against each Lot at least 30 days before each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. Due dates shall be established by the BOD. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid, which certification shall be binding on the Association.

Sect. 8. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessment not paid within 30 days after the due date shall bear interest from the due date at the rate of 10% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his lot.

Sect. 9. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Sect. 10. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Sect. 11. Responsibility for Maintenance of Private Streets and Driveways. The maintenance responsibility of any private streets and driveways as shown on the aforesaid recorded map shall rest with the Association pursuant to the provisions of the Cary Town Code, which Sect. provides substantially in part that in no case shall the Town of Cary be responsible for failing to provide any emergency or regular fire, police, or other public service to the property and/or occupants when the failure is due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Association, or occupants.

ARTICLE V: PARTY WALLS

Sect. 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the dwelling upon the Properties and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Sect. 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Sect. 3. Destruction By Fire Or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Sect. 4. The owner of any Lot may construct, reconstruct, repair, or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining Lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

Sect. 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Sect. 6. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Sect. 7. Certification by Adjoining Property Owner That No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article V, request of the adjoining property owner or property owners a certificate that no contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request without charge, which certification shall be binding on the owner giving same; provided, however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Sect. 8. Arbitration. In the event of any dispute arising concerning party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VI: ARCHITECTURAL CONTROL

No building, fence, signs, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Boards of Directors of the Association and of the KFII, or by their Architectural Committees. The architectural committee of the Riverwalk Towns Homeowner's Association, Inc. shall be composed of 3 or more representatives appointed by the Board. In the event said Boards, or their designated committees, fail to approve or disapprove such design and location within 60 days after said plans and specifications have been submitted to them, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specification required to be submitted shall not be deemed to have been received if they contain certain erroneous data or fail to present accurate information upon which the Boards or their committees can arrive at a decision.

The said Boards or their committees shall have the right, at their election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

The BOD of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning architectural control of buildings, landscaping, etc. Such rules and regulations may provide for fines or penalties for the violation thereof. Unapproved changes that the BOD determines to be destructive to the harmony of the community's external design will be excluded from the provision of routine maintenance defined in these Covenants. Such unapproved changes, and the Association's denial of maintenance services, shall be revealed to prospective buyers. If an Owner's failure to maintain these unapproved changes to the standards of the community, the Association may, at its discretion, cause such repairs to be made and billed to the Owner.

ARTICLE VII: ANNEXATION OF ADDITIONAL PROPERTIES

Sect. 1. Annexation of additional property except as provided in Sect. 2 of this Article VII shall require the assent of two-thirds (2/3) of the Class A membership at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth above and the required quorum at such subsequent meeting shall be one-half (1/2) if 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 Class A membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Sect. 2. The Property (Lots 1-24 inclusive shown on Map recorded in Book of Maps 1987, Page 2009, Wake County Registry), and the Common Area herein described, and any properties hereafter annexed in conformity with the provisions of this Declaration, is a part of the Kildaire Farms Subdivision, a planned unit development, as described in the Declaration of Covenants, Conditions and Restrictions for Kildaire Farms Subdivision, recorded in Book 2445, Page 618, Wake County Registry, as the same now is or hereafter amended, and as shown upon plans for Kildaire Farms Subdivision heretofore filed with the Town of Cary, North Carolina.

Every owner of a lot within the Property shall be a member of the KFII and shall be subject to the provisions of said Declaration for Kildaire Farms and to the Bylaws, rules, and regulations of said Homeowners Association.

ARTICLE VIII: EXTERIOR MAINTENANCE

Sect. 1. In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, mailboxes, fences installed by the Association, exterior street lights (including electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces, screens, awnings, and if permitted, approved additions to dwellings made after completion of the initial dwelling (unless maintaining of such addition is affirmatively assumed by the Association). Further, the Owner of any Lot may at his election plant trees, shrubs, flowers and grass in his rear or side yard and may also maintain portions or all of his rear or side yard provided that such maintenance by the Owner does not hinder the Association in performing its

maintenance of the exterior of the house and the remaining yard spaces, nor hinders reasonable access by municipal sanitation workers in the regular course of trash collection. Any Owner who fences in his rear yard, if permitted, shall be required to maintain such area. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association. Owners shall not remove any trees or shrubs from any area without prior written approval of the Association.

The Association's first priority is to maintain the front yards and common areas of the community. Additionally, the Association may maintain the Owners' rear and side yards within resource constraints, with the first consideration being safety / erosion protection and secondarily for aesthetics. However, if an Owner wishes to have either their rear or side yard enhanced with bushes, shrubs, trees etc and is willing to contribute toward the cost or is willing to pay the entire cost involved, this could enable the project to be approved and completed in a more timely manner, subject to BOD approval. The Association hereby reserves an easement unto itself, its agents, and employees for access over the Common Area and lots for the purpose of performing the maintenance and repairs provided for in this Declaration.

(As a matter of information to future members of this Association, it is a part of the original plan of development to construct a variety of dwellings with a variety of exteriors for the good of the entire subdivision. Some dwellings may require far more maintenance than others because of the types of exterior exposures. All members of the Association will be benefited by the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge without regard to the actual cost of maintenance of each dwelling.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, or employees, or subcontractors, the cost of such maintenance and repair will be added to the assessment to which such lot is subject.

<u>Area</u>	<u>Homeowners' Association (or Others) Responsibility To Maintain</u>	<u>Individual Homeowner's Responsibility To Maintain</u>
Electricity	Electrical service to electric meter (Progress Energy's responsibility).	Electrical lines from your meter into house. Exterior electrical outlets.
Lighting	Streetlights (Progress Energy's responsibility).	Exterior lighting & fixtures (including post lights).
Water	Water meter and water lines from meter to water main (Town of Cary's responsibility).	Water line from water meter into your house. Outside water faucets and water lines.
Sewer	Sewer line maintenance from the first cleanout location outside your house to the sewer main.	Sewer line maintenance inside your house to the first outside cleanout location.
Pest Control	Building exterminator inspection & treatments (termites and carpenter bees only)	Pest control other than termites and carpenter bees.
Roof	Roof (normal wear and tear)	
Skylights	Accepted skylights (leak repair only).	Skylight replacement and cleaning.
Windows	Window frames (maintenance) Window sashes (painting)	Window glass & sash, storm windows, screen windows.
Exterior Doors	Doors & garage door (painting only). Door frames & garage door frame (maintenance & painting).	Doors, storm doors, screen doors, garage door (all maintenance and replacement, except painting).
Building	Building siding & trim (excluding doors and windows). Gutters & downspouts (repair and cleaning).	All areas and services inside your house.
Exterior Features	Front entrance way to your house and front railings. Sidewalks and steps to front door.	Decks and patios, including deck partitions. Fences & gates.
Common Areas	Common property & related areas. Trees, shrubs, and grass (HOA provided only). Walkways & retaining walls. Mailboxes. Streets and parking areas.	

Sect. 2. Maintenance by Owner. In cases where maintenance or repair is required in this Declaration to be done or made by an Owner, and such maintenance or repair has not commenced within 60 days, or if commenced, is not completed within a reasonable time thereafter, the Association may, upon 30 days written notice to such owner, make or complete such maintenance or repairs, and the cost thereof shall be an additional assessment applicable only to such lot and Owner, and shall be payable as determined by the BOD.

ARTICLE IX: INSURANCE AND RECONSTRUCTION

Sect. 1. Owner's Responsibility: In order to protect all Members from any potential negative effect that damage to a building could have on property values in general, each Owner agrees to provide insurance coverage (or suitable substitute) satisfactory to the Association. The insurance which shall be carried upon each townhome situated on a townhome Lot (hereinafter " Dwelling Unit ") shall be governed by the following provisions:

(i) Each Owner of a Dwelling Unit shall maintain a property damage and casualty or " hazard " insurance policy, with full replacement coverage, to protect against casualty damage to the Dwelling Unit (hereinafter " Casualty Insurance ").

(ii) Each Owner shall provide a copy of such Owner's current Casualty Insurance policy, and all replacements and renewals thereof, to the Association. (Premium amount may be deleted.) If an Owner fails or refuses to provide the Association with a copy of such Casualty Insurance policy (or renewal or other reasonable evidence of the availability of current Casualty Insurance coverage on the Dwelling Unit) within thirty (30) days following the Association's written notice to provide such insurance policy, evidence or acceptable substitute, the Association shall have the right to obtain and purchase such insurance as required by this Section on behalf of such Owner. In such event, the costs incurred by the Association in procuring such Casualty Insurance shall be assessed against the applicable Owner as an individual assessment levied against the Dwelling Unit in accordance with Article IV.

(iii) If any portion of a Dwelling Unit or Lot shall be damaged by perils (whether or not covered by the Casualty Insurance), the Owner shall cause such damaged portion to be promptly reconstructed or repaired substantially in accordance with the original plans of the Dwelling Unit or Lot damaged or destroyed. If the Owner refuses to promptly repair such damage, the Association may either (a) cause the repair to be made and levy an individual assessment against the Owner, or (b) bring an action at law against the Owner and foreclose the lien against the property.

Sect. 2. Association's Responsibility: The Association shall insure itself, the members of the Board, the Dwelling Unit or Lot Owners and the occupants against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Areas including without limitation water damage, legal liability, hired automobile, non-owner automobile and off-premises employee coverage. Such insurance is to be in such amounts as is determined necessary and adequate by the Board. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Dwelling Unit or Lot Owners as a group or to an individual Dwelling Unit or Lot Owner. In the event the insurance effected by the Association on behalf of the Dwelling Unit or Lot Owners and occupants against liability for personal injury or property damage arising from or relating to the Common Areas shall, for any reason, not fully cover any such liability, the amount of any deficit shall be assessed at a uniform rate against all Dwelling Unit or Lot Owners without requirement of an affirmative vote of the members.

Premiums for insurance policies purchased by the Association shall be paid by the Association at least 30 days prior to the expiration date of such policies and shall be a part of the Annual Assessment.

If any portion of the Common Area shall be damaged by perils covered by such insurance, the Association shall cause such damaged portion to be promptly reconstructed or repaired to the extent of the funds made available by the insurer and as provided in Sect. 3 below, and any such reconstruction or repair shall be substantially in accordance with the original plans of the area damaged or destroyed.

Sect. 3. Procedure for Reconstruction or Repair of Damage to Common Areas:

(i) Immediately after a casualty causing damage to any portion of the Common Areas, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

(ii) If the proceeds of the Casualty Insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association (including the aforesaid fees and premiums, if any) one or more special assessments shall be made (without requirement of an affirmative vote of the Members) against all Dwelling Unit or Lot Owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Association.

(iii) The proceeds of the Casualty Insurance referred to in Sect. 2 of this Article IX and the sums deposited with the Association from collections of special assessments against Dwelling Unit or Lot Owners on account of such casualty, shall constitute a construction fund which shall be disbursed by the Association and be applied to the payment of the cost of reconstruction and repair of the Common Areas as the work progresses. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be either retained by the Association or disbursed back to the Dwelling Unit or Lot Owners as determined by the Board.

(iv) Each Dwelling Unit or Lot Owner shall be deemed to have delegated to the Board his or her right to adjust with insurance companies all losses under the Casualty Insurance policies referred to in Sect. 2 of this Article IX.

Sect. 4. Annual Review of Policies: Casualty Insurance policies shall be reviewed at least annually by the BOD in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed. This shall include a review of the individual Dwelling Unit Casualty Insurance policies provided by the Owners as well as a review of the policies owned by the Association, provided however, the BOD shall not be liable to the members for failure to (a.) accurately assess the adequacy of the Dwelling Unit policies or (b.) to maintain sufficient Casualty Insurance coverage for the Common Areas.

If, following such review, any of the Owners' Casualty Insurance policies be deemed insufficient to cover the full value of the Dwelling Unit(s), the Association shall have the right to obtain and purchase the additional insurance coverage on behalf of such Owner to provide full coverage, but only after the Owner has been apprised of the deficiency and has not increased the coverage to that determined by the BOD to be sufficient within 30 days of such a notice. In such event, the costs incurred by the Association in procuring such additional Casualty Insurance shall be assessed against the applicable Owner as an individual assessment levied against the Dwelling Unit in accordance with Article IV.

Sect. 5. Right to Obtain Blanket Insurance Coverage:

Additionally, the Association shall have the right (but not the obligation) at its sole option, to procure or maintain a "blanket" Casualty Insurance policy for all of the Dwelling Units (or a portion or portions of all of the Dwelling Units) for the purpose of providing additional protection against casualty damage. Such blanket Casualty Insurance (if any) may be either (a) secondary to the insurance maintained by the Owner(s) of the Dwelling Unit(s), or (b) function as a full replacement and/or substitute for all of the individual Casualty Insurance policies previously provided by the Dwelling Unit Owners. In the event option (b) is selected by the Association, proper notice shall be made to the Owners that they will no longer be required to provide Casualty Insurance on their Dwelling Units. The notice will also provide an indication of the cost implications to the Owners.

ARTICLE X: USE RESTRICTIONS

Sect. 1. Rules and Regulations. The BOD of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the front yard of each lot and the Common Areas. Such rules and regulations may provide for fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Sect. 2. Use of Properties. No portion of the Properties shall be used except for residential purposes and for purposes incidental or accessory thereto.

Sect. 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood. This includes continuous barking from dogs or other animal noises, poorly maintained vehicles, loud music, etc.

Sect. 4. Animals. No animals shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets (not more than two each) may be kept or maintained provided that they are not kept or maintained for commercial purposes, and no animal shall be permitted upon the common area unless the same is under leash.

Owners are fully responsible for cleaning up after their animals in a timely and sanitary manner. This includes immediate removal of animal waste during dog walks, for example. Owners must maintain control of their animals at all times via leash and prevent animals from defecating or urinating in the area directly in front of any unit (i.e. between the unit and the street). Common property is acceptable for dog walking, with immediate cleanup and sanitary disposal.

Sect. 5. Signs. Except for unit identification numbers required by the Cary Town Code, no sign shall be erected or permitted to remain on any lot or the common area, or on the rights-of-way of private or public streets within or adjacent to Riverwalk Townhomes except that "For Rent", "For Sale" and "Sold" signs, meeting the size requirements of the Cary Town Code may be placed directly in front of the unit being rented or sold within eight feet of the front face of the unit. In addition, political signs may be displayed in accordance with the Cary Town Code.

Sect. 6. Dwelling Specifications. Except with prior written approval of The Architectural Committee, no dwelling shall be having an area of the main structure; exclusive of open porches and decks, of less than 800 square feet.

Sect 7. Number of Occupants per Unit: The number of occupants per unit (except guests) shall not exceed six permanent residents.

Sect. 8. Insect Infestation Prevention: To prevent termite access, wood shall not be stacked against buildings. Further, trash, recyclable materials and other materials shall be picked up and tidied in a regular timely manner. A concerted effort to minimize insect infestation shall be maintained by all residents. This applies to all Units, either occupied or vacant. In the case of vacant Units, if a rodent, vector or insect problem exists, the BOD shall have the authority to hire an exterminator to prevent the spread of the nuisance to the adjacent Units, to include gaining access to the Unit and charging the Owner the cost involved.

ARTICLE XI: EASEMENTS

All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines and other public utilities established prior to the subjecting of the Properties to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties and Riverwalk Towns.

An easement is hereby established over the common areas and facilities for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

An easement is hereby reserved over every lot for the benefit of the Association to perform maintenance in accordance with Article VIII Sect. (1) and (2) above.

ARTICLE XII: GENERAL PROVISIONS

Sect. 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at Law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by 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.

Sect. 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Sect. 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 10 years. This Declaration may be amended by an instrument signed by not less than 67% of the Lot Owners.

No amendment which would change or delete any provision herein required by the Town of Cary shall become effective until submitted to and approved by the Town; provided, however, if the Town fails to approve or disapprove such amendment within thirty 30 days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with. Any amendment must be recorded in the Office of the Register of Deeds of Wake County, North Carolina.

Sect. 4. Duty to Maintain. It shall be the duty and responsibility of the Association to maintain the lots, yards, townhomes and common area to at least the same standard of maintenance as that of the Community Common Areas and facilities of Kildaire Farms Subdivision by KFII and in conformity with the general plan of development and maintenance for Kildaire Farms Subdivision. There is hereby created an easement for entry, which shall run with the land, in favor of KFII and its successors upon any lot, yard, townhome, and common area within Riverwalk Towns, or other areas annexed hereto to perform reasonable inspections pursuant to the requirements set forth in the Declaration of Covenants, Conditions and Restrictions for Kildaire Farms Subdivisions as heretofore referenced.

ARTICLE XIII: ELECTRICAL SERVICE

The Association contracts with Progress Energy to provide streetlights for the community.

ARTICLE XIV: RIGHT OF INSTITUTIONAL LENDERS

Owners shall provide Institutional Lenders notice and/or information as follows:

Sect. 1. The prior written approval of each institutional holder of a first deed of trust on units in the property is required for the following:

- a. The abandonment or termination of the townhome property except as provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain
- b. The effectuation of any decision by the Association to end professional management and assume self-management of the property.

Sect. 2. No unit may be partitioned or subdivided without the prior written approval of the first lien holder of the unit.

Sect. 3. Upon written request, any institutional holder of a first lien on a unit will be entitled to:

- a. Inspect the books and records of the Association during normal business hours
- b. Receive an annual audited financial statement of the Association within 90 days following the end of any fiscal year
- c. Written notice of all Association meetings and shall be permitted to have a representative attend such meetings.

Sect. 4. Each institutional holder of a first mortgage on a lot shall be entitled to timely written notice of:

- a. Any event of substantial damage to or destruction of any unit or any part of the Common Area.
- b. If any unit or portion thereof or the common area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.
- c. Of any default by the Lot mortgagee's obligation hereunder not cured within 30 days of said default.
- d. A lapse, cancellation or material modification of any insurance policy or fidelity bond.

ARTICLE XV: RESOLVING CONFLICTS

The BOD shall have the power to mediate disputes and render decisions that are final for matters outside of legal and civil code. Matters brought before the BOD will be considered in open session, with a majority of the BOD voting to decide if a violation of the Covenants or By-Laws has occurred. During such a vote, all concerned parties shall be invited to participate and speak their position.

If such a violation is deemed to have occurred, the BOD is empowered to collect restitution, levy fines, restrict maintenance services, restrict voting rights or any combination thereof on the guilty parties, within the limits set forth by North Carolina Statute.

If fines or requests for restitution go unanswered, the BOD is empowered to assess for the amount in question within the limits set forth by North Carolina statute.